



OHIO STATE BOARD OF PHARMACY

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COLUMBUS, OHIO 43215
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THE STATE BOARD OF PHARMACY

VS

HERBERT LAWRENCE SCHINDLER, R.Ph.
AND
MAY-LEE PHARMACY

THE MATTER OF HERBERT LAWRENCE SCHINDLER, DOCKET NO. 6-85-3, AND MAY-LEE PHARMACY, DOCKET NO. 6-86-1, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON THURSDAY, JUNE 28, 1984. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

- (1) On April 9, 1984, Herbert Lawrence Schindler, R.Ph., was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of April 12, 1984, Herbert L. Schindler, R.Ph., received the letter of April 9, 1984, informing him of the allegations against him and his rights.
- (3) On May 11, 1984, May-Lee Pharmacy, Terminal Distributor of Dangerous Drugs, was notified of their right to a hearing, their rights in such hearing, and their right to submit their contentions in writing.
- (4) As demonstrated by return receipt of May 14, 1984, May-Lee Pharmacy, Terminal Distributor of Dangerous Drugs, received the letter of May 11, 1984, informing them of the allegations against them and their rights.
- (5) On June 18, 1984, the Board received a letter from Jerome Emoff, attorney representing the interests of Herbert Schindler, R.Ph., setting forth their position and contentions in writing.
- (6) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between July 1, 1979 and April 11, 1983, sales of Schedule II controlled substances were made at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, in amounts equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in

that, approximately 16,030 tablets of Quaalude 300mg, approximately 6,059 capsules of Tuinal 200mg, approximately 7,377 capsules of Nembutal 100mg, approximately 5,230 capsules of Seconal 100mg, approximately 3,046 capsules of Dexedrine 15mg, approximately 1,087 tablets of Morphine Sulfate 15mg, approximately 1,079 tablets of Dilaudid 2mg, approximately 1,010 tablets of Dilaudid 4mg, and approximately 700 tablets of Morphine Sulfate 30mg were sold without a written or oral prescription; in violation of the federal narcotic law as defined in Section 4729.02 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Section 2925.03(A)(7) of the Revised Code.

- (7) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between July 1, 1979 and April 11, 1983, sales of a Schedule II controlled substance were made at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 149 capsules of Tuinal 100mg were sold without a written or oral prescription; in violation of the federal narcotic law as defined in Section 4729.02 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Section 2925.03(A)(1) of the Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between August 8, 1981 and April 11, 1983, sales of a Schedule IV controlled substance were made at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 32,954 tablets of Talwin 50mg were sold without a written or oral prescription; in violation of the federal narcotic law as defined in Section 4729.02 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Section 2925.03(A)(7) of the Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the responsible pharmacist and president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, did engage in a conspiracy to divert controlled substances for illegal sale and use, to wit: made arrangements with a Charles G. Armen of Cleveland Heights, Ohio to purchase Quaaludes from Lemmon Laboratories for illegal sale and use; in violation of Section 2923.01 of the Revised Code.

- (10) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the responsible pharmacist and president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, did knowingly aid and abet others in the trafficking of drugs; in that, he did aid and abet Charles G. Armen of Cleveland Heights, Ohio in committing violations of Section 2925.03 of the Revised Code, to wit: he provided official written order forms for the purpose of obtaining Quaalude for illegal sale.
- (11) From the evidence presented, the State Board of Pharmacy finds that, on one or more occasions between June 28, 1979 and November 10, 1980, sales of a Schedule II controlled substance were made at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code; in that, approximately 23,500mg of Demerol were sold without a valid prescription; in violation of the federal narcotic law as defined in Section 4729.02 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Section 2925.03(A)(1) of the Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, on one or more occasions between August 27, 1980 and October 27, 1980 at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, did distribute by dispensing Dilaudid 4mg when he knew, or had reasonable cause to believe, such drug was intended for sale or resale by another person and was not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice; in violation of Section 2925.03(A)(2) of the Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, on one or more occasions between June 13, 1980 and March 27, 1982 at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, did dispense, without a valid prescription issued by a practitioner, approximately 886 tablets of Percodan, approximately 100 tablets of Demerol 50mg, approximately 50 capsules of Seconal 100mg, and approximately 20 capsules of Tuinal 100mg, to wit: 30 prescriptions issued by William P. Saunders, M.D., a practitioner whose license to practice medicine in Ohio lapsed on December 31, 1979.
- (14) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, on one or more occasions between January 22, 1979 and October 21, 1982 at May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118, did distribute by dispensing approximately 12,170 tablets of Ritalin 10mg, approximately 120 tablets of Ritalin 20mg, and approximately 600 tablets

