
OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-890710-001)

In The Matter Of:

KENNETH FOGLESONG, R.Ph.
2430 Samira Road
Stow, Ohio 44224
(R.Ph. No. 03-2-06006)

THE MATTER OF KENNETH FOGLESONG CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON OCTOBER 25, 1989 AS A RESULT OF THE REPORT AND RECOMMENDATION SUBMITTED TO THE BOARD BY HEARING OFFICER AND BOARD MEMBER GERALD CLOUSE. FOLLOWING CONSIDERATION OF THE REPORT AND RECOMMENDATION, THE TRANSCRIPT OF THE HEARING, AND EVIDENCE ADDUCED AT THE HEARING, MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

State's Exhibits

- (1) Exhibit A - Notice of Opportunity letter dated July 10, 1989.
- (2) Exhibit B - Hearing Schedule letter dated July 26, 1989.
- (3) Exhibit 1 - Pharmacist Front Sheet for Kenneth Arden Foglesong.
- (4) Exhibit 2 - Pharmacist Renewal Applications for Kenneth Foglesong for 1979 and 1988.
- (5) Exhibit 3 - Prescription Number 2201710 dated 9/16/88.
- (6) Exhibit 4 - Prescription Number 2201711 dated 9/17/88.
- (7) Exhibit 5 - Prescription Number 2201713 dated 9/19/88.
- (8) Exhibit 6 - Prescription Number 2201716 dated 9/22/88.
- (9) Exhibit 7 - Prescription Number 2201717 dated 9/23/88.

Respondent's Exhibits

- (1) Exhibit 1 - Letter from Kenneth A. Foglesong dated July 20, 1989.

Findings Of Fact

The State Board of Pharmacy hereby agrees with and adopts the Findings Of Fact set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald Clouse, as follows:

- (1) The State Board of Pharmacy finds that on July 10, 1989, Kenneth Foglesong was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) The State Board of Pharmacy finds that, as demonstrated by return receipt of July 13, 1989, Kenneth Foglesong received the letter of July 10, 1989 informing him of the allegations regarding the dispensing of drugs during the time his pharmacist identification card was lapsed, and his rights.

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- (3) The State Board of Pharmacy finds that Kenneth Foglesong submitted a letter, received July 25, 1989, setting forth his position and contentions in writing, and has not requested a hearing in this matter.
- (4) The State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Kenneth Foglesong was originally issued a license to practice pharmacy in the state of Ohio on August 8, 1955, and has been a registered pharmacist practicing in Ohio since that date except for the following periods:
- September 15, 1978 through April 4, 1979
September 15, 1988 through September 23, 1988
- (5) The State Board of Pharmacy finds that Kenneth Foglesong did, on or about September 16, 1988, at Youngfellow Drug, 2910 Oakwood Drive, Cuyahoga Falls, Ohio 44221, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: Kenneth Foglesong dispensed 20 units of Percodan pursuant to prescription number 2201710. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) The State Board of Pharmacy finds that Kenneth Foglesong did, on or about September 17, 1988, at Youngfellow Drug, 2910 Oakwood Drive, Cuyahoga Falls, Ohio 44221, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: Kenneth Foglesong dispensed 40 units of Ampicillin 250mg and 20 units of Demerol 50mg pursuant to prescription number 2201711. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (7) The State Board of Pharmacy finds that Kenneth Foglesong did, on or about September 19, 1988, at Youngfellow Drug, 2910 Oakwood Drive, Cuyahoga Falls, Ohio 44221, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: Kenneth Foglesong dispensed 90 units of Tuinal 100mg pursuant to prescription number 2201713. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (8) The State Board of Pharmacy finds that Kenneth Foglesong did, on or about September 22, 1988, at Youngfellow Drug, 2910 Oakwood Drive, Cuyahoga Falls, Ohio 44221, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: Kenneth Foglesong dispensed 20 units of Percocet pursuant to prescription number 2201716. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

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- (9) The State Board of Pharmacy finds that Kenneth Foglesong did, on or about September 23, 1988, at Youngfellow Drug, 2910 Oakwood Drive, Cuyahoga Falls, Ohio 44221, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, to wit: Kenneth Foglesong dispensed 50 units of Tylox pursuant to prescription number 2201717. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Conclusion Of Law

The State Board of Pharmacy hereby agrees with and adopts the Conclusion Of Law set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald Clouse, as follows:

- (1) The State Board of Pharmacy concludes that the conduct set forth in paragraphs (5) through (9) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3725.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code.

Action Of The Board

The State Board of Pharmacy hereby agrees with and adopts the recommendation for action set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald Clouse. Therefore, pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy imposes a monetary penalty of five hundred dollars (\$500.00).

Further, the State Board of Pharmacy suspends four hundred dollars (\$400.00) of the five hundred dollar monetary penalty imposed above.

The one hundred dollar monetary penalty that was not suspended above is due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

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

MOTION CARRIED.

SO ORDERED.