



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

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TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-041015-032)

In The Matter Of:

BATAVIA PHARMACY
c/o Michael Robert Krusling, R.Ph.
2360 Bethel New Richmond Road
Bethel, Ohio 45106

INTRODUCTION

THE MATTER OF BATAVIA PHARMACY CAME FOR HEARING ON NOVEMBER 8, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph.; (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

BATAVIA PHARMACY WAS REPRESENTED BY JAMES LINDON AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. Michael Krusling, R.Ph., Respondent

State's Exhibits

1. Proposal to Deny/Notice of Opportunity For Hearing letter [10-15-04]
1A-1C. Procedurals
2. Application for Registration As A Distributor of Dangerous Drugs for Batavia Pharmacy [07-08-04]
3. Application for Registration As A Terminal Distributor of Dangerous Drugs for McMilian Pharmacy [09-12-82]
4. State Board of Pharmacy Order in re Michael R. Krusling, R.Ph. & McMilian Pharmacy [01-18-83]
5. Notice of Opportunity for Hearing letter [05-17-84]
6. State Board of Pharmacy Order in re Michael R. Krusling, R.Ph. [10-24-84]

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c/o Michael Robert Krusling, R.Ph.

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7. Indictment, State of Ohio vs. Michael Krusling, Case No. 83-CR-5412, Clermont County Common Pleas Court [02-01-84]
8. Judgment and Sentencing Entry [08-06-85]
9. Entry Terminating Probation [07-28-87]
10. Resume of Michael R. Krusling [not dated]

Respondent's Exhibits

A.-D. Four letters of support [11-02-04 to 11-03-04]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

(1) Michael Robert Krusling, as owner and responsible pharmacist, submitted on or about July 8, 2004, an Application for Registration as a Terminal Distributor of Dangerous Drugs for Batavia Pharmacy.

(2) Michael Robert Krusling, as president and responsible pharmacist, submitted on or about September 12, 1982, an Application for Registration as a Terminal Distributor of Dangerous Drugs for McMilian Pharmacy.

(a) Michael Robert Krusling was notified by letter on October 14, 1982, of the Board's proposal to deny his application due to Mr. Krusling's convictions under Kentucky's Controlled Substance Act on November 12, 1974.

(b) Michael Robert Krusling did not respond in any manner to the letter of October 14, 1982. The Board found the allegations in the letter of October 14, 1982 to be fact and issued its Order in the matter of Michael Robert Krusling on January 18, 1983, denying Michael Robert Krusling's application.

(3) The State Board of Pharmacy issued a Notice of Opportunity For A Hearing on May 17, 1984, to Michael Robert Krusling to respond to the allegations listed therein and whether or not the Board should take action against his pharmacist identification card to practice pharmacy in Ohio. After notice and hearing, the Board found the following to be fact:

(a) Michael Robert Krusling was found guilty of violating Kentucky Revised Statute Section 218 A 210, the offense of Possessing Controlled Substances In Improper Containers, by the Bracken County Court on November 12, 1974, and fined two hundred fifty dollars (\$250.00).

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c/o Michael Robert Krusling, R.Ph.

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(b) Michael Robert Krusling was found guilty of violating the Kentucky Controlled Substance Act by growing marijuana, the offense of Trafficking In Marijuana, by the Bracken County Court on November 12, 1974, and fined five hundred dollars (\$500.00).

(c) Michael Robert Krusling did intentionally make and knowingly possess false or forged prescriptions in violation of Section 2925.23 of the Revised Code.

(d) Michael Robert Krusling did, on one or more occasions between December 27, 1982, and November 29, 1983, at SuperX Drugs, Milford Shopping Center, 981 Lila Avenue, Milford, Ohio 45150, dispense dangerous drugs without a valid prescription given by a practitioner in violation of Section 3715.52(L) of the Revised Code.

(e) Michael Robert Krusling did, on one or more occasions between August 10, 1983, and November 17, 1983, at SuperX Drugs, Milford Shopping Center, 981 Lila Avenue, Milford, Ohio 45150, knowingly make a false statement on prescriptions required by Chapter 3719. of the Revised Code; in that, the address for eight different individuals was recorded as "9 Podute", in violation of Section 2925.23(A) of the Revised Code.

The Board issued its Order on October 24, 1984, in the matter of Michael Robert Krusling, R.Ph. No. 03-1-10023. The Board concluded that Michael Robert Krusling was guilty of violating Chapters 2925., 3715., and 3719. of the Ohio Revised Code and fined Mr. Krusling one hundred dollars (\$100.00) and required him to take and pass a Jurisprudence examination.

(4) Michael Robert Krusling pled guilty on August 6, 1985, in the Clermont County Common Pleas Court to Deception to Obtain a Dangerous Drug in violation of Section 2925.22(A) of the Ohio Revised Code and was placed on probation for two years. Michael Robert Krusling was discharged from probation by the Clermont County Common Pleas Court on July 28, 1987.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.55 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves, for immediate processing, the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted on or about July 8, 2004, by Michael Robert Krusling for Batavia Pharmacy.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-1).

MOTION CARRIED.

SO ORDERED.

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c/o Michael Robert Krusling, R.Ph.

