
OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-901105-036)

In The Matter Of:

ROBERT KATTMANN, R.Ph.
5890 Sterwerf Dr.
Cleves, Ohio 45002
(R.Ph. No. 03-3-02617)

INTRODUCTION

THE MATTER OF ROBERT KATTMANN, R.Ph. CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON JANUARY 23, 1991. MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

State's Exhibits

- (1) Exhibit A - Notice of Opportunity letter dated November 5, 1990.
- (2) Exhibit B - Letter to Jeanny Eaton, Assistant Attorney General, from Gary Hoffmann, Attorney for Respondent, dated November 29, 1990.
- (3) Exhibit 1 - Pharmacist File Front Sheet for Robert M. Kattmann showing original date of registration as July 20, 1933.
- (4) Exhibit 2 - Renewal Applications for a License to Practice Pharmacy in Ohio of Robert Kattmann for the years 1960 through 1990.
- (5) Exhibit 3 - Copy of two-page Application for Registration as a Distributor of Dangerous Drugs received April 26, 1983; with attached copy of letter from Robert Kattmann dated April 25, 1983.
- (6) Exhibit 4 - Renewal Application for Annual License as a Terminal Distributor of Dangerous Drugs for Kattmann Pharmacy for the year 1990 received December 26, 1989.
- (7) Exhibit 5 - Accountability Statement of Kattmann Pharmacy for Diazepam 5mg tablets dated May 18, 1990.
- (8) Exhibit 6 - Accountability Statement of Kattmann Pharmacy for Diazepam 10mg tablets dated May 18, 1990.
- (9) Exhibit 7 - Accountability Statement of Kattmann Pharmacy for Propoxyphene Napsylate 100mg tablets dated May 18, 1990.
- (10) Exhibit 8 - Accountability Statement of Kattmann Pharmacy for Chloral Hydrate 500mg capsules dated May 18, 1990.
- (11) Exhibit 9 - Accountability Statement of Kattmann Pharmacy for Acetaminophen with Codeine 30mg tablets dated May 18, 1990.
- (12) Exhibit 10 - Accountability Statement of Kattmann Pharmacy for Acetaminophen with Codeine 60mg tablets dated May 18, 1990.
- (13) Exhibit 11 - Accountability Statement of Kattmann Pharmacy for Diethylpropion 75mg tablets dated May 18, 1990.
- (14) Exhibit 12 - Accountability Statement of Kattmann Pharmacy for Phentermine 37.5mg tablets dated May 18, 1990.

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- (15) Exhibit 13 - Accountability Statement of Kattmann Pharmacy for Hydrocodone Bitartrate 5mg tablets dated May 18, 1990.
- (16) Exhibit 14 - Certified copy of Judgment and Commitment of Robert M. Kattmann, an individual trading as Kattmann Pharmacy, from the United States District Court, Southern District of Ohio - Western Division, dated December 17, 1964.
- (17) Exhibit 15 - Copy of two-page letter to Mr. Robert Kattmann from Rupert Salisbury, Executive Director, Ohio State Board of Pharmacy dated April 29, 1965.

Findings Of Fact

- (1) On November 5, 1990, Robert Kattmann, R.Ph. 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 November 7, 1990, Robert Kattmann, R.Ph. received the letter of November 5, 1990 informing him of the allegations against him, and his rights.
- (3) Gary R. Hoffmann, Attorney submitted a letter on behalf of Robert Kattmann, received December 4, 1990, setting forth his position and contentions in writing, and did not request 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 of Pharmacy indicate that Robert Kattmann was originally licensed in the state of Ohio on July 20, 1933, pursuant to examination, and has been practicing pharmacy since that date. Records further indicate that Robert Kattmann has been the owner and responsible pharmacist pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code, of Kattmann Pharmacy, 8 S. Miami Ave., Cleves, Ohio 45002.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann did, between the dates of August 1, 1989 and May 1, 1990, while practicing pharmacy at Kattmann Pharmacy, knowingly sell a controlled substance in an amount equal to or greater than three times the bulk amount when this conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Robert Kattmann sold, without a prescription, 4,333 tablets of Diazepam 5mg (33% of the store's Diazepam 5mg stock), a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (6) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann did, between the dates of August 1, 1989 and May 1, 1990, while practicing pharmacy at Kattmann Pharmacy, knowingly sell a controlled substance in an amount less than the minimum bulk amount when this conduct was not in accordance with Chapters 3719. and 4729. of the Revised

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- (11) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann did, between the dates of August 1, 1989 and May 1, 1990, while practicing pharmacy at Kattmann Pharmacy, knowingly sell a controlled substance in an amount equal to or greater than three times the bulk amount when this conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Robert Kattmann sold, without a prescription, 1,027 tablets of Diethylpropion 75mg (93% of the store's Diethylpropion 75mg stock), a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (12) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann did, between the dates of August 1, 1989 and May 1, 1990, while practicing pharmacy at Kattmann Pharmacy, knowingly sell a controlled substance in an amount equal to or greater than three times the bulk amount when this conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Robert Kattmann sold, without a prescription, 3,763 tablets of Phentermine 37.5mg (94% of the store's Phentermine 37.5mg stock), a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (13) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann did, between the dates of August 1, 1989 and May 1, 1990, while practicing pharmacy at Kattmann Pharmacy, knowingly sell a controlled substance in an amount equal to or greater than three times the bulk amount when this conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Robert Kattmann sold, without a prescription, 3,759 tablets of Hydrocodone Bitartrate 5mg (83% of the store's Hydrocodone Bitartrate 5mg stock), a schedule III controlled substance. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (14) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann as Responsible Pharmacist did, between the dates of August 1, 1989 and May 1, 1990, fail to keep records of controlled substances dispensed and sold from the pharmacy, to wit: Robert Kattmann sold drugs without having received prescriptions and he did not make record of such sales. Such conduct is in violation of Section 3719.07(G) of the Ohio Revised Code and Rules 4729-5-17 and 4729-9-14 of the Ohio Administrative Code.
- (15) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann was, on or about December 17, 1964, convicted in the United States District Court for the Southern District of Ohio of four counts of sales of misbranded drugs which had been shipped in interstate commerce.

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(16) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Robert Kattmann was, on or about April 29, 1965, pursuant to a Board hearing held on April 26, 1965, reprimanded by the State Board of Pharmacy.

Conclusions Of Law

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (14) of the Findings Of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (5) through (14) of the Findings Of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraphs (5) through (15) of the Findings Of Fact constitute being guilty of willfully violating the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 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 takes the following actions concerning the pharmacist license, No. 03-3-02617, held by Robert Kattmann:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Robert Kattmann.
- (B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Robert Kattmann.
- (C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Robert Kattmann.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.