of Dexedrine 5mg, all of which are Schedule II controlled substances, when he knew, or had reasonable cause to believe, such drugs were intended for sale or resale by another person and were not prescribed for legitimate medical purposes by a practitioner in the course of his professional practice; in violation of Section 2925.03(A)(2) of the Revised Code.

- (15) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118 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 Revised Code, and Rules 4729-5-17 and 4729-9-14 of the Administrative Code.
- (16) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118 and the responsible pharmacist, failed to renew the terminal distributor of dangerous drugs license during December of 1983, as required by Section 4729.54 of the Revised Code, for 1984, when he did not renew.
- (17) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118 and the responsible pharmacist, did purchase for the purpose of resale, possess for sale, or sell, at retail, dangerous drugs while not being licensed as a terminal distributor of dangerous drugs.
- (18) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler, as the president of the corporation which owns May-Lee Pharmacy, 3070 Mayfield Road, Cleveland Heights, Ohio 44118 and the responsible pharmacist, failed to renew the terminal distributor of dangerous drugs license during December of 1982, as required by Section 4729.54 of the Revised Code, for 1983, when he did not renew until April 4, 1983.
- (19) From the evidence presented, the State Board of Pharmacy finds that May-Lee Pharmacy ceased to satisfy the qualifications of a terminal distributor of dangerous drugs, set forth in division (B) of Section 4729.55 of the Revised Code, when Herbert Lawrence Schindler, as the responsible pharmacist required by Section 4729.55 of the Revised Code, did fail to renew his pharmacist identification card pursuant to Section 4729.12 of the Revised Code.

- (20) From the evidence presented, the State Board of Pharmacy finds that May-Lee Pharmacy, Inc. did purchase for the purpose of resale, possess for sale, or sell, at retail, dangerous drugs while not being licensed as a terminal distributor of dangerous drugs.
- (21) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler failed to renew his identification card on the fifteenth day of September, 1983, as required by Section 4729.12 of the Revised Code, for 1984, when he did not renew.
- (22) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler failed to renew his identification card on the fifteenth day of September, 1980, as required by Section 4729.12 of the Revised Code, for 1981, when he did not renew until February 9, 1981.
- (23) From the evidence presented, the State Board of Pharmacy finds that Herbert Lawrence Schindler did dispense and sell dangerous drugs while not being a registered pharmacist during the lapsed dates of his identification card; in violation of the provisions of Section 4729.28 of the Revised Code.
- (24) From the evidence presented, the State Board of Pharmacy finds that the Board found on June 25, 1980 that Herbert Lawrence Schindler violated the provisions of Chapter 4729. of the Revised Code, and Rule 4729-5-06 of the Administrative Code more than one time.

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 (24) of the Findings Of Fact constitutes gross immorality within the meaning of Section 4729.16(A) of the Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (6) through (8), (10) through (18), and (20) through (24) of the Findings Of Fact constitutes willful violations of more than one time of the provisions of Chapters 2925., 3715., 3719., and 4729. of the Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (10) of the Findings Of Fact constitutes violations of the rules of the Board.

- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (6) through (8), (10) through (18), and (20) through (24) of the Findings Of Fact constitutes violations of the provisions of Chapter 4729. of the Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (6) through (8) and (11) of the Findings Of Fact constitutes violations of the provisions of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, and Chapter 3715. of the Revised Code.
- (6) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (6) through (8), and (10) through (15) of the Findings Of Fact constitutes violations of the provisions of the federal narcotic law, and Chapters 2925. and 3719. of the Revised Code.
- (7) The State Board of Pharmacy concludes that, based on paragraph (19) of the Findings Of Fact, May-Lee Pharmacy ceases to satisfy the qualifications of a terminal distributor of dangerous drugs as set forth in Section 4729.55 of the Revised Code.