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It is hereby certified by this Board that the preceding language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with both the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: DECEMBER 9, 2004

CERTIFIED MAIL / Return Receipt
7003 0500 0002 4347 2740

By: 
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lf

c: Sally Ann Steuk, Assistant Attorney General
James Lindon, Ph.D., Attorney for Respondent; Lindon & Lindon; 1250 Linda Street;
Rocky River, Ohio 44116



OHIO STATE BOARD OF PHARMACY

65 S. FRONT STREET, ROOM 504
COLUMBUS, OHIO 43215
TELEPHONE: 614/466-4143

THE STATE BOARD OF PHARMACY

vs

MICHAEL R. KRUSLING, R.Ph.

THE MATTER OF MICHAEL R. KRUSLING, DOCKET NO. 6-90-3, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON THURSDAY, SEPTEMBER 20, 1984. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that Michael R. Krusling was found guilty of violating Kentucky Revised Statute Section 218 A 210, the offense of possessing controlled substances in improper containers, by the Bracken County Court on November 12, 1974 and fined two hundred and fifty dollars (\$250).
- (2) From the evidence presented, the State Board of Pharmacy finds that Michael R. Krusling was found guilty of violating the Kentucky Controlled Substance Act by growing marijuana, the offense of trafficking in marijuana, by the Bracken County Court on November 12, 1974 and fined five hundred dollars (\$500).
- (3) From the evidence presented, the State Board of Pharmacy finds that Michael R. Krusling intentionally made and knowingly possessed false or forged prescriptions, in violation of Section 2925.23 of the Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Michael R. Krusling, on one or more occasions between December 27, 1982 and November 29, 1983, at SuperX Drugs, Milford Shopping Center, 981 Lila Avenue, Milford, Ohio 45150, dispensed dangerous drugs without a valid prescription given by a practitioner, in violation of Section 3715.52(L) of the Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Michael R. Krusling, on one or more occasions between August 10, 1983 and November 17, 1983, at SuperRx Drugs, Milford Shopping Center, 981 Lila Avenue, Milford, Ohio 45150, did knowingly make a false statement on prescriptions required by Chapter 3719. of the Revised Code; in that, the address for eight different individuals was recorded as "9 Podute(sic)", in violation of Division (A) of Section 2925.23 of the Revised Code.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (3) of the Findings Of Fact constitutes willfully violating more than one time the provisions of Chapter 2925. of the Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (4) of the Findings Of Fact constitutes willfully violating more than one time the provisions of Chapter 3715. of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (5) of the Findings Of Fact constitutes willfully violating more than one time the provisions of Chapter 3719. of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law, the State Board of Pharmacy takes the following actions concerning the pharmacist identification card of Michael R. Krusling, R.Ph. No. 03-1-10023:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by Michael R. Krusling for 24 months, effective January 1, 1985.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000).

(C) Further, the Board suspends the 24-month suspension and nine hundred dollars (\$900) of the \$1,000 monetary penalty on condition that Michael R. Krusling abides by the terms of probation set by the Board. The terms provide that Michael R. Krusling:

- (1) take and successfully complete a jurisprudence examination offered by the Board during its December, 1984 meeting;
- (2) does not violate any drug laws of the State of Ohio, any other state, or the federal government; and
- (3) abides by the rules of the State Board of Pharmacy.

The one hundred dollar monetary penalty that was not suspended in paragraph (C) above is due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43215, with the enclosed form.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt

ORDER ISSUED: October 24, 1984

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc/John E. Breen, Assistant Attorney General
Edwin L. Hoseus, Jr.; 5827 Happy Hollow; Milford, OH 45150

IN THE MATTER OF
MICHAEL R. KRUSLING, R.Ph. &
McMILIAN PHARMACY

THE MATTER OF THE APPLICATION OF MICHAEL R. KRUSLING FOR LICENSURE OF "McMILIAN PHARMACY" AS A TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS PURSUANT TO SECTIONS 4729.54 AND 4729.55 OF THE REVISED CODE CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON DECEMBER 8, 1982. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

- (1) On October 14, 1982, Michael R. Krusling was notified by letter of the Board's proposal to deny his application for licensure of "McMilian Pharmacy", 791 E. McMilan, Cincinnati, Ohio 45206 as a terminal distributor of dangerous drugs, his right to a hearing, his rights in such hearing, and his right to submit his position, contentions, and arguments in writing.
- (2) As demonstrated by return receipt of October 20, 1982, Michael R. Krusling received the letter of October 14, 1982 informing him of the proposal to deny the application and his rights.
- (3) Michael R. Krusling has not responded in any way to the letter of October 14, 1982 informing him of the allegation against him and the proposal to deny the license.
- (4) Upon consideration of the allegation against Michael R. Krusling and his failure to request a hearing, submit his position, contentions or arguments in writing, or to otherwise deny the allegation, the State Board of Pharmacy concludes that Michael R. Krusling is guilty of the charges alleged in the letter of October 14, 1982.

Pursuant to division (D) of Section 4729.55 of the Revised Code, the State Board of Pharmacy hereby denies the application of Michael R. Krusling for licensure of McMilian Pharmacy, 791 E. McMilan, Cincinnati, Ohio 45206 as a terminal distributor of dangerous drugs in Ohio.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.