



OHIO STATE BOARD OF PHARMACY

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Columbus, Ohio 43266-0320
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THE STATE BOARD OF PHARMACY
(Docket No. D-881005-012)

In The Matter Of:

KAY JOAN CUMMINGS, R.Ph.
15701 S.W. 78th Avenue
Miami, Florida 33157

03-3-15894

INTRODUCTION

THE MATTER OF KAY JOAN CUMMINGS CAME TO HEARING ON DECEMBER 15, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHANN, R.Ph. (presiding); NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

KAY JOAN CUMMINGS WAS NOT PRESENT NOR REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Franklin Z. Wickham - Ohio Board of Pharmacy

Respondent's Witnesses:

(None)

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity Letter dated October 5, 1988.
- (2) Exhibit B - Letter submitted by Kay J. Cummings dated October 28, 1988.
- (3) Prescriptions numbered 275273, 257384, 252902, 254103, 250837, 249222, 245895, 247862, 240309, 244594, 242031, 238974, 238975, 261472, 262961, 259901, 263818, and 266102.

Respondent's Exhibits:

(None)

FINDINGS OF FACT

- (1) On October 5, 1988, Kay Joan Cummings was notified by letter of her right to a hearing, her rights in such hearing, and her right to submit her contentions in writing.
- (2) As demonstrated by return receipt of October 21, 1988, Kay Joan Cummings received the letter of October 5, 1988 informing her of the allegations regarding practicing pharmacy without a current license, and her rights.
- (3) Kay Joan Cummings submitted a letter, dated October 25, 1988, setting forth her position and contentions in writing, and has not requested a hearing in this matter.
- (4) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Kay Joan Cummings was a registered pharmacist until September 15, 1986. Records further indicate that her license lapsed on said date and was not renewed until January 22, 1988.
- (5) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about January 11, 1988, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 20 tablets of Percodan, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about December 5, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 30 tablets of Ritalin-SR 20mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about November 21, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or

sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 50 tablets of Ritalin-SR 20mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about October 27, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 24 tablets of Percodan, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about September 29, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 15 tablets of Percodan, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about August 14, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 30 tablets of Ritalin 5mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (11) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about July 31, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 20 tablets of Percodan, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about June 11, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 50 tablets of Percocet 5, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

- (13) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about May 19, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 15 tablets of Demerol 50mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about April 9, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 100 tablets of Codeine Sulfate 60mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (15) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about March 9, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 20 tablets of Percocet 5, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (16) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about February 12, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 90 tablets of Ritalin 10mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about January 8, 1987, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 100 tablets of Ritalin 10mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (18) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about December 18, 1986, while

practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 100 tablets of Codeine Sulfate 30mg, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

- (19) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about November 4, 1986, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 12 tablets of Percocet 5, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (20) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about October 4, 1986, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 30cc of Demerol 50mg/ml, a Schedule II controlled substance. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (21) From the evidence presented, the State Board of Pharmacy finds that Kay Joan Cummings did, on or about September 9, 1986, while practicing pharmacy at Medic Discount Drug, 9853 Johnnycake Ridge, Concord, Ohio and not being a licensed terminal distributor of dangerous drugs or a practitioner, possess for sale or sell at retail dangerous drugs, to wit: Kay Joan Cummings dispensed 15 tablets of Percodan, a Schedule II controlled substance, and 8 capsules of Tigan 250mg, a dangerous drug. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (5) through (21) of the Findings Of Fact constitutes violations of Chapter 4729. of the Revised Code.

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Order of the Board

ORDER

Based on mitigating circumstances and the Board's determination that the aforementioned Findings Of Fact and Conclusions Of Law constitute minor violations of Chapter 4729. of the Ohio Revised Code, it is the Board's belief that while any offense is a serious matter, a written warning is sufficient to protect the public health, safety, and welfare and to ensure that future violations will not occur.

Pursuant to Section 4729.25 of the Ohio Revised Code, Kay Joan Cummings is hereby WARNED to desist from all future violations of Chapter 4729. of the Ohio Revised Code.

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.

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-596-092-728

ORDER MAILED: MARCH 7, 1989

FZW/pw

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General