

THE STATE BOARD OF PHARMACY

VS

CARL J. FUCHS, III (aka CHARLES J. FUCHS), R.Ph.
AND
MEDCO DRUGS, INC.

THE MATTERS PERTAINING TO THE REGISTERED PHARMACIST IDENTIFICATION CARD OF CARL J. FUCHS, III (aka CHARLES J. FUCHS), R.PH. NO. 03-20-7346; AND, THE TERMINAL DISTRIBUTOR LICENSE HELD BY MEDCO DRUGS, INC., NO. 02-05-7964; DOCKET NO. 6-52-2, WERE CONSOLIDATED AND HEARD PURSUANT TO CHAPTERS 4729. AND 119. OF THE OHIO REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) was, on or about December 28, 1976, convicted by the Municipal Court of Warren, Ohio of failing to keep records of every person who purchases for re-sale, or who dispenses Schedule V narcotic drugs exempted by Section 3719.15 of the Revised Code, a misdemeanor of the first degree.
- (2) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) was, on or about February 3, 1982, found guilty of a misdemeanor of the first degree by the Trumbull County Court of Common Pleas, to wit: dispensing a Schedule II controlled substance, Percodan, without securing a written prescription from a practitioner; in violation of Section 3719.05(A) of the Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) was, on or about February 3, 1982, found guilty of a misdemeanor of the first degree by the Trumbull County Court of Common Pleas, to wit: dispensing Dilaudid, a Schedule II controlled substance, without securing a written prescription from a practitioner; in violation of Section 3719.05(A) of the Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that between January 1, 1979 and July 28, 1981 at Northeast Pharmacy, 1579 Woodland Avenue Northeast, Warren, Ohio, Carl J. Fuchs (aka Charles J. Fuchs) did, without a written prescription given by a practitioner, dispense a quantity of approximately 42,990 Sopor 300mg tablets, approximately 14,566 Tuinal 200mg capsules, approximately 11,217 Biphedamine 20mg capsules, approximately 10,470 Nembutal 100mg capsules, approximately 7,521 Preludin 75mg tablets, approximately 6,724 Percodan tablets, approximately 1,470 Seconal 100mg capsules, all of which are Schedule II controlled substances and drugs which may be dispensed only upon the prescription of a practitioner; in violation of Sections 3719.05(A), 3715.64(A)(13)(b), 2925.03(A), and 3715.52(L) of the Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did, at Medco Drugs, Inc., 2024 North Road, Warren, Ohio between the dates of December 4, 1980 and July 28, 1981, dispense without a written prescription given by a practitioner a quantity of approximately 11,030 Quaalude 300mg tablets, approximately 2,143 Preludin 75mg tablets, approximately 1,900 Tuinal 200mg capsules, approximately 1,206 Percodan tablets, approximately 400 Dilaudid 4mg tablets, approximately 85 Seconal 100mg capsules, all of which are Schedule II controlled substances and drugs which may be dispensed only upon the prescription of a practitioner; in violation of Sections 3719.05(A), 3715.64(A)(13)(b), 2925.03(A), and 3715.52(L) of the Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Northeast Pharmacy, 1579 Woodland Avenue Northeast, Warren, Ohio, did not keep a record of all controlled substances received or dispensed; in violation of Section 3719.07(G) of the Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Medco Drugs, Inc., did not keep a record of all controlled substances received or dispensed; in violation of Section 3719.07(G) of the Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Carl J. Fuchs (aka Charles J. Fuchs) did, between December 4, 1980 and August 24, 1981, in Trumbull County, Ohio maintain in his custody, possession and control dangerous drugs in a place other than that described in the license issued by the Board of Pharmacy to Medco Drugs, Inc., 2024 North Road, Warren, Ohio, to wit: 11 bottles of Biphedamine 20mg (100 per bottle), 13 full bottles of Nembutal 100mg (100 per bottle), one partial bottle of Nembutal 100mg (63 capsules), three full bottles of Desoxyn 15mg (100 per bottle), one partial bottle of Desoxyn 15mg, four full bottles of Valium 5mg (500 per bottle), five full bottles of Valium 10mg (500mg per bottle), one partial bottle of Valium 10mg, 13 full bottles of Preludin 75mg (100 per bottle), one full bottle of Valium 2mg (100 count), three full bottles of Percodan (100 per bottle), five full bottles of Ritalin 20mg (100 per bottle), six full bottles of Parest 400mg (100 per bottle), one full bottle of Codeine 60mg (100 per bottle), and two full bottles of Seconal 100mg (100 per bottle) which were obtained from the trunk of the car of Fran Corruthers, an employee of Medco Drugs, Inc.; in violation of the provisions of Sections 4729.51(E) and 2925.11(A) of the Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did fail to renew his registered pharmacist identification card as required by Section 4729.12 of the Revised Code for the 1981, 1980, and 1976 licensure years.
- (10) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Northeast Pharmacy, 1579 Woodland Avenue Northeast, Warren, Ohio and Medco Drugs, Inc., 2024 North Road, Warren, Ohio, did fail to renew in a timely manner the Terminal Distributor licenses for the 1981, 1979, and 1976 licensure years; in violation of Section 4729.54 of the Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Northeast Pharmacy, 1579 Woodland Avenue Northeast, Warren, Ohio, did possess for sale and sold dangerous drugs while not being licensed as a Terminal Distributor of Dangerous Drugs between the dates of January 1, 1980 and March 28, 1980; in violation of Section 4729.51(C) of the Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did own and manage Northeast Pharmacy, 1579 Woodland Avenue Northeast, Warren, Ohio, and did not have a registered pharmacist in full and actual charge of said pharmacy during the lapsed dates of his pharmacist license; in violation of the provisions of Section 4729.27 of the Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did own and manage Medco Drugs, Inc., 2024 North Road, Warren, Ohio, and did not have a registered pharmacist in full and actual charge of said pharmacy during the lapsed dates of his pharmacist license; in violation of the provisions of Section 4729.27 of the Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did dispense and sell dangerous drugs while not being a registered pharmacist during the lapsed dates of his pharmacist license; in violation of Section 4729.28 of the Revised Code.
- (15) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did, on one or more occasions between December, 1980 and July, 1981 at Northeast Pharmacy, 1579 Woodland Avenue, Warren, Ohio, and Medco Drugs, Inc., 2024 North Road, Warren, Ohio, dispense to various individuals under the exemptions of Section 3719.15 of the Revised Code, preparations included within such section when he knew, or could by reasonable diligence have ascertained, that such dispensing would provide the persons to whom such preparations were dispensed within 48 consecutive hours with more than four grains of Codeine or any of its salts or would provide such persons within 48 consecutive hours with more than one preparation exempted by the provisions of Section 3719.15 of the Revised Code; in violation of Section 3719.16 of the Revised Code.
- (16) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs) did, on one or more occasions between December, 1980 and July, 1981 at Northeast Pharmacy, 1579 Woodland Avenue, Warren, Ohio and Medco Drugs, Inc., 2024 North Road, Warren, Ohio, fail to keep a record of all controlled substances dispensed; in that, he did not record the name or initials of the pharmacist who dispensed the substance to the purchaser; in violation of the provisions of Section 3719.07(D) of the Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Medco Drugs, Inc., did fail to notify the Board of Pharmacy of a theft of controlled substances which occurred on or about June 22, 1981; in violation of Rule 4729-9-15 of the Administrative Code.

