03-1-05338

OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-881130-029)

In The Matter Of:

MARVIN SHAPIRO, R.Ph.
1414 Som Center Road
Mayfield Heights, Ohio 44124

INTRODUCTION

THE MATTER OF MARVIN SHAPIRO CAME TO HEARING ON JANUARY 25, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; 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.

MARVIN SHAPIRO WAS NOT 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) Christopher K. Reed - Board of Pharmacy
(2) Marvin Shapiro - Respondent

Respondent's Witnesses:

(None)

(B) Exhibits

State's Exhibits:

(1) Exhibit A - Notice of Opportunity letter dated November 30, 1988.
(2) Exhibit B - Hearing Request letter dated December 12, 1988.
(3) Exhibit C - Hearing Schedule letter dated December 15, 1988.
(4) Exhibit D - Letter from Defense Attorney James S. Carnes dated December 29, 1988.
(5) Exhibit 2 - Exempt Narcotic Register.
(6) Exhibit 3 - Written statement from Marvin Shapiro.
(7) Exhibit 5 - Journal Entry of Indictment for Marvin Shapiro from the Cuyahoga County Common Pleas Court.

Respondent's Exhibits:

(None)

FINDINGS OF FACT

(1) From the evidence presented, the State Board of Pharmacy finds that Marvin Shapiro did, on or about June 9, 1987, while practicing pharmacy at New Heights Pharmacy, 2179 South Green Road, University Heights, Ohio 44121, dispense or sell, under exemptions of Section 3719.15 of the Revised Code, to one person a preparation included within such section when he knew, or could by reasonable diligence ascertain, that such dispensing or selling would provide the person to whom sold, within any forty-eight consecutive hours, with more than one preparation exempted by the provisions of Section 3719.15 of the Revised Code, to wit: Marvin Shapiro sold one four-ounce bottle of Elixir Terpin Hydrate and Codeine after having sold one four-ounce bottle of Elixir Terpin Hydrate and Codeine within forty-eight hours previous. Such conduct is in violation of Section 3719.16 of the Ohio Revised Code.

(2) From the evidence presented, the State Board of Pharmacy finds that Marvin Shapiro did, on or about June 10, 1987, while practicing pharmacy at New Heights Pharmacy, 2179 South Green Road, University Heights, Ohio 44121, dispense or sell, under exemptions of Section 3719.15 of the Revised Code, to one person a preparation included within such section when he knew, or could by reasonable diligence ascertain, that such dispensing or selling would provide the person to whom sold, within any forty-eight consecutive hours, with more than one preparation exempted by the provisions of Section 3719.15 of the Revised Code, to wit: Marvin Shapiro sold one four-ounce bottle of Elixir Terpin Hydrate and Codeine after having sold one four-ounce bottle of Elixir Terpin Hydrate and Codeine within forty-eight hours previous. Such conduct is in violation of Section 3719.16 of the Ohio Revised Code.

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 (1) and (2) of the Findings Of Fact constitutes being guilty of a felony.

(2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) and (2) of the Findings Of Fact constitutes aiding and abetting the violation of the provisions of Chapter 3719. of the Ohio Revised Code.

ORDER

Based on the Board's determination that the aforementioned Findings Of Fact and Conclusions Of Law constitute minor violations of Section 4729.16 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, Marvin Shapiro 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 CARRIEED.

SO ORDERED.