Pursuant to Sections 4729.16 and 4729.57 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law set forth above, the State Board of Pharmacy hereby takes the following actions concerning the registered pharmacist license of Herbert Lawrence Schindler, No. 03-10-6669, and the terminal distributor license held by May-Lee Pharmacy, No. 02-99050:

- (A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card held by Herbert Lawrence Schindler.
- (B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the registered pharmacist identification card held by Herbert Lawrence Schindler.
- (C) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license held by May-Lee Pharmacy.
- (D) On the basis of paragraph (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license held by May-Lee Pharmacy.

HERBERT LAWRENCE SCHINDLER, R.Ph. &
MAY-LEE PHARMACY
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(E) On the basis of paragraph (5) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license held by May-Lee Pharmacy.

(F) On the basis of paragraph (6) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license held by May-Lee Pharmacy.

(G) On the basis of paragraph (7) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby revokes the terminal distributor of dangerous drugs license held by May-Lee Pharmacy.

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

MOTION CARRIED.

SO ORDERED.

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 Requested

ORDER ISSUED: August 3, 1984

FZW/sb

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

cc/John E. Breen, Assistant Attorney General
Jerome Emoff, Attorney; 3570 Warrensville Center Road, Suite 103;
Shaker Heights, OH 44122

THE STATE BOARD OF PHARMACY
VS
HERBERT L. SCHINDLER AND MAY-LEE PHARMACY, INC.

THE MATTER OF THE STATE BOARD OF PHARMACY VERSUS HERBERT L. SCHINDLER AND MAY-LEE PHARMACY, INC., DOCKET NO. 6-39-2, WAS HEARD PURSUANT TO CHAPTERS 4729. AND 119. OF THE OHIO REVISED CODE. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

FINDINGS OF FACT:

- (1) From the evidence presented, the State Board of Pharmacy finds that Herbert L. Schindler did fail to renew his identification card on the fifteenth day of September 1979 (1/14/80), 1978 (11/6/78), 1977 (6/1/78), 1976 (6/6/77), 1975 (no renewal), 1974 (6/2/75), 1970 (10/13/70), and 1969 (11/17/69) as charged in paragraph (1) of the citation letter. Said conduct being prohibited by Section 4729.12 of the Ohio Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that the original citation letter, alleging the violation of Section 4729.52 of the Ohio Revised Code, was in error and that Herbert L. Schindler did fail to renew the terminal distributor of dangerous drugs license of May-Lee Pharmacy, Inc. and pay the required renewal fee before the fifteenth of December, 1979 (1/14/80), 1977 (5/3/78), 1976 (6/6/77), 1975 (5/17/76), 1971 (3/6/72), and 1970 (3/8/71) as charged in paragraph (2) of the citation letter. Said conduct being prohibited by Section 4729.54 of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Herbert L. Schindler, individually and as an agent of May-Lee Pharmacy Inc., did possess for sale, and sold, dangerous drugs during the lapsed dates of the pharmacy license as charged in paragraph (3) of the citation letter. Said conduct being prohibited by Section 4729.51(C) of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Herbert L. Schindler did own and manage a pharmacy, to wit: May-Lee Pharmacy, Inc., 3070 Mayfield Road, Cleveland Heights, Ohio, and did not have a registered pharmacist in full and actual charge of said pharmacy during the lapsed dates of his pharmacist license as charged in paragraph (4) of the citation letter. Said conduct being prohibited by Section 4729.27 of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Herbert L. Schindler did dispense and sell dangerous drugs while not being a registered pharmacist during the lapsed dates of his pharmacist license as charged in paragraph (5) of the citation letter. Said conduct being prohibited by Section 4729.28 of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Herbert L. Schindler, individually and as an agent of May-Lee Pharmacy, Inc., did, while practicing pharmacy in Ohio, fail to have a current identification card and did fail to renew his identification card as required in Section 4729.12 of the Ohio Revised Code for the years 1979 (1/14/80), 1978 (11/6/78), 1977 (6/1/78), 1976 (6/6/77), 1975 (no renewal), 1974 (6/2/75), 1970 (10/13/70), and 1969 (11/17/69) as charged in paragraph (6) of the citation letter. Said conduct being prohibited by Rule 4729-5-06 of the Ohio Administrative Code.

