



# OHIO STATE BOARD OF PHARMACY

65 S. FRONT STREET, ROOM 504  
COLUMBUS, OHIO 43266-0320  
TELEPHONE: 614/466-4143

THE STATE BOARD OF PHARMACY

vs

JOHN T. BRICKLER, R.Ph.  
4215 Tower Avenue  
Saint Bernard, Ohio 45217

THE MATTER OF JOHN T. BRICKLER, DOCKET NO. D-860828-003, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON WEDNESDAY, OCTOBER 15, 1986. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

## ORDER

### Findings Of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds that John T. Brickler was found guilty by the Hamilton County Court of Common Pleas, on April 2, 1986, of trafficking, to wit: the illegal sale, without a written or oral prescription, of 49 capsules of Tylox, a Schedule II controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that John T. Brickler was found guilty by the Hamilton County Court of Common Pleas, on April 2, 1986, of the illegal possession of dangerous drugs, to wit: the possession of approximately 3,000 tablets of Tripellenamine, a dangerous drug, at a place other than that or those described in the license issued by the Board of Pharmacy.
- (3) From the evidence presented, the State Board of Pharmacy finds that John T. Brickler did, on one or more occasions between July 1, 1984 and October 14, 1985 at Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, without a written or oral prescription, dispense approximately 100 tablets of Dilaudid-4mg, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code. The above conduct was not in accordance with Chapters 3715., 3719., and 4729. of the Revised Code, and is prohibited by Section 2925.03(A)(7) of the Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, between the dates of November 18, 1983 and March 1, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following misbranded drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, in plastic prescription vials and were dispensed or held for dispensing to patients pursuant to written or oral prescriptions:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
11/18/83	Meclomen 50	200
04/10/84	Meclomen 50	200
11/01/84	Meclomen 50	200
02/28/85	Meclomen 50	200

Such conduct is in violation of Ohio Revised Code Section 3715.64(A) and is prohibited by Section 3715.52 of the Ohio Revised Code.

- (5) From the evidence presented, the State Board of Pharmacy finds that Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, between the dates of November 15, 1983 and December 31, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, and were dispensed to patients pursuant to written or oral prescriptions. These drugs were misbranded; in that, they were labeled as "clinic packs" and/or as "samples" and, therefore, were false and misleading when sold at retail.

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
11/18/83	Lo Ovral 21	6 cycles
12/16/83	Lo Ovral 21	6 cycles

Such conduct is in violation of Ohio Revised Code Sections 3715.64(A) and 3719.81, and is prohibited by Sections 3715.52 and 2925.36 of the Ohio Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, on or about October 14, 1985, did hold and offer for sale misbranded drugs, to wit:

<u>Drug</u>	<u>Quantity</u>
Diupres-500	47 capsules
Nitrobid 2.5	48 capsules

These drugs were misbranded; in that, dosage forms were marked as "samples" and in bottles that were not labeled as required by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, nor Chapter 3715. of the Ohio Revised Code. Such conduct is in violation of Ohio Revised Code Sections 3715.64(A) and 3719.81, and is prohibited by Sections 3715.52 and 2925.36 of the Ohio Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, on or about October 14, 1985, did hold and offer for sale misbranded drugs, to wit:

<u>Drug</u>	<u>Quantity</u>
Amytal	70 tablets
Coumadin	6 tablets
Pentryate-30mg	250 capsules
Preludin-25mg	29 tablets
Quibron	22 capsules
Quibron Plus	10 tablets
Restoril-15mg	30 capsules
Roniacol TS	55 caplets

These drugs were misbranded; in that, they were not in the original manufacturer's containers and were not labeled as required by the Federal Food, Drug, and Cosmetic Act and Chapter 3715. of the Ohio Revised Code. Such conduct is in violation of Ohio Revised Code Section 3715.64(A) and is prohibited by Section 3715.52 of the Ohio Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that John T. Brickler, as the responsible pharmacist required by Section 4729.55 of the Ohio Revised Code, and pharmacist-in-charge pursuant to Ohio Revised Code Section 4729.27, did violate Ohio Revised Code Chapter 4729. and Ohio Administrative Code Rule 4729-9-01; in that, Mr. Brickler did not maintain all areas where drugs were stored in a clean and orderly condition.
- (9) From the evidence presented, the State Board of Pharmacy finds that John T. Brickler, as the president of the corporation which owns Tower Pharmacy, Inc., 4508 Vine Street, Saint Bernard, Ohio 45217, and the responsible pharmacist, did not keep a record of all controlled substances received or dispensed; in violation of the provisions of Sections 3719.07 and 4729.37 of the Ohio Revised Code, and Rules 4729-5-17 and 4729-9-14 of the Ohio Administrative 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) through (9) of the Findings Of Fact constitutes gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (9) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (9) of the Findings Of Fact constitutes willfully violating the provisions of Chapters 2925., 3715., 3719., and 4729. of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law, the State Board of Pharmacy takes the following actions concerning the pharmacist license held by John T. Brickler, No. 03-1-05685:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by John T. Brickler.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of seven thousand five hundred dollars (\$7,500.00), due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43266-0320, with the enclosed form.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, ..., 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.

JOHN T. BRICKLER, R.Ph.  
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Order of the Board

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

ORDER ISSUED: November 17, 1986

FZW/sb

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

cc: John E. Breen, Assistant Attorney General