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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

vs

PHILLIP S. BLACK, R.Ph.

THE MATTER OF PHILLIP S. BLACK, DOCKET NO. 6-162-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MONDAY, JUNE 23, 1986 AND TUESDAY, JUNE 24, 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 Phillip S. Black, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge of The Medicine Shoppe, Terminal Distributor of Dangerous Drugs License No. 02-173250, pursuant to Section 4729.27 of the Revised Code, is responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy.
- (2) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe did, between the dates of August 24, 1983 and May 16, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased on at least 50 occasions from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio in plastic prescription vials and were dispensed to patients pursuant to written or oral prescriptions. 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.
- (3) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe did, between the dates of October 10, 1983 and September 25, 1984, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased on at least 21 occasions 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"

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and/or as "samples" and, therefore, were false and misleading when sold at retail. 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.

- (4) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe did, on or about October 14, 1985, hold and offer for sale misbranded drugs, to wit: Searle Brand Nitro-Disc systems were obtained from a manufacturer's representative for dispensing 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 when sold at retail. 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.

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 (4) 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 (4) of the Findings Of Fact constitutes violating the provisions of Chapters 2925., 3715. and 3719. of the Ohio 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 Phillip S. Black, No. 03-1-11075:

(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 Phillip S. Black for 12 months, effective October 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 eighteen thousand dollars (\$18,000.00).

(C) Further, the Board suspends the suspension, and fifteen thousand five hundred dollars (\$15,500.00) of the monetary penalty imposed in paragraph (B) above, on condition that Phillip S. Black:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board on September 23, 1986;

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- (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 two thousand five hundred dollar (\$2,500.00) monetary penalty that was not suspended 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.