

03-1-06208

STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY

VS

ROBERT E. BELTON, R.Ph.

THE MATTER OF ROBERT E. BELTON, DOCKET NO. 6-179-2, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON FRIDAY, JUNE 27, 1986 AS A RESULT OF THE REPORT AND RECOMMENDATION SUBMITTED TO THE BOARD BY HEARING OFFICER AND BOARD MEMBER GERALD M. CLOUSE. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

The State Board of Pharmacy hereby agrees with and adopts the Findings Of Fact set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald M. Clouse, as follows:

- (1) Robert E. Belton, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge pursuant to Ohio Revised Code Section 4729.27 for Fidelity Prescriptions, Inc., Terminal Distributor of Dangerous Drugs License No. 02-092850, is responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy.
- (2) Fidelity Prescriptions, Inc., between the dates of August 1, 1985 and November 15, 1985, did receive and hold and offer for sale misbranded drugs, to wit: Nitrodisc-5mg/24hour and Nitrodisc-10mg/24hour were purchased from Gerry Tucker, sales representative for Searle Drug Company, and were to be dispensed to patients pursuant to written or oral prescriptions. These drugs were misbranded; in that, they were labeled as "samples" and, therefore, were false and misleading. Such conduct is in violation of Ohio Revised Code Sections 3715.64(A) and 3719.81, and is prohibited by Sections 2925.36 and 3715.52 of the Ohio Revised Code.
- (3) The Board of Pharmacy takes administrative notice of Divisions (J), (K), and (L) of Section 4729.02 of the Revised Code, which reads as follows:
 - (J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.

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- (K) "Wholesale sale" and "sale at wholesale" means any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.
- (L) "Retail sale" and "sale at retail" means any sale other than a wholesale sale or sale at wholesale.

Conclusions Of Law

The State Board of Pharmacy hereby agrees with and adopts the Conclusions Of Law set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald M. Clouse, as follows:

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes dishonesty in the practice of pharmacy.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (2) of the Findings Of Fact constitutes willful violations of the provisions of Chapters 2925., 3715., and 3719. of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law set forth above, the State Board of Pharmacy hereby agrees with and adopts the recommendation for action set forth in the Report and Recommendation of Hearing Officer and Board Member Gerald M. Clouse. Therefore, the State Board of Pharmacy takes the following actions concerning the pharmacist license held by Robert E. Belton:

- (A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00).
- (B) Further, the Board suspends seven hundred fifty dollars of the one thousand dollar monetary penalty imposed in paragraph (A) above, on condition that Robert E. Belton:
- (1) does not violate the drug laws of the state of Ohio, any other state, or the federal government; and
- (2) abides by the rules of the State Board of Pharmacy.

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The two hundred fifty dollar (\$250.00) monetary penalty that was not suspended in paragraph (B) above is 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.