



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-900928-024)

In The Matter Of:

ROBERT L. KEREK, R.Ph.
3321 Meadowwood N.W.
Massillon, Ohio 44646
(R.Ph. No. 03-3-14517)

INTRODUCTION

THE MATTER OF ROBERT L. KEREK CAME TO HEARING ON JANUARY 22, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

ROBERT L. KEREK WAS REPRESENTED BY WAYNE L. KEREK, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY EATON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert L. Kerek, Respondent

Respondent's Witnesses:

- (1) Gary Rutherford, Pharmacist Rehabilitation Organization, Inc.
(2) Dave Boyer, Pharmacist Rehabilitation Organization, Inc.
(3) Steven Kimbrel, Senior Minister, North Industry Christian Church

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Robert L. Kerek, R.Ph. dated September 28, 1990.
(2) Exhibit B - Request for Hearing letter from Wayne L. Kerek dated October 16, 1990.
(3) Exhibit C - Hearing Schedule letter dated October 29, 1990.
(4) Exhibit D - Request for Continuance letter dated December 7, 1990.

- (5) Exhibit E - Hearing Schedule letter dated December 12, 1990.
- (6) Exhibit 1 - Pharmacist File Front Sheet for Robert L. Kerek showing original date of registration as March 5, 1982.
- (7) Exhibit 2 - Renewal Applications of Robert L. Kerek, for a License to Practice Pharmacy in Ohio for the years 1982, 1983, 1984, 1985, 1986, 1987, 1988 and 1989.
- (8) Exhibit 3 - Renewal Application of Colonial Pharmacy, for Annual License as a Terminal Distributor of Dangerous Drugs for January 1, 1990 to December 31, 1990 showing Robert L. Kerek as Responsible Pharmacist dated November 28, 1989.
- (9) Exhibit 4 - Two-page copy of Audit Report prepared by Charles Weiss, Sr., Youngfellow Drugs received April 2, 1988.
- (10) Exhibit 5 - Two-page copy of Report of Theft or Loss of Controlled Substances for Youngfellow Drug #59 signed by Charles R. Weiss and dated November 14, 1986.
- (11) Exhibit 6 - Eleven-page transcript of tape recorded statement made by Robert L. Kerek to Agent George Pavlich, State Board of Pharmacy, on March 17, 1988 signed by Robert L. Kerek and notarized by George Pavlich on April 8, 1988.
- (12) Exhibit 7 - Cover Sheet and three-page affidavit of Robert L. Kerek signed by Robert L. Kerek and notarized by George Pavlich, State Board of Pharmacy, on April 8, 1990.
- (13) Exhibit 8 - Four-page certified copy of Judgment Entry, Case No. 89-9087, for Robert L. Kerek, from the Court of Common Pleas, Stark County, Ohio dated January 16, 1990.

Respondent's Exhibits:

- (1) Exhibit 1 - Documentation of 323 Alcoholics Anonymous and Narcotics Anonymous Meetings attended by Robert L. Kerek from November 1986 to December 1990.
- (2) Exhibit 2 - Documentation of 22 Random Urine Drug Screens of Robert L. Kerek from November 1986 to December 1990.
- (3) Exhibit 3 - Documentation of Robert L. Kerek's 64 sessions with Robert Lesowitz, M.D., Psychiatrist, and Al Lotz, Psychologist, from November 1986 to December 1990.
- (4) Exhibit 4 - Documentation of Robert L. Kerek's involvement with Pharmacists Rehabilitation Organization, Inc. from November 1986 to December 1990.
- (5) Exhibit 5 - Copy of article written by Robert Kerek published in the Ohio Pharmacist, October 1988 Issue, titled "PRO: Identifying an Addict".
- (6) Exhibit 6 - 24 letters of character reference for Robert L. Kerek.
- (7) Exhibit 7 - Documentation of business growth of Colonial Pharmacy, Inc. managed by Robert L. Kerek from 1986 to 1990.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Robert L. Kerek was originally licensed in the state of Ohio on March 5, 1982, pursuant to examination, and has been practicing pharmacy

in Ohio since that date. Records further indicate that Robert L. Kerek is the Responsible Pharmacist at Colonial Pharmacy, 1915 North Cleveland-Massillon Road, Bath, Ohio 44210, 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 L. Kerek did, between the dates of May 1, 1985 and October 31, 1986, while practicing pharmacy at Youngfellow Drugs #59, 2950 Whipple Ave. N.W., Canton, Ohio 44708, obtain dangerous drugs by committing a theft offense, to wit: Robert L. Kerek stole the following schedule II controlled substances from Youngfellow Drugs:

