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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

VS

GARY R. RUTHERFORD, R.Ph.

THE MATTER OF GARY R. RUTHERFORD, DOCKET NO. 6-170-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON WEDNESDAY, JUNE 25, 1986. 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 Gary R. Rutherford, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code, and the pharmacist in full and actual charge pursuant to Section 4729.27 of the Revised Code, for Drug Emporium, Inc., 260 Graceland, Columbus, Ohio, Terminal Distributor of Dangerous Drugs License No. 02-367950, was responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy between the dates of January 1, 1985 and December 31, 1985.
- (2) From the evidence presented, the State Board of Pharmacy finds that Gary R. Rutherford did, as the responsible pharmacist for Drug Emporium, Inc., 260 Graceland, Columbus, Ohio, on or about January 16, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: at least five different misbranded drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, in plastic prescription vials and were dispensed to patients pursuant to written or oral prescriptions. Such conduct is in violation of Revised Code Section 3715.64(A) and is prohibited by Section 3715.52 of the Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Gary R. Rutherford did, as the responsible pharmacist for Drug Emporium, Inc., 260 Graceland, Columbus, Ohio, between the dates of June 1, 1985 and June 18, 1985, hold and offer for sale and sell misbranded drugs, to wit: unknown quantities of Norinyl (assorted strengths), Etrafon 4-10, Ultracef-500mg, and Indocin S were sold to Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio. Such conduct is in violation of Revised Code Section 3715.64(A) and is prohibited by Section 3715.52 of the Revised Code.

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- (4) From the evidence presented, the State Board of Pharmacy finds that Gary R. Rutherford did, as the responsible pharmacist for Drug Emporium, Inc., 260 Graceland, Columbus, Ohio, between the dates of January 1, 1985 and May 1, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: at least 62 different misbranded drugs were purchased from Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio, and were dispensed to patients pursuant to written or oral prescriptions. Such conduct is in violation of Ohio Revised Code Section 3715.64(A) and is prohibited by Section 3715.52 of the Ohio 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 paragraphs (2) through (4) of the Findings Of Fact constitutes dishonesty in the practice of pharmacy.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes violating the provisions of Chapter 3715. of the Ohio 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 license held by Gary R. Rutherford, No. 03-1-12410:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Gary R. Rutherford for 24 months, effective October 1, 1986.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty one thousand dollars (\$1,000.00), 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 43266-0320, with the enclosed form.

(C) Further, the Board suspends the suspension on condition that Gary R. Rutherford:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board on September 23, 1986;

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- (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.

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

MOTION CARRIED.

SO ORDERED.

STATE BOARD OF PHARMACY

JAMES A. RHODES  
*Governor*

FRANKLIN Z. WICKHAM  
*Executive Director*



JAMES H. GRANECK  
*Assistant to Executive Director*

JAMES L. HUTSON  
*Compliance & Enforcement  
Administrator*

*President: Ed Briner, Massillon*

*Vice President: Phyllis Wilson, Columbus*

*Members: Charles Brading, Wapakoneta; Bernard Kurlander, Brachwood; William J. Marks, Columbus;  
Anthony V. Perry, Youngstown; Donald R. Rettig, Perrysburg; J. Richard Wuest, Cincinnati*

THE STATE BOARD OF PHARMACY

VS

GARY RUTHERFORD

THE MATTER OF THE STATE BOARD OF PHARMACY VERSUS GARY RUTHERFORD, DOCKET NO. 6-41-2, WAS HEARD PURSUANT TO CHAPTERS 4729. AND 119. OF THE OHIO REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

FINDINGS OF FACT:

- (1) From the evidence presented, the State Board of Pharmacy finds that Gary Rutherford did on one or more occasions between February 1, 1979 and October 31, 1979 at Wilson Memorial Hospital in Sydney Ohio, knowingly obtain various dangerous drugs, to wit; Ritalin, Valium, and Cocaine beyond the scope of the express or implied consent of the owner or person authorized to give consent, as charged in paragraph (1) of the citation letter. Said conduct being prohibited by Section 2925.21 of the Ohio Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that Gary Rutherford did on one or more occasions between February 19, 1980 and March 23, 1980 at Doctor's Hospital North, Columbus Ohio, knowingly obtain various dangerous drugs, to wit; Cocaine, Valium and Quaalude beyond the scope of the express or implied consent of the owner or person authorized to give consent, as charged in paragraph (2) of the citation letter. Said conduct being prohibited by Section 2925.21 of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Gary Rutherford did on one or more occasions between February 1, 1979 and March 23, 1980, knowingly use Ritalin, Valium, Cocaine and Quaalude, said conduct not being in accordance with Chapters 3719. and 4729. of the Revised Code as charged in paragraph (3) of the citation letter. Said conduct being prohibited by Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW:

- (1) The State Board of Pharmacy finds that the conduct set forth in paragraph (1) & (2) of the Findings of Fact constitutes willful violations of more than one time of a provision of Chapter 2925. of the Revised Code.

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( ) The State Board of Pharmacy finds that the conduct set forth in paragraph (3) of the Findings of Fact constitutes gross immorality.

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 DISCIPLINARY ACTION AGAINST THE REGISTERED PHARMACIST LICENSE OF GARY RUTHERFORD:

(A) FOR VIOLATIONS SET FORTH IN PARAGRAPHS (1), (2) & (3) OF THE CONCLUSIONS OF LAW, THE STATE BOARD OF PHARMACY HEREBY SUSPENDS HIS REGISTERED PHARMACIST IDENTIFICATION CARD UNTIL JUNE 20, 1983 AT WHICH TIME MR. RUTHERFORD MAY APPLY TO THE BOARD FOR RENEWAL OF HIS PHARMACIST IDENTIFICATION CARD.

THE STATE BOARD OF PHARMACY FURTHER PROVIDES THAT THE ABOVE-STATED DISCIPLINARY ACTIONS WILL BE EFFECTIVE IMMEDIATELY.

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, Ohio 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. 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 Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

by Franklin Z. Wickham  
Franklin Z. Wickham, Executive Director

FZW/ksb

Order Issued September 24, 1980

CERTIFIED MAIL  
Return Receipt Requested