



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 JOSEPH FERGUSON, R.Ph.

THE MATTER OF MICHAEL JOSEPH FERGUSON; DOCKET NO. 6-82-3, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON TUESDAY, JUNE 26, 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 Joseph Ferguson, on February 1, 1984, was found guilty of violating Section 2917.21(B) of the Ohio Revised Code by the Barberton Municipal Court, said violation being telephone harassment and a misdemeanor of the first degree.
- (2) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Ferguson, on at least thirteen different occasions between January 4, 1984 and January 12, 1984, did make a telephone call with purpose to harass another person, to wit: Faye Evans, a customer of the Rite Aid Discount Pharmacy, 2940 S. Arlington Road, Akron, Ohio 44312, was called on 01/04/84(1), 01/05/84(2), 01/06/84(4), 01/07/84(1), 01/08/84(1), 01/11/84(3), and 01/12/84(1).
- (3) From the evidence presented, the State Board of Pharmacy finds that Michael Joseph Ferguson, as the pharmacist-in-charge pursuant to Section 4729.27 of the Revised Code, and responsible pharmacist for Rite Aid Discount Pharmacy, 2940 S. Arlington Road, Akron, Ohio 44312, Terminal Distributor of Dangerous Drugs License No. 02-355600 pursuant to Division (B) of Section 4729.55 of the Revised Code, has not maintained supervision and control over the possession and custody of the dangerous drugs acquired by the Rite Aid Discount Pharmacy nor has adequate safeguards been provided to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist, to wit: persons other than a pharmacist have access to the dangerous drugs when a pharmacist is not present; in violation of Section 4729.55 of the Revised Code, and Rules 4729-5-22 and 4729-9-11 of the Administrative 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 (1) through (3) of the Findings Of Fact constitutes gross immorality within the meaning of Section 4729.16(A) 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 (3) of the Findings Of Fact constitutes willful violations of more than one time of the provisions of Chapter 4729. of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law set forth above, the State Board of Pharmacy hereby takes the following actions concerning the registered pharmacist identification card of Michael Joseph Ferguson, R.Ph. No. 03-1-14851:

(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 Michael Joseph Ferguson for 12 months.

(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 of one hundred dollars (\$100), 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.

(C) Further, the Board suspends the 12-month suspension on condition that Michael Joseph Ferguson:

(1) not violate any drug laws of the State of Ohio, any other state, or the federal government; and

(2) 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.

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

MICHAEL JOSEPH FERGUS R.Ph.
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Order of the Board

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 Requested

ORDER ISSUED: August 3, 1984

FZW/sb

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc/John E. Breen, Assistant Attorney General
James E. Krahulec, V-Pres.; P.O. Box 3165; Harrisburg, PA 17105