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APPLYING FOR REGISTRATION AS A PHARMACIST WHEN THE LICENSE TO PRACTICE PHARMACY WAS REVOKED BY STATE BOARD OF PHARMACY—ADMITTING TO EXAMINATION A PERSON WHOSE CERTIFICATE OF REGISTRATION AS A PHARMACIST HAS BEEN REACHED FOR VIOLATING A NARCOTIC LAW, A FELONY. §§4729.07, 4729.08, 4729.16, R.C. OAG No. 1207—1960, MARCH 24.

## SYLLABUS:

1. The fact that a person at one time held a state license to practice pharmacy which license was revoked by the state board of pharmacy does not preclude such person from applying for registration as a pharmacist under Section 4729.07, Revised Code.

2. A person whose certificate of registration as a pharmacist has been revoked by the state board of pharmacy on the grounds that he had violated a narcotic law, a felony, may be admitted to examination under the provisions of Chapter 4729., Revised Code, to obtain a new certificate, provided the board finds that such person has the qualifications specified in Section 4729.08, Revised Code.

Columbus, Ohio, June 14, 1960

Hon. M. N. Ford, Secretary  
State Board of Pharmacy  
1010 Wyandotte Building, Columbus, Ohio

Dear Sir:

I have your request for my opinion in which the following question is presented.

May the state board of pharmacy approve an application of a pharmacist whose certificate of registration was revoked by the board in 1957, for the reason that such pharmacist had been guilty of a violation of a narcotic law, a felony; and if such approval is permissible under the pharmacy laws of Ohio under what conditions may the board reinstate such pharmacist? Section 4729.16, Revised Code, provides in part:

“Each certificate and each renewal certificate issued by the state board of pharmacy shall entitle the person to whom it is granted to practice the profession of pharmacist or assistant pharmacist for three years.

“The state board of pharmacy after notice and hearing in accordance with sections 119.01 to 119.13, inclusive of the Revised Code, may revoke, suspend, or refuse to grant or to renew a certificate of a person:

“(A) Guilty of a felony or gross immorality; or

“\* \* \*”

“No certificate shall be suspended for a longer period than two years. If during such suspension the existing certificate shall have expired the board may, at the end of such suspension, renew such certificate upon payment to the board the fee prescribed in section 4729.23 of the Revised Code for renewal of a certificate.”

It is to be noted that under the provisions of quoted Section 4729.16, *supra*, the maximum period for which the board may suspend the certificate of a registered pharmacist is fixed at two stores and that if during such period such existing certificate should expire the board has the authority to renew it upon the payment of the prescribed renewal fee. But no provision is made therein as to any action the board may take in regard to certificates that have been *revoked*, this for the apparent reason that a revoked certificate ceases to exist.

The verb “revoke” is defined in Webster’s New International Dictionary:

“To annul by recalling or taking back; to repeal; to rescind; to cancel; to reverse; as anything granted by a special act; as, to revoke a will, license, grant, law.”

It follows, therefore, that a pharmacist whose certificate of registration has been revoked is in no different position than a person to whom the state board of pharmacy has never issued such certificate. In other words, he may file an application with the board as provided in Section 4729.07, Revised Code, reading:

“A person desiring to be registered as a pharmacist shall file with the secretary of the state board of pharmacy a verified application giving his date and place of birth, places at which he studied or practiced pharmacy and the time spent in such study or practice, and such other information as the board may require, and appear before the board and take an examination in the following subjects: pharmaceutical chemistry, pharmacognoy, pharmacology, pharmacy administration and the theory and practice of pharmacy. Examinations of those applying for registration as pharmacists shall be held at such times, during each year, and at such places as the board may determine.”

The applicant must, however, have the qualifications required by Section 4729.08, Revised Code, reading:

“Every applicant for examination and registration as a pharmacist shall:

“(A) Be a citizen of the United States, or shall have made application therefor;

“(B) Be not less than twenty-one years of age;

“(C) Be of good moral character and habits;

“(D) Be a graduate from a school or college of pharmacy or a department of pharmacy of a university recognized and approved by the state board of pharmacy. The applicant shall have completed at least the minimum course in pharmacy as outlined by the American Council of Pharmaceutical Education, Inc.

“(E) File proof satisfactory to the board, substantiated by proper affidavits, of a minimum of one year’s internship under the personal supervision of a registered pharmacist. The internship required shall be predominantly related to the selling of drugs and medical supplies, compounding prescriptions, preparing pharmaceutical preparations, and keeping records and making reports required under the state and federal statutes. Credit for the experience required may be granted only if obtained when the intern is not enrolled and in attendance in a college or university, summer vacation periods excepted, and if obtained subsequent to the internship registration and completion of one year of work in a college or university.

“Credit may be granted to any person registered as an intern (apprentice) regardless of completion of one year of work in a college or university if he was registered as an intern (apprentice) prior to January 1, 1960.

“The requirement of one year’s internship under the personal supervision of a registered pharmacist shall be waived in the case of a member of the armed forces of the United States, who served in any capacity in any branch of the service prior to July 1, 1945, provided such applicant for examination was matriculated in a recognized school or college of pharmacy or department of pharmacy of a university prior to October 1, 1941.

“The written portion of the examination for becoming a registered pharmacist may be taken before the completion of the internship required by division (E) of section 4729.08 of the Revised Code.”

I direct your attention to subdivision (C) of the just quoted section in which “good moral character and habits” are made one of the con-

ditions for admission to examination and registration of a pharmacist. This provision, it appears, must be discussed in view of the fact that in the situation here considered the pharmacist involved was guilty of having violated a narcotic law, which was a felony, and the grounds for the revocation of his certificate of registration by the board.

A substantially analogous situation was recently resolved in Opinion No. 1207, Opinions of the Attorney General for 1960, issued on March 24, 1960, where it is stated in the syllabus:

“The state board of cosmetology is required to determine in each case whether or not, according to its best judgment, an applicant for a cosmetologist’s license is of good moral character, and the fact that an applicant was at one time admitted to a public or private correctional institution or the fact that an applicant was at one time an inmate of the state reformatory for women, would not of itself bar such an applicant from being admitted to examination for such license on the grounds that such applicant is not of good moral character.”

I am of the opinion that the determination made in Opinion No. 1207, *supra*, is applicable to the question with which the state board of pharmacy is faced in the situation here considered; that is to say, the fact that a pharmacist whose certificate had been revoked for having been found guilty of a felony, would not of itself bar such pharmacist from being admitted to examination for registration as a pharmacist. Certainly, the fact that a license has been revoked does not in itself forever bar the person concerned from applying for a new license. Of course, since the person here considered violated a narcotic law while practicing the profession of a pharmacist, the board will have a duty to weigh this circumstance as being of more than ordinary significance in connection with all other legitimate information that may be considered by the board in connection with the application of such person.

Therefore, in specific answer to your question, it is my opinion and you are advised:

1. The fact that a person at one time held a state license to practice pharmacy which license was revoked by the state board of pharmacy does not preclude such person from applying for registration as a pharmacist under Section 4729.07, Revised Code.

2. A person whose certificate of registration as a pharmacist has been revoked by the state board of pharmacy on the grounds that he had

violated a narcotic law, a felony, may be admitted to examination under the provisions of Chapter 4729., Revised Code, to obtain a new certificate, provided the board finds that such person has the qualifications specified in Section 4729.08, Revised Code.

Respectfully,

MARK McELROY

Attorney General