



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950203-036)

In The Matter Of:

THOMAS G. AUFMUTH, R.Ph.

5281 Sherwood Drive

Fairview Park, Ohio 44126

(R.Ph. No. 03-3-10465)

INTRODUCTION

THE MATTER OF THOMAS G. AUFMUTH CAME ON FOR CONSIDERATION ON OCTOBER 18, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

FINDINGS OF FACT

- (1) On February 3, 1995, and again on February 27, 1995, Thomas G. Aufmuth 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 receipts of February 6, 1995, and March 1, 1995, Thomas G. Aufmuth received the letters of February 3, 1995, and February 27, 1995, informing him of the allegations against him, and his rights.
- (3) Thomas G. Aufmuth has not responded in any manner to the letter of February 3, 1995, nor has he responded in any manner to the letter of February 27, 1995, 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 Thomas G. Aufmuth was originally licensed to practice pharmacy in the state of Ohio on July 30, 1973, and on February 3, 1995, his license was summarily suspended in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth did, from May 1, 1993, through January 28, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Midview Drugs Pharmacy, beyond the express or implied consent of the owner, to wit: while working at Midview Drugs Pharmacy, Thomas G. Aufmuth stole 6,635 capsules of Fiorinal with Codeine 30mg, a schedule III controlled substance, and 7 capsules of

Amoxil 500mg, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (6) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth did, on or about January 28, 1995, knowingly possess a controlled substance in an amount exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapter 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Thomas G. Aufmuth stole without prescription and possessed outside the confines of a terminal distributor 50 capsules of Fiorinal with Codeine 30mg. Such conduct is in violation of Section 2925.03(A)(4) of the Ohio Revised Code.
- (7) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth did, from January 11, 1995, through January 23, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Midview Drugs Pharmacy, beyond the express or implied consent of the owner, to wit: Thomas G. Aufmuth stole 27 tablets of Acetaminophen with Codeine 60mg, a schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Thomas G. Aufmuth admitted being addicted to Fiorinal with Codeine 30mg; Thomas G. Aufmuth admitted stealing controlled substances from his employer; Thomas G. Aufmuth admitted abusing controlled substances while working as a pharmacist; and, though Thomas G. Aufmuth stated to an agent of the Board that he only ingested drugs while working as a pharmacist, he was caught on January 18, 1995, stealing drugs from Midview Drugs Pharmacy and taking them outside the confines of a pharmacy.
- (9) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth did, from May 1, 1993, through February 7, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Midview Drugs Pharmacy, beyond the express or implied consent of the owner, to wit: while working at Midview Drugs Pharmacy, Thomas G. Aufmuth stole 4,107 units of Butalbital 50mg/ASA 325mg/Caffeine 40mg and/or generic equivalents, schedule III controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (10) Upon consideration of the record as a whole, the State Board of Pharmacy finds that Thomas G. Aufmuth did, from May 1, 1993, through January 28, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Midview Drugs Pharmacy, beyond the express or implied consent of the owner, to wit: while working at Midview Drugs Pharmacy, Thomas G. Aufmuth stole 1,378 units of Acetaminophen #4 with Codeine 60mg and 860 units of Tylenol with Codeine #4, schedule III controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (10) 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.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (10) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued February 3, 1995.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Thomas G. Aufmuth:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-10465, held by Thomas G. Aufmuth effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-10465, held by Thomas G. Aufmuth effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-10465, held by Thomas G. Aufmuth effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is revoked, suspended, or refused, 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.