



OHIO STATE BOARD OF PHARMACY

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

THE STATE BOARD OF PHARMACY  
(Docket No. D-890418-112)

In The Matter Of:

GERALD GROSS, R.Ph.  
129 E. Cumberland  
Lewisburg, Ohio 45338  
~~(R.Ph. No. 03-3-07837)~~

Filed by

1-31-90  
DATE

Jot  
INITIALS

THE MATTER OF GERALD GROSS 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 April 18, 1989.
- (2) Exhibit B - Hearing Schedule letter dated July 19, 1989.
- (3) Exhibit 1 - Pharmacist Front Sheet for Gerald Albert Gross.
- (4) Exhibit 2 - Terminal Distributor of Dangerous Drugs Renewal Application for Professional Prescriptions signed by Gerald A. Gross.
- (5) Exhibit 3 - Pharmacist Renewal Applications for Gerald A. Gross for 1976, 1982, and 1988.
- (6) Exhibit 4 - Prescription Number 386736 dated 9/16/88.
- (7) Exhibit 5 - Prescription Number 386795 dated 9/17/88.
- (8) Exhibit 6 - Prescription Number 387083 dated 9/24/88.
- (9) Exhibit 7 - Prescription Number 387237 dated 9/29/88.
- (10) Exhibit 8 - Prescription Number 387215 dated 9/28/88.
- (11) Exhibit 9 - Prescription Number 387334 dated 9/30/88.
- (12) Exhibit 10 - Prescription Number 387573. dated 10/07/88.
- (13) Exhibit 11 - Prescription Number 387818 dated 10/12/88.
- (14) Exhibit 12 - Prescription Number 387842 dated 10/13/88.
- (15) Exhibit 13 - Prescription Number 387811 dated 10/12/88.

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 records of the Board of Pharmacy indicate that on or about January 30, 1989, Gerald Gross was the responsible pharmacist at Professional Prescriptions, 850 East Xenia Drive, Fairborn, Ohio 45324, pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code, and has been a practicing pharmacist in Ohio since August 22, 1960.
- (2) The State Board of Pharmacy finds that Gerald Gross did fail to renew his pharmacist identification card by September 15, 1988, as is required by Section 4729.12 of the Ohio Revised Code, when he renewed on October 19, 1988. His license had also lapsed previously from September 15, 1976 to October 27, 1976, and again from September 15, 1982 to December 15, 1982.
- (3) The State Board of Pharmacy finds that Gerald Gross did, on or about September 16, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 386736, 30 tablets of Tylox, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) The State Board of Pharmacy finds that Gerald Gross did, on or about September 17, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 386795, 90 tablets of Ritalin 10mg, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) The State Board of Pharmacy finds that Gerald Gross did, on or about September 24, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387083, 60 tablets of Ritalin 10mg, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) The State Board of Pharmacy finds that Gerald Gross did, on or about September 29, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387237, 40 tablets of Percodan, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (7) The State Board of Pharmacy finds that Gerald Gross did, on or about September 28, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387215, 24 tablets of Percodan, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (8) The State Board of Pharmacy finds that Gerald Gross did, on or about September 30, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387334, 60 tablets of Percodan, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) The State Board of Pharmacy finds that Gerald Gross did, on or about October 7, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387573, 60cc Tincture of Opium, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (10) The State Board of Pharmacy finds that Gerald Gross did, on or about October 12, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387818, 60 capsules of Dexedrine Spansules, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (11) The State Board of Pharmacy finds that Gerald Gross did, on or about October 13, 1988, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: Gerald Gross dispensed, pursuant to prescription number 387843, 20 tablets of Tylox, a schedule II controlled substance, after his pharmacist license had expired. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (12) The State Board of Pharmacy finds that Gerald Gross did, between the dates of September 16, 1988 and October 13, 1988, when dispensing drugs pursuant to prescriptions, fail to personally record the date of such dispensing and manually record his name or initials on the original prescription or on an alternate record as required by Rule 4729-5-17 of the Ohio Administrative

Code, to wit: the following prescriptions fail to meet the requirements as set forth in Rule 4729-5-17 of the Ohio Administrative Code:

386736	386795	387083	387237	387215
387334	387573	387818	387846	387811

Such conduct is in violation of Section 4729.37 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 (2) through (12) of the Findings Of Fact constitutes willfully violating any of the provisions of Sections 3715.52 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 three hundred fifty dollars (\$350.00) of the five hundred dollar monetary penalty imposed above.

The one hundred fifty 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.

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

GERALD GROSS, R.Ph.  
Page Five  
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.

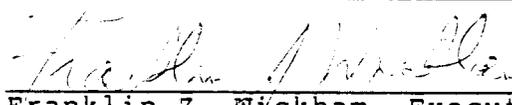
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL  
Return Receipt  
#P-417-664-091

ORDER MAILED: DECEMBER 18, 1989

FZW/pw

By

  
Franklin Z. Wickham, Executive Director

cc: Steve Dlott, Assistant Attorney General