



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-110630-192)

In The Matter Of:

HENRY B. RUTLAND, R.Ph.
202 W. Dominion Boulevard
Columbus, Ohio 43215
(R.Ph. No. 03-3-09291)

INTRODUCTION

The Matter of Henry B. Rutland came for consideration on October 4, 2011, before the following members of the Board: Brian M. Joyce, R.Ph., (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Donald M. Casar, R.Ph., Board President, Recused.
Michael A. Moné, R.Ph., Board Member, Absent.

Henry B. Rutland was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Eric Griffin, Ohio State Board of Pharmacy

Respondent's Witness:

None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-30-11]
 - 1A. Procedural
2. State Board of Pharmacy Order in re Henry B. Rutland, II, R.Ph. [02-26-85]
 - 2A. Bill of Information, UNITED STATES OF AMERICA, vs. HENRY B. RUTLAND, CASE No. 2:09-cr-245, United States District Court for the Southern District of Ohio Eastern Division [10-14-09]
3. Plea Agreement, UNITED STATES OF AMERICA, vs. HENRY B. RUTLAND, CASE No. 2:09-cr-245, United States District Court for the Southern District of Ohio Eastern Division [10-14-09]
4. Judgment, United States of America v. Henry B. Rutland, CASE NUMBER: 2:09-cr 245, United States District Court Southern District of Ohio [04-16-10]
5. Correspondence from Henry B. Rutland, R.Ph. [not dated]

Respondent's Exhibits:

None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

(1) Records of the State Board of Pharmacy indicate that Henry B. Rutland was originally licensed in the State of Ohio on August 4, 1969, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Henry B. Rutland was, on or about April 16, 2010, convicted of Accessing with Intent to View Child Pornography in violation of 18 U.S.C. 2252A(a)(5)(B), a felony, in the United States District Court, Southern District of Ohio. Henry B. Rutland was sentenced to one year and one day, followed by 10 years supervised release. Henry B. Rutland is required to be registered as a tier 2 sex offender in the State of Ohio for 25 years.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Henry B. Rutland, R.Ph. as follows:

(1) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the Pharmacist identification card, No. 03-3-09291, held by Henry B. Rutland effective as of the date of the mailing of this Order.

Henry B. Rutland, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

Troy Gahm moved for Conclusions of Law; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

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Kevin Mitchell moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

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 Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of 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 the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: NOVEMBER 2, 2011

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lp

Certified Mail / Return Receipt
7004 1160 0000 5912 9403

c: Tracy M. Nave, 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

HENRY B. RUTLAND III, R.Ph.

THE MATTER OF HENRY B. RUTLAND, DOCKET NO. 6-104-2, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON THURSDAY, JANUARY 24, 1985 AS A RESULT OF THE REPORT AND RECOMMENDATION SUBMITTED TO THE BOARD BY HEARING OFFICER AND BOARD MEMBER BETTY J. NICHOL. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

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 Betty J. Nichol, as follows:

- (1) Henry B. Rutland failed to renew his identification card on the fifteenth day of September, as required by Section 4729.12 of the Ohio Revised Code, for 1984, when he did not renew until October 2, 1984.
- (2) Henry B. Rutland failed to renew his identification card on the fifteenth day of September, as required by Section 4729.12 of the Ohio Revised Code, for 1982, when he did not renew until September 24, 1982.
- (3) Henry B. Rutland did dispense and sell dangerous drugs while not being a registered pharmacist during the lapsed dates of his pharmacist license; in violation of the provision of Section 4729.28 of the Revised Code.

Conclusions Of Law

The State Board of Pharmacy hereby agrees with and adopts the Conclusions Of Law set forth in the Report and Recommendation of Hearing Officer and Board Member Betty J. Nichol, as follows:

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- (1) Henry B. Rutland 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) Henry B. Rutland did willfully dispense and sell dangerous drugs more than one time during the lapsed dates of his pharmacist license, in violation of the provision of Section 4729.28 of the Revised Code.

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 agrees with and adopts the recommendation for action set forth in the Report and Recommendation of Hearing Officer and Board Member Betty J. Nichol. Therefore, the State Board of Pharmacy hereby takes the following actions concerning the registered pharmacist license of Henry B. Rutland:

(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.

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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

ORDER ISSUED: February 26, 1985

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc/John E. Breen, Assistant Attorney General