CONCLUSIONS OF LAW:

- (1) The State Board of Pharmacy finds that the conduct set forth in each of paragraphs (1) through (5) of the Findings of Fact constitutes a violation of more than one time the provisions of Chapter 4729. of the Ohio Revised Code.
- (2) The State Board of Pharmacy finds that the conduct set forth in paragraph (3) of the Findings of Fact constitutes a violation of more than one time the provisions of Section 4729.51 of the Ohio Revised Code.
- (3) The State Board of Pharmacy finds that the conduct set forth in paragraph (6) of the Findings of Fact constitutes a violation of more than one time the provisions of Rule 4729-5-06 of the Ohio Administrative Code.

PURSUANT TO SECTION 4729.16(A) OF THE OHIO REVISED CODE AND THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE STATE BOARD OF PHARMACY TAKES THE FOLLOWING DISCIPLINARY ACTION AGAINST THE REGISTERED PHARMACIST IDENTIFICATION CARD OF HERBERT L. SCHINDLER:

- (A) FOR VIOLATIONS SET FORTH IN PARAGRAPH (1) OF THE CONCLUSIONS OF LAW AND SUPPORTED BY PARAGRAPH (1) OF THE FINDINGS OF FACT, THE STATE BOARD OF PHARMACY HEREBY SUSPENDS THE REGISTERED PHARMACIST IDENTIFICATION CARD OF HERBERT L. SCHINDLER FOR A PERIOD OF TWO YEARS, EFFECTIVE IMMEDIATELY. FURTHER, THE BOARD SUSPENDS THE TWO-YEAR SUSPENSION ON CONDITION THAT MR. SCHINDLER ABIDE BY THE TERMS OF PROBATION SET BY THE BOARD FOR A TWO-YEAR PERIOD. THESE TERMS PROVIDE THAT MR. SCHINDLER SHALL NOT VIOLATE ANY DRUG LAWS OF THE STATE OF OHIO AND ABIDE BY THE RULES OF THE STATE BOARD OF PHARMACY.
- (B) FOR VIOLATIONS SET FORTH IN PARAGRAPH (2) OF THE CONCLUSIONS OF LAW, THE STATE BOARD OF PHARMACY HEREBY FINES HERBERT L. SCHINDLER \$500.00
- (C) FOR VIOLATIONS SET FORTH IN PARAGRAPH (1) OF THE CONCLUSIONS OF LAW AND SUPPORTED BY PARAGRAPH (4) OF THE FINDINGS OF FACT, THE STATE BOARD OF PHARMACY HEREBY FINES HERBERT L. SCHINDLER \$750.00.
- (D) FOR VIOLATIONS SET FORTH IN PARAGRAPH (1) OF THE CONCLUSIONS OF LAW AND SUPPORTED BY PARAGRAPH (5) OF THE FINDINGS OF FACT, THE STATE BOARD OF PHARMACY HEREBY FINES HERBERT L. SCHINDLER \$750.00.

PURSUANT TO SECTION 4729.57 OF THE OHIO REVISED CODE AND THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE STATE BOARD OF PHARMACY TAKES THE FOLLOWING DISCIPLINARY ACTION AGAINST THE TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE OF MAY-LEE PHARMACY, INC.

- (A) FOR VIOLATIONS SET FORTH IN PARAGRAPH (3) OF THE CONCLUSIONS OF LAW, THE STATE BOARD OF PHARMACY HEREBY SUSPENDS THE TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE OF MAY-LEE PHARMACY, INC. FOR A PERIOD OF TWO YEARS, EFFECTIVE IMMEDIATELY. FURTHER, THE BOARD SUSPENDS THE TWO-YEAR SUSPENSION ON CONDITION THAT MAY-LEE PHARMACY, INC. ABIDE BY THE TERMS OF PROBATION SET BY THE BOARD FOR A TWO-YEAR PERIOD. THESE TERMS PROVIDE THAT MAY-LEE PHARMACY, INC. SHALL NOT VIOLATE ANY DRUG LAWS OF THE STATE OF OHIO AND ABIDE BY THE RULES OF THE STATE BOARD OF PHARMACY.

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

MOTION CARRIED.

SO ORDERED.