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OHIO STATE BOARD OF PHARMACY

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THE STATE BOARD OF PHARMACY  
(Docket No. D-901218-045)

In The Matter Of:

JOSEPH V. PARTELENO, R.Ph.  
37 Overlook Blvd.  
Struthers, Ohio 44471  
(R.Ph. No. 03-2-05498)

INTRODUCTION

THE MATTER OF JOSEPH V. PARTELENO CAME TO HEARING ON APRIL 25, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; AND ROBERT VALENTINE, R.Ph.

JOSEPH V. PARTELENO WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY VORYS, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Joseph V. Parteleno, Respondent
- (2) Joseph Romeo
- (3) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Joseph V. Parteleno, Respondent
- (2) Sally Donofrio
- (3) Howard Heldmann

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Joseph V. Parteleno, R.Ph. dated December 18, 1990.
- (2) Exhibit B - Notice of Opportunity letter for Bittner's Pharmacy dated December 18, 1990.
- (3) Exhibit C - Cover letter for Hearing Requests of Joseph V. Parteleno, R.Ph. and Bittner's Pharmacy dated January 14, 1991.
- (4) Exhibit C1 - Request for Hearing letter for Joseph V. Parteleno, R.Ph. dated January 14, 1991.
- (5) Exhibit C2 - Request for Hearing letter for Bittner's Pharmacy dated January 14, 1991.
- (6) Exhibit D - Hearing Schedule letter for Joseph V. Parteleno, R.Ph. and Bittner's Pharmacy dated January 18, 1991.

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- (7) Exhibit E - Notice of Appearance for Joseph V. Parteleno, R.Ph. from David W. Grauer, Esq., Squire, Sanders & Dempsey, not dated.
- (8) Exhibit E1 - Certificate of Service for Joseph Parteleno, R.Ph. from David W. Grauer, Esq. dated February 14, 1991.
- (9) Exhibit F - Copy of Hearing Schedule letter dated February 28, 1991.
- (10) Exhibit F1 - Hearing Schedule letter showing hand delivery signatures dated February 28, 1991.
- (11) Exhibit G - Hearing Continuance letter dated March 11, 1991.
- (12) Exhibit 1 - Two-page Application for Registration as a Terminal Distributor of Dangerous Drugs of Bittner's Pharmacy dated December 4, 1982; and Renewal Application for a Terminal Distributor of Dangerous Drugs of Bittner's Pharmacy dated December 7, 1989.
- (13) Exhibit 2 - Renewal Applications for Pharmacist, License No. 03-2-05498, of Joseph V. Parteleno for the years of 1968 through 1991.
- (14) Exhibit 3 - Pharmacist File Front Sheet of Joseph Vincent Parteleno showing original date of licensure as August 4, 1953 and renewals every three years through 1968.
- (15) Exhibit 4 - Prescription Number 308601.
- (16) Exhibit 5 - Three-page statement of Nazim Jaffer, M.D. signed and notarized on June 26, 1990.
- (17) Exhibit 6 - Fourteen-page sworn affidavit of Joseph Parteleno signed and notarized on May 22, 1990.
- (18) Exhibit 7 - Eight-page Dangerous Drug Distributor Inspection Report of Bittner's Pharmacy dated May 14, 1990.
- (19) Exhibit 8 - Fourteen-page Dangerous Drug Distributor Inspection Report of Bittner's Pharmacy dated May 22, 1990.
- (20) Exhibit 9 - Prescription Number 308602.
- (21) Exhibit 10 - Prescription Number 308604.
- (22) Exhibit 11 - Three-page statement of E.U. Sevilla, M.D. signed and notarized on July 16, 1990.
- (23) Exhibit 12 - Prescription Number 306211.
- (24) Exhibit 13 - Stock Bottle of Doxapap-N-100 (Propoxyphene Napsylate and Acetaminophen) tablets.
- (25) Exhibit 14 - Three-page statement of A. DiDomenico, M.D. signed and notarized on June 27, 1990.
- (26) Exhibit 15 - Prescription Number 308662.
- (27) Exhibit 16 - Three-page statement of Nicholas A. Pappas, M.D. signed and notarized on July 2, 1990.
- (28) Exhibit 17 - Prescription Number 308663.
- (29) Exhibit 18 - Prescription Number 308684.
- (30) Exhibit 19 - Three-page statement of Joseph Mersol, M.D. signed and notarized on June 25, 1990.
- (31) Exhibit 20 - Computer printout from Joseph Mersol, M.D., Inc. of clinical record summary for patient Thelma H. Cook printed June 25, 1990.
- (32) Exhibit 21 - Prescription Number 308685.
- (33) Exhibit 22 - Prescription Number 295067.
- (34) Exhibit 23 - Five-page statement of Joseph Mersol, M.D. signed and notarized on June 25, 1990.

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- (35) Exhibit 24 - Computer printout from Joseph Mersol, M.D., Inc. of clinical record summary for patient Thomas J. Fabian printed June 25, 1990.
- (36) Exhibit 25 - Two patient profile ledger cards for the family of Tom & Melissa Fabian.
- (37) Exhibit 26 - Prescription Number 294711.
- (38) Exhibit 27 - Computer printout from Joseph Mersol, M.D., Inc. for clinical record summary of patient Monica J. Fabian.
- (39) Exhibit 28 - Prescription Number 308680.
- (40) Exhibit 29 - Three-page statement of Juan A. Ruiz, M.D. signed and notarized on June 27, 1990.
- (41) Exhibit 30 - Prescription Number 308681.
- (42) Exhibit 31 - Prescription Number 289968.
- (43) Exhibit 32 - Two patient profile ledger cards for Jerry Morell.
- (44) Exhibit 32B - Four-page statement of Mounir El Hayek, M.D. signed and notarized on July 2, 1990.
- (45) Exhibit 33 - Prescription Number 282369.
- (46) Exhibit 34 - Two patient profile ledger cards for Clemente-McKay Funeral Home.
- (47) Exhibit 35 - Four-page statement of Vincent D. Lepore, M.D. signed and notarized on June 26, