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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

vs

DAVID H. SCHEIBEL, R.Ph.

THE MATTER OF DAVID H. SCHEIBEL, DOCKET NO. 6-151-3, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MONDAY, APRIL 21, 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 David H. Scheibel, as the responsible pharmacist required by Section 4729.55 of the Revised Code for, and president of, Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, are responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy pursuant to Sections 2901.24 and 4729.27 of the Revised Code and Rule 4729-5-23 of the Administrative Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that William David Tarloff, an employee of the corporation, on or about May 11, 1984 while practicing pharmacy at Swanton Pharmacy, Inc. 147 Airport Highway, Swanton, Ohio 43558, did willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Tarloff did sell at retail one monthly cycle of Lo-Ovral-28, a dangerous drug that was labeled as a "sample drug" and, therefore, false and misleading. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (3) From the evidence presented, the State Board of Pharmacy finds that William David Tarloff, an employee of the corporation, on or about May 11, 1984 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, did willfully violate Sections 2925.36 and 3719.81 of the Ohio Revised Code, to wit: Mr. Tarloff did illegally possess samples of Lo-Ovral-28. Such conduct is not in accordance with Chapters 3719. and 4729. of the Revised Code and is prohibited by Section 2925.36 of the Revised Code.

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- (4) From the evidence presented, the State Board of Pharmacy finds that Richard Papurt, an employee of the corporation, on or about May 16, 1984 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, did violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Papurt did sell at retail one monthly cycle of Lo-Ovral-28. This drug was misbranded; in that, it was labeled as a "sample drug" and, therefore, was false and misleading. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (5) From the evidence presented, the State Board of Pharmacy finds that Richard Papurt, an employee of the corporation, on or about May 16, 1984 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, did violate Sections 2925.36 and 3719.81 of the Ohio Revised Code, to wit: Mr. Papurt did illegally possess samples of Lo-Ovral-28. Such conduct is not in accordance with Chapters 3719. and 4729. of the Revised Code, and is prohibited by Section 2925.36 of the Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Richard Papurt, an employee of the corporation, on or about May 29, 1984 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, did violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Papurt did sell at retail one monthly cycle of Lo-Ovral-28, a dangerous drug that was labeled as a "sample drug" and, therefore, was false and misleading. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (7) From the evidence presented, the State Board of Pharmacy finds that Richard Papurt, an employee of the corporation, on or about May 29, 1984 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, did violate Sections 2925.36 and 3719.81 of the Revised Code, to wit: Mr. Papurt did illegally possess samples of Lo-Ovral-28. Such conduct is not in accordance with Revised Code Chapters 3719. and 4729., and is prohibited by Section 2925.36 of the Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about June 7, 1985 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did sell at retail one monthly cycle of Lo-Ovral-28, a dangerous drug that was labeled as a "sample drug" and, therefore, was false and misleading. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.

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- (9) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about June 7, 1985 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, willfully violate Sections 2925.36 and 3719.81 of the Ohio Revised Code, to wit: Mr. Scheibel did illegally possess samples of Lo-Ovral-28. Such conduct is not in accordance with Chapters 3719. and 4729. of the Revised Code and is prohibited by Section 2925.36 of the Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about June 7, 1985 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did sell at retail one monthly cycle of Lo-Ovral-28, a dangerous drug that was labeled as a "sample drug" and, therefore, was false and misleading. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (11) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about June 7, 1985 while practicing pharmacy at Swanton Pharmacy, Inc., 147 Airport Highway, Swanton, Ohio 43558, willfully violate Sections 2925.36 and 3719.81 of the Ohio Revised Code, to wit: Mr. Scheibel did illegally possess samples of Lo-Ovral-28. Such conduct is not in accordance with Chapters 3719. and 4729. of the Revised Code and is prohibited by Section 2925.36 of the Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about October 5, 1983, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did purchase for resale at retail an unknown quantity of misbranded physicians samples of various birth control products, all dangerous drugs, for \$255.00 from Wexler's Lake Milton Pharmacy, 17674 Mahoning Avenue, Lake Milton, Ohio 44429. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (13) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about January 31, 1984, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did purchase for resale at retail approximately 44 cycles of Lo-Ovral-21, approximately 40 cycles of Lo-Ovral-28, approximately 30 cycles of Ovral-21, and approximately 20 cycles of Ovral-28, all dangerous drugs, for \$569.50 from Wexler's Lake Milton Pharmacy, 17674 Mahoning Avenue, Lake Milton, Ohio 44429. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.

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- (14) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, during 1983, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did purchase for resale at retail an unknown quantity of physicians samples of Ortho-Novum 180-21, a dangerous drug, from Wesco Pharmaceutical, 29115 Greenfield Road, Southfield, Michigan. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (15) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about July 28, 1983, willfully violate Ohio Revised Code Section 4729.51(C), to wit: Mr. Scheibel did sell approximately 14 cycles of Ortho-Novum, all physicians samples and dangerous drugs, to Wesco Pharmaceutical, 29115 Greenfield Road, Southfield, Michigan for \$63.00. Such conduct is not in accordance with Ohio Revised Code Sections 2925.36, 3719.81, 3715.64(A), and 3715.52.
- (16) From the evidence presented, the State Board of Pharmacy finds that David H. Scheibel did, on or about August 27, 1985, willfully violate Ohio Revised Code Sections 4729.51(C), 3715.64(A), and 3715.52, to wit: Mr. Scheibel, as the responsible pharmacist, possessed for sale at retail misbranded drugs.

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 (2) through (16) 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 paragraphs (2) through (16) of the Findings Of Fact constitutes willful violations of 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 of David H. Scheibel, No. 03-1-07707:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by David H. Scheibel for 24 months, effective July 1, 1986.

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of thirteen thousand dollars (\$13,000.00).

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(C) Further, the Board suspends 18 months of the 24-month suspension imposed in paragraph (A) above, and three thousand dollars (\$3,000.00) of the monetary penalty, on condition that David H. Scheibel abides by the terms of probation set by the Board. The terms provide that David H. Scheibel:

- (1) takes and successfully completes a Jurisprudence examination offered by the Board prior to January 1, 1987;
- (2) does not violate any drug laws of the state of Ohio, any other state, or the federal government, and
- (3) abides by the rules of the State Board of Pharmacy.

The ten thousand dollar (\$10,000.00) monetary penalty that was not suspended in paragraph (C) 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 South 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 ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days ... (of the effective date) 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.