



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143
FAX: 614/752-4836

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-920605-147)

In The Matter Of:

GERALD K. WIRTH, R.Ph.
3994 Copley Road
Akron, Ohio 44321
(R.Ph. No. 03-2-07763)

INTRODUCTION

THE MATTER OF GERALD K. WIRTH CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON SEPTEMBER 24, 1992, BY THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY D. MOORE, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; WAYNE C. MILLER, R.Ph.; RUTH A. PLANT, R.Ph.; NICHOLAS R. REPKE; JOSEPH R. SABINO, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

STATE'S EXHIBITS

- (1) Exhibit 1 - Notice of Opportunity letter dated June 5, 1992; certified envelope unclaimed, and returned on June 29, 1992; and Personal Delivery Record signed by Gerald K. Wirth on July 7, 1992.
- (2) Exhibit 2 - Pharmacist File Front Sheet of Gerald K. Wirth showing original date of registration as August 20, 1962.
- (3) Exhibit 2A - Renewal application for pharmacist license, number 03-2-07763, for a license to practice pharmacy in Ohio from September 15, 1991, to September 15, 1992, of Gerald K. Wirth dated September 30, 1991.
- (4) Exhibit 3 - Two renewal applications for pharmacist license, number 03-2-07763, for a license to practice pharmacy in Ohio from September 15, 1980, to September 15, 1981; and September 15, 1981, to September 15, 1982.
- (5) Exhibit 3A - Ohio State Board of Pharmacy Order of Gerald K. Wirth, R.Ph., Docket No. 6-75-2, dated May 21, 1984.
- (6) Exhibit 4 - Five prescriptions labeled as follows: 265209, 265210, 265757, 265505, and 265502.
- (7) Exhibit 5 - Handwritten statement of Gerald Wirth signed and notarized on April 13, 1992.

FINDINGS OF FACT

- (1) On June 5, 1992, Gerald K. Wirth 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) As demonstrated by personal delivery record of July 7, 1992, Gerald K. Wirth received the letter of June 5, 1992, informing him of the allegations against him, and his rights.

- (3) Gerald K. Wirth has not responded in any manner to the letter of June 5, 1992, and has not requested a hearing in this matter.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy finds that records of the Board indicate that Gerald K. Wirth was initially registered as a pharmacist in Ohio pursuant to examination on August 20, 1962 and is currently licensed to practice pharmacy.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy finds that on May 21, 1984 the Board found:
 - (a) Gerald K. Wirth failed to renew his identification card on the fifteenth day of September, 1980, as required by Section 4729.12 of the Ohio Revised Code, to wit: Gerald K. Wirth did not renew until September 23, 1980.
 - (b) Gerald K. Wirth failed to renew his identification card on the fifteenth day of September, 1981, as required by Section 4729.12 of the Ohio Revised Code, to wit: Gerald K. Wirth did not renew until September 23, 1981.
 - (c) Gerald K. Wirth did, between September 16, 1980 and September 23, 1980 while practicing pharmacy at Wirth-More Massillon Road Pharmacy compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern, to wit: after allowing your license to lapse and prior to its renewal, Gerald K. Wirth dispensed dangerous drugs pursuant to prescriptions. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
 - (d) Gerald K. Wirth did, between September 16, 1981 and September 23, 1981 while practicing pharmacy at Wirth-More Massillon Road Pharmacy compound, dispense, or sell dangerous drugs while not being a registered pharmacist or pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, Gerald K. Wirth dispensed dangerous drugs pursuant to prescriptions. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy finds that on May 21, 1984, the Ohio State Board of Pharmacy concluded that Gerald K. Wirth was in violation of Sections 4729.12 and 4729.28 of the Ohio Revised Code, and imposed on him monetary penalties amounting to six hundred dollars (\$600.00). The Board suspended five hundred dollars (\$500.00), leaving one hundred dollars (\$100.00) due and owing within thirty days.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Gerald K. Wirth failed to renew his identification card on the fifteenth day of September, 1991, as required by Section 4729.12 of the Ohio Revised Code, to wit: Gerald K. Wirth did not renew until October 7, 1991.

- (4) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Gerald K. Wirth did, between September 16, 1991 and October 7, 1991 while practicing pharmacy at Rite Aid Discount Pharmacy #3143 compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, Gerald K. Wirth dispensed dangerous drugs pursuant to prescriptions. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of dishonesty or unprofessional conduct in the practice of pharmacy as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of willfully violating Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) 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 (Aye-7/Nay-0).

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.

GERALD K. WIRTH, R.Ph.
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Order of the Board

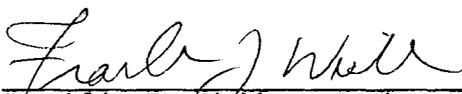
Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section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

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED
AND EFFECTIVE: OCTOBER 27, 1992

CERTIFIED MAIL
Return Receipt
#P 749 728 926

FZW/so

By 
Franklin Z. Wickham, R.Ph., M.S.
Executive Director

cc: Ronda Anderson, Assistant Attorney General



OHIO STATE BOARD OF PHARMACY

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

THE STATE BOARD OF PHARMACY

VS

GERALD K. WIRTH, R.Ph.

THE MATTER OF GERALD K. WIRTH, DOCKET NO. 6-75-2, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON WEDNESDAY, MARCH 28, 1984. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) On February 8, 1984, Gerald K. Wirth, R.Ph. No. 03-2-07763, 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) As demonstrated by return receipt of February 9, 1984, Gerald K. Wirth received the letter of February 8, 1984 informing him of the allegations regarding the late renewal of his pharmacist identification card, his continual practice without a current identification card, and his rights.
- (3) On January 24, 1984, the Board received a letter setting forth his position and contentions in writing, based on knowledge that a Notice of Opportunity For A Hearing had been mailed by the Board on January 12, 1984 and was returned by the Post Office as being undeliverable. The Notice of Opportunity was remailed by the Board on February 8, 1984.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that Gerald K. Wirth did fail to renew his identification card to practice pharmacy in Ohio, as required by Section 4729.12 of the Revised Code, more than one time.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that Gerald K. Wirth did willfully dispense and sell dangerous drugs more than one time during the lapsed dates of his pharmacist license, in violation of the provisions of Section 4729.28 of the Revised Code.

GERALD K. WIRTH, R.Ph.
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Notice of Opportunity

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 license of Gerald K. Wirth:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one hundred dollars (\$100.00).

(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 five hundred dollars (\$500.00).

(C) Further, the Board suspends the one hundred dollar monetary penalty imposed in paragraph (A) above, and four hundred dollars of the five hundred dollar monetary penalty imposed in paragraph (B) above. Said one hundred dollar monetary penalty imposed to be 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 Requested

ORDER ISSUED: May 21, 1984

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director