

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-021205-042)

In The Matter Of:

DANIEL PAUL RUTH, R.Ph.
General Delivery
Mountain View, Hawaii 96771
(R.Ph. No. 03-3-11660)

INTRODUCTION

THE MATTER OF DANIEL PAUL RUTH CAME FOR CONSIDERATION ON FEBRUARY 4, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

DANIEL PAUL RUTH WAS NOT PRESENT NOR WAS HE REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Mike Cluxton, Ohio State Board of Pharmacy

Respondent's Witnesses

None

State's Exhibits

1. Copy of Notice of Opportunity for Hearing letter [12-05-02]
 - 1A. Ohio Pharmacist Computer Record of Daniel Paul Ruth
2. Rx #4422515 - Alprazolam 1 mg [09-10-01]
3. Notarized Statement of Mark Thomas, M.D. [11-14-01]
4. Notarized Statement of David Baker [09-30-02]
- 5.

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) On December 5, 2002, Daniel Paul Ruth was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by return receipt dated December 14, 2002, Daniel Paul Ruth did receive the letter of December 5, 2002, informing him of the allegations against him, and his rights.
- (3) Daniel Paul Ruth has not responded in any manner to the letter of December 5, 2002, and has not requested a hearing in this matter.
- (4) Records of the State Board of Pharmacy indicate that Daniel Paul Ruth was originally licensed by the State of Ohio as a pharmacist on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (5) Daniel Paul Ruth did, on or about September 10, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Daniel Paul Ruth telephoned a physician to request authorization for Rx #4422515; when the physician would only authorize a portion of what he requested, Daniel Paul Ruth falsified the prescription in both amount and number of refills. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code
- (6) Daniel Paul Ruth did, on or about September 10, 2001, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy, by deception, to wit: Daniel Paul Ruth forged Rx #4422515 for ninety doses of Xanax, a Schedule IV controlled substance, with a refill, when only forty-two doses had been authorized, and he only partially paid for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Daniel Paul Ruth did, on or about September 10, 2001, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, Daniel Paul Ruth sold ninety doses of Xanax 1 mg, a Schedule IV controlled substance, when only forty-two doses had been authorized by the prescriber. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (7) 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) The State Board of Pharmacy concludes that paragraphs (5) and (7) 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.

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 takes the following actions in the matter Daniel Paul Ruth:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-11660, held by Daniel Paul Ruth and such suspension is effective as of the date of the mailing of this Order.

(1) Daniel Paul Ruth, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(2) Daniel Paul Ruth, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (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.

(B) Further, the Board will consider reinstatement provided that Daniel Paul Ruth appears before the State Board of Pharmacy. If reinstatement is not accomplished within three years of the effective date of this Order, Daniel Paul Ruth must show, at the time of his appearance before the Board, successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE MARCH 6, 2003