



OHIO STATE BOARD OF PHARMACY

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

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-910912-051)

In The Matter Of:

ROBERT ALLEN BAKER, R.Ph.
656 Parkway Drive
Marysville, Ohio 43040
(R.Ph. No. 03-3-08032)

Introduction

THE MATTER OF ROBERT ALLEN BAKER CAME TO HEARING ON DECEMBER 10, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: BETTY J. NICHOL, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; NORMAN D. LEIBOW, R.Ph.; TIMOTHY D. MOORE, R.Ph.; RUTH A. PLANT, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

ROBERT ALLEN BAKER WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON, ASSISTANT ATTORNEY GENERAL.

Summary Of Evidence

(A) Testimony

State's Witnesses:

- (1) Robert Allen Baker, Respondent
- (2) Ronald E. Pierce, Respondent
- (3) Jim Thompson, Ohio State Veterinary Medical Board

Respondent's Witnesses:

- (1) Robert Allen Baker, Respondent
- (2) Ronald E. Pierce, Respondent
- (3) Bill McCarthy, R.Ph.
- (4) Barry Ludwig, Pastor
- (5) David L. Vernier, R.Ph.
- (6) Michael Smith, Revco

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Robert Allen Baker dated September 12, 1991.

- (2) Exhibit B - Hearing Request and Representation letter of Robert Allen Baker dated September 18, 1991; and copy of Notice of Opportunity letter for Robert Allen Baker dated September 12, 1991.
- (3) Exhibit C - Hearing Schedule letter for Robert Allen Baker dated September 20, 1991.
- (4) Exhibit D - Notice of Opportunity letter for Ronald E. Pierce dated October 1, 1991.
- (5) Exhibit E - Hearing Request, Representation, and Consolidation letter for Ronald E. Pierce and Robert Allen Baker dated October 8, 1991; and copy of Notice of Opportunity letter for Ronald E. Pierce dated October 1, 1991.
- (6) Exhibit F - Hearing Schedule letter for Ronald E. Pierce and consolidation approval dated October 9, 1991.
- (7) Exhibit 1 - Pharmacist File Front Sheet of Robert Allen Baker showing original date of licensure as August 19, 1963; Applications for Dangerous Drug Distributor Renewal of Revco Discount Drug Center, Inc., Terminal Distributor No. 02-137250, showing Robert Allen Baker as responsible person for the years 1988, 1989, 1990, and 1991.
- (8) Exhibit 2 - Prescriptions numbered as follows: 437938, 440565, 457879, 465509, 480589, 497397, 502007, 567991 dated 1/19/90 and 567991 dated 2/27/90, 574931, and 581234.
- (9) Exhibit 3 - Handwritten statement of Robert A. Baker signed and notarized on April 19, 1990; and handwritten statement of Robert A. Baker signed and notarized on June 5, 1990.
- (10) Exhibit 4 - Two-page copy of Revco Prescription Access Link, Patient Medical Profile of John Andreas from January 1, 1989 to April 19, 1990.
- (11) Exhibit P1 - Pharmacist File Front Sheet of Ronald E. Pierce showing original date of licensure of August 20, 1962.
- (12) Exhibit P2 - Renewal Application For Pharmacist License Number 03-1-07814 of Ronald E. Pierce dated August 9, 1991.
- (13) Exhibit P3 - Prescription number 418628.
- (14) Exhibit P4 - Handwritten statement of Ronald E. Pierce signed and notarized on June 5, 1990.
- (15) Exhibit P6 - Prescription number 455678.
- (16) Exhibit P7 - Prescription number 482685.
- (17) Exhibit P8 - Prescription number 502336.
- (18) Exhibit P9 - Prescription number 504069.
- (19) Exhibit P10 - Copy of prescription number 502007.
- (20) Exhibit P11 - Ohio Department of Health, Division of Vital Statistics, Certificate of Death of Warren W. Smith, showing date of death as January 1, 1986.
- (21) Exhibit P12 - State of Ohio, The State Medical Board, certified examination of records of John Andreas dated September 25, 1991.
- (22) Exhibit P13 - The Ohio Veterinary Medical Board, Diligent Search of Records letter dated September 25, 1991; copy of four-page Settlement Agreement between Ohio Veterinary Medical Board and John Andreas, D.V.M. dated November 14, 1990; copy of two-page Notice of Opportunity of John Andreas, D.V.M. dated June 26, 1990; and copy of three-page adjudication order of John Andreas dated November 14, 1990.