<u>Drug</u>	<u>Amount</u>
Seconal Sodium 100mg	314 capsules
Seconal Sodium 50mg	109 capsules
Tuinal 100mg	79 capsules
Tuinal 200mg	462 capsules
Codeine Sulfate 30mg	2 tablets
Codeine Sulfate 60mg	60 hypo. tabs.
Levo-Dromoran 2mg	100 tablets
Dexedrine 5mg	8 spansules
Dexedrine 10mg	5 spansules
Dexedrine 15mg	77 spansules
Dexedrine 5mg	82 tablets
Demerol 50mg	389 tablets
Tylox	2,233 capsules
Percocet-5	3,741 tablets
Percodan	6,086 tablets
Nembutal 50mg	6 capsules
Biphedamine 12.5mg	45 capsules
Biphedamine 20mg	32 capsules
Codeine Phosphate	.13 grams

Such conduct is in violation of Section 2925.21 of the Ohio Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Robert L. Kerek was, on or about November 9, 1989 in the Court of Common Pleas of Stark County, Ohio, convicted of one count of Obtaining Drugs by Theft Offense in violation of Section 2925.21 of the Ohio Revised Code, a felony of the fourth degree.
- (4) From the evidence presented, the State Board of Pharmacy finds that Robert L. Kerek did, between the dates of May 1, 1985 and October 31, 1986, knowingly obtain, possess, and use a controlled substance when his conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Robert L. Kerek stole and ingested the following drugs:

<u>Drug</u>	<u>Amount</u>
Seconal Sodium 100mg	314 capsules
Seconal Sodium 50mg	109 capsules
Tuinal 100mg	79 capsules
Tuinal 200mg	462 capsules
Codeine Sulfate 30mg	2 tablets
Codeine Sulfate 60mg	60 hypo. tabs.
Levo-Dromoran 2mg	100 tablets
Dexedrine 5mg	8 spansules
Dexedrine 10mg	5 spansules
Dexedrine 15mg	77 spansules
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Demerol 50mg	389 tablets
Tylox	2,233 capsules
Percocet-5	3,741 tablets
Percodan	6,086 tablets
Nembutal 50mg	6 capsules
Biphetamine 12.5mg	45 capsules
Biphetamine 20mg	32 capsules
Codeine Phosphate	.13 grams

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Robert L. Kerek is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Robert L. Kerek has stolen drugs and has been convicted for having stolen drugs which he has admitted to having ingested and thereby abused.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes being guilty of a felony as provided in Division (A)(1) 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 the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (5) of the Findings Of Fact constitutes being addicted to and abusing liquor and drugs 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.

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- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes being guilty of willfully violating 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.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-3-14517, held by Robert L. Kerek:

(A) On the basis of paragraphs (1) through (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Robert L. Kerek for five years effective February 2, 1987 through February 2, 1992.

(B) Further, the Board will suspend the five-year suspension provided Robert L. Kerek:

(1) submits copies of results to the Board of all Urine Drug Screens, pursuant to court order, through February 2, 1992;

(2) maintains perpetual inventories on all controlled substances at his place of employment through February 2, 1992;

(3) does not violate the drug laws of the state of Ohio, any other state, or the federal government;

(4) abides by the rules of the State Board of Pharmacy; and

(5) complies with the terms of this Order.

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
#P 497 578 889

ORDER MAILED: March 12, 1991

FZW/sl

By



Franklin Z. Wickham, Executive Director

cc: Jeanny Eaton, Assistant Attorney General
Wayne L. Kerek, Attorney for Respondent; 15300 Pearl Road;
Strongsville, Ohio 44136