- (18) From the evidence presented, the State Board of Pharmacy finds Carl J. Fuchs (aka Charles J. Fuchs), as the owner and responsible pharmacist for Medco Drugs, Inc., did fail to notify the Board of Pharmacy of a theft of controlled substances which occurred between January 30, 1982 and February 1, 1982; in violation of Rule 4729-9-15 of the Administrative Code.
- (19) The Board takes official notice of the previous disciplinary action taken regarding Carl J. Fuchs (aka Charles J. Fuchs) in August of 1976; pursuant to which, the Board imposed a monetary penalty of one thousand dollars (\$1,000.00).

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 (8) and (15) 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 paragraphs (1) through (16) of the Findings of Fact constitutes willful violations of more than one time any of the provisions of Chapters 3715., 3719., 4729., and 2925. 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 paragraphs (17) and (18) of the Findings of Fact constitutes violations of Rule 4729-9-15 of the Administrative Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (8) through (14) of the Findings of Fact constitutes violations of the provisions of Chapter 4729. of the Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (4) constitutes violations of Chapter 3715. of the Revised Code.

Pursuant to Sections 4729.16 and 4729.54 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 registered pharmacist license of Carl J. Fuchs (aka Charles J. Fuchs), No. 03-20-7346, and the terminal distributor license held by Medco Drugs, Inc., No. 02-05-7964:

- (A) On the basis of paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card held by Carl J. Fuchs (aka Charles J. Fuchs).
- (B) On the basis of paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card held by Carl J. Fuchs (aka Charles J. Fuchs).
- (C) On the basis of paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor license held by Medco Drugs, Inc., No. 02-05-7964.

(D) On the basis of paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor license held by Medco Drugs, Inc., No. 02-05-7964.

(E) On the basis of paragraph (5) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor license held by Medco Drugs, Inc., No. 02-05-7964.

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

MOTION CARRIED.

SO ORDERED.

THE STATE BOARD OF PHARMACY

VS

CARL J. FUCHS

THE MATTER OF THE STATE BOARD OF PHARMACY VERSUS MR. CARL J. FUCHS, DOCKET NO. 6-15-2, WAS HEARD PURSUANT TO CHAPTERS 4729 AND 119, REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

1. THE STATE BOARD OF PHARMACY FINDS CARL J. FUCHS IS GUILTY OF VIOLATION OF SECTION 4729.16(C), REVISED CODE, IN THAT HE IS GUILTY OF ALL CHARGES CONTAINED IN THE CITATION.
2. THE STATE BOARD OF PHARMACY FINES CARL J. FUCHS \$300 ON THE FIRST COUNT CONTAINED IN THE CITATION AND \$350 ON THE SECOND AND THIRD COUNTS CONTAINED IN THE CITATION FOR A TOTAL OF \$1,000.
3. THE STATE BOARD OF PHARMACY SUSPENDS \$700 OF THE \$1,000 FINE CONTINGENT ON CARL J. FUCHS SUBMITTING EVIDENCE OF 30 UNITS OF CONTINUED PHARMACY EDUCATION BEFORE SEPTEMBER 15, 1976.

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

MOTION CARRIED.

SO ORDERED.