Respondent's Exhibits:

- (1) Exhibit 1 - Two-page Affidavit of Kevin E. Blessing, R.Ph. signed and notarized on December 3, 1991.
- (2) Exhibit 2 - Two-page Affidavit of Rita C. Hayes, R.Ph. signed and notarized on December 4, 1991.
- (3) Exhibit 3 - Two-page Affidavit of Ivan L. Schrock signed and notarized on November 26, 1991.
- (4) Exhibit 4 - Two-page Affidavit of R. B. Hurl, M.D. signed and notarized on November 25, 1991.
- (5) Exhibit 5 - Two-page Affidavit of John R. Linscott, M.D. signed and notarized on November 22, 1991.
- (6) Exhibit 6 - Two-page Affidavit of Malcolm MacIvor, M.D. signed and notarized on November 23, 1991.
- (7) Exhibit 7 - Two-page Affidavit of William A. McCarthy, R.Ph. signed and notarized on November 21, 1991.
- (8) Exhibit 8 - Two-page Affidavit of William R. Wening, P.E. signed and notarized on November 19, 1991.
- (9) Exhibit 9 - Two-page Affidavit of Kenneth K. Wanamaker signed and notarized on November 19, 1991.
- (10) Exhibit 10 - Two-page Affidavit of Kenneth E. Morris signed and notarized on November 22, 1991.
- (11) Exhibit 11 - Two-page Affidavit of Robert Reece signed and notarized on November 19, 1991.
- (12) Exhibit 12 - Two-page Affidavit of Joseph L. Ohler signed and notarized on November 27, 1991.
- (13) Exhibit 13 - Two-page Affidavit of Malcolm MacIvor, M.D. signed and notarized on November 23, 1991.
- (14) Exhibit 14 - Two-page Affidavit of Carla J. Johnson-Murdock, R.Ph. signed and notarized on December 7, 1991.
- (15) Exhibit 15 - Affidavit of John R. Linscott, M.D. signed and notarized on November 22, 1991.
- (16) Exhibit 16 - Two-page Affidavit of R. B. Hurl, M.D. signed and notarized on November 25, 1991.
- (17) Exhibit 17 - Two-page Affidavit of Roger L. Stovall signed and notarized on November 27, 1991.
- (18) Exhibit 18 - Two-page Affidavit of Duncan M. Grant, D.P.M. signed and notarized on November 30, 1991.
- (19) Exhibit 19 - Two-page Affidavit of Lynn Zell signed and notarized on December 3, 1991.
- (20) Exhibit 20 - Two-page Affidavit of Stanley D. Pettry signed and notarized on November 29, 1991.
- (21) Exhibit 21 - Two-page Affidavit of Regina K. Pettry signed and notarized on November 29, 1991.
- (22) Exhibit 22 - Copy of two prescriptions numbered 469211 and 574931.

Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board indicate that Robert Allen Baker was originally licensed in the state of Ohio on August 19, 1963, pursuant to examination, and is the Responsible Pharmacist at

Revco Discount Drug #481, 1163 W. 5th Street, Marysville, Ohio 43040, pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (2) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about June 2, 1988, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 437938, for thirty Tenormin 50mg tablets, supposedly issued by Dr. Warren Smith who had deceased in 1985, for the patient John Andreas, D.V.M. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about June 24, 1988, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 440565, for thirty Tenormin 50mg tablets, supposedly issued by Dr. Warren Smith who had deceased in 1985, for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about November 11, 1988, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 457879, for thirty Seldane 60mg tablets, issued by John Andreas, D.V.M., for John Andreas II. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about April 28, 1989, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 480589, for Zovirax Ointment 5%, issued by John Andreas, D.V.M., for John Andreas II. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about September 7, 1989, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 497397, for thirty Tenormin 50mg tablets, supposedly issued by Dr. Warren Smith who had deceased in 1985, for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about November 15, 1989, refill a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 502007, for thirty Tenormin 50mg tablets, supposedly issued by Dr. Warren Smith who had deceased in 1985, for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about January 10, 1989, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 465509, for thirty Seldane 60mg tablets, issued by John Andreas, D.V.M., for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about January 19, 1990, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 0481-567991, for thirty Cafergot PB tablets, issued by John Andreas, D.V.M., for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about February 27, 1990, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 0481-574931, for thirty Cafergot PB tablets, issued by John Andreas, D.V.M., for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (11) From the evidence presented, the State Board of Pharmacy finds that Robert Allen Baker did, on or about April 5, 1990, make a false or forged prescription for a dangerous drug, to wit: Robert Allen Baker made and/or aided and abetted the making of Prescription No. 0481-581234, for twenty-eight Seldane 60mg tablets, issued by John Andreas, D.V.M., for the patient John Andreas. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (11) of the Findings Of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (11) of the Findings Of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of 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 hereby takes the following actions concerning the pharmacist license, number 03-3-08032, held by Robert Allen Baker:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card held by Robert Allen Baker on probation for a period one year.

(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 \$1,000.00. Further, the Board will suspend \$500.00 of the monetary penalty provided that Robert Allen Baker:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board within the one year probation period;
- (2) does not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (3) abides by the rules of the State Board of Pharmacy; and
- (4) complies with the terms of this Order.

The monetary penalty of \$500.00 that was not suspended 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 (Aye-5/Nay-1).

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.

ROBERT ALLEN BAKER, R.Ph.
Page Seven
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

CERTIFIED MAIL
Return Receipt
#P 749 728 837

ORDER MAILED: January 31, 1992

FZW/so

By 
Franklin Z. Wickham, Executive Director

cc: Ronda Anderson, Assistant Attorney General
David W. Grauer, Attorney for Respondent; Squire, Sanders & Dempsey;
Huntington Center; 41 S. High Street; Columbus, Ohio 43215