



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940804-007)

In The Matter Of:

**KYLE E. GAISFORD, R.Ph.**

3019 Nebraska, Lot 4

Toledo, Ohio 43607

(R.Ph. No. 03-3-18733)

### INTRODUCTION

THE MATTER OF KYLE E. GAISFORD CAME TO HEARING ON DECEMBER 6, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KYLE E. GAISFORD WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY ANNE B. STRAIT, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dale Fritz, Ohio State Board of Pharmacy
- (2) Detective Michael T. Skotytsky, City of Toledo Police Division, Vice/Metro Unit
- (3) Kyle E. Gaisford, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated August 4, 1994.
- (2) Exhibit 1A - Addendum Notice dated September 6, 1994.
- (3) Exhibit 1B - Hearing Request letter, not dated, received in the Board office on October 14, 1994.

- (4) Exhibit 1C - Hearing Schedule letter dated October 14, 1994.
- (5) Exhibit 1D - Pharmacist File Front Sheet of Kyle Eugene Gaisford showing original date of registration as February 15, 1991, and Renewal Application for Pharmacist License, No. 03-3-18733, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Kyle Eugene Gaisford dated August 30, 1993.
- (6) Exhibit 2 - Order of the State Board of Pharmacy, Docket No. D-890504-113, in the matter of Kyle E. Gaisford dated November 9, 1989.
- (7) Exhibit 3 - Two-page facsimile as follows: page one - cover sheet from Toledo Police Vice/Metro Unit sent to Det. M. Skotynsky on December 6, 1994; and page two - telephoned prescription for patient Mary Dultmeyer, and computer-generated label and information for prescription number 4412997.
- (8) Exhibit 4 - Prescription number 4412535.
- (9) Exhibit 5 - Prescription number 4412023 dated June 1, 1994; and prescription number 4412023 dated June 2, 1994.
- (10) Exhibit 6 - Prescription number 4411878.
- (11) Exhibit 7 - Prescription number 4411736.
- (12) Exhibit 8 - Two-page voluntary statement of Dr. Elmer F. Wahl, M.D. signed and notarized on July 12, 1994.
- (13) Exhibit 9 - Two-page typed report of Bryan Flournoy, R.Ph. signed and notarized on July 12, 1994.
- (14) Exhibit 10 - Handwritten statement of Angie Landers signed and notarized on July 12, 1994.
- (15) Exhibit 11 - Counseling Signature Log dated July 4th.
- (16) Exhibit 12 - Counseling Signature Log dated June 2nd.
- (17) Exhibit 13 - Counseling Signature Log dated May 23rd.
- (18) Exhibit 14 - Counseling Signature Log dated May 16, 1994.
- (19) Exhibit 15 - Two-page copy of handwritten statement of Tracy Guinn with original signature notarized on July 7, 1994.
- (20) Exhibit 16 - Two-page copy of Toledo Ohio Police Division Incident Report regarding Kyle Gaisford on July 4, 1994.
- (21) Exhibit 17 - Prescription No. 999224.
- (22) Exhibit 18 - Prescription showing Kyle Gaisford as the patient, written for 120 units of Dexedrine 5mg dated April 5, 1993.
- (23) Exhibit 19 - Certified Court Docket in the Common Pleas Court of Lucas County, Ohio, Case No. CR 94-6348, of Kyle Gaisford dated from July 22, 1994, through October 19, 1994.
- (24) Exhibit 20 - Certified Court Docket in the Common Pleas Court of Lucas County, Ohio, Case No. CR 94-6425, of Kyle Gaisford dated from August 1, 1994, through October 19, 1994.
- (25) Exhibit 21 - Renewal Application for Pharmacist License, No. 03-3-18733, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Kyle Eugene Gaisford dated October 1, 1992.
- (26) Exhibit 22 - Renewal Application for Pharmacist License, No. 03-3-18733, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Kyle Eugene Gaisford dated August 30, 1993.
- (27) Exhibit 23 - Westhaven - Toledo Edit List, Port: 38, Batch: 17, dated September 24, 1992.
- (28) Exhibit 24 - Westhaven - Toledo Edit List, Port: 25, Batch: 03, dated September 22, 1992.
- (29) Exhibit 25 - Westhaven - Toledo Edit List, Port: 29, Batch: 10, dated September 22, 1993.

- (30) Exhibit 26 - Westhaven schedule II controlled substance dispensing log sheet for dispensings made from September 22, 1993, through September 27, 1993.
- (31) Exhibit 27 - Four-page copy of Toledo Ohio Police Division Incident Report regarding Kyle Gaisford on July 30, 1994.

Respondent's Exhibits:

- (1) Exhibit A - Copy of Comprehensive Addiction Services System, Extended Care Individual Treatment Plans, Phase 1 of Kyle Gaisford dated September 28, 1994.
- (2) Exhibit B - Five-page copy of Client Participation Manual for the Treatment Alternatives to Street Crimes Program of Kyle Gaisford dated August 22, 1994.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that Kyle E. Gaisford was originally licensed to practice pharmacy in the state of Ohio on February 15, 1991. On August 4, 1994, Kyle E. Gaisford's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Kyle E. Gaisford 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: Kyle E. Gaisford has been disciplined by this Board for having committed drug abuse; Kyle E. Gaisford has been convicted in the Common Pleas Court of Lucas County, Ohio, for having committed the offense of Drug Abuse in violation of Section 2925.11 of the Ohio Revised Code; Kyle E. Gaisford has been through drug treatment; and, after having been through drug treatment, Kyle E. Gaisford has continued to obtain drugs by deception.
- (3) Kyle E. Gaisford did, on or about the following dates, intentionally make a false or forged prescription, to wit: Kyle E. Gaisford created, or caused to be created, the following false or forged prescriptions for APAP with Codeine 60mg, a schedule III controlled substance:

<u>Rx No.</u>	<u>Date</u>	<u>Quantity</u>
4411736	05-16-94	40
4411878	05-23-94	40
4412023	06-01-94	60
4412535	07-04-94	60
4412997	07-30-94	60

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (4) Kyle E. Gaisford did, on or about the following dates, knowingly possess a controlled substance in amounts greater than bulk but less than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kyle E. Gaisford possessed the following amounts of APAP with Codeine 60mg, a schedule III controlled substance, while he was not engaged in the practice of pharmacy and a practitioner had not issued a prescription for the medication:

<u>Rx No.</u>	<u>Date</u>	<u>Quantity</u>
4411736	05-16-94	40
4411878	05-23-94	40
4412023	06-01-94	60
4412535	07-04-94	60
4412997	07-30-94	60

Such conduct is in violation of Section 2925.03(A)(4) of the Ohio Revised Code.

- (5) Kyle E. Gaisford did, on or about April 8, 1993, by deception, procure a prescription for, and/or the dispensing of, a dangerous drug, to wit: after receiving 120 tablets of Dexedrine 5mg pursuant to a prescription, he told the prescribing practitioner that his rabbit had eaten the prescription, whereupon Kyle E. Gaisford obtained a prescription to replace it. The second prescription, written for 140 tablets of Dexedrine 5mg, was dispensed at a pharmacy different than the first. Such conduct is in violation of Section 2925.22 of the Ohio Revised Code.
- (6) Kyle E. Gaisford did, between September 16, 1992, and October 7, 1992, while practicing pharmacy at Westhaven Institutional Pharmacy, 7643 Ponderosa Road, Perrysburg, Ohio 43551, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, Kyle E. Gaisford practiced pharmacy as shown by his signature on Edit Lists dated September 22, 1992, and September 24, 1992. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (7) Kyle E. Gaisford did, between September 16, 1993, and September 30, 1993, while practicing pharmacy at Westhaven Institutional Pharmacy, 7643 Ponderosa Road, Perrysburg, Ohio 43551, compound, dispense, or sell dangerous drugs while not being a registered pharmacist or a pharmacy intern, to wit: after allowing his license to lapse and prior to its renewal, Kyle E. Gaisford practiced pharmacy as shown by his signature on Edit Lists dated September 19, 1993, and September 24, 1993. Further, on September 25, 1993, and September 26, 1993, Kyle E. Gaisford dispensed Oxycodone with APAP, a schedule II controlled substance, on seven separate occasions as shown by his initials on the schedule II controlled substance dispensing log. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (8) Kyle E. Gaisford was, on or about October 18, 1994, in the Common Pleas Court of Lucas County, Ohio, convicted of two counts of Deception to Obtain Dangerous Drugs, in violation of Section 2925.22 of the Ohio Revised Code, felonies of the 4th degree.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (8) 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 paragraphs (2) 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.

- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (5) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 2925. and 4729. 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 August 4, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Kyle E. Gaisford:

- (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. 03-3-18733, held by Kyle E. Gaisford 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. 03-3-18733, held by Kyle E. Gaisford 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. 03-3-18733, held by Kyle E. Gaisford effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-18733, held by Kyle E. Gaisford effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Revised Code provides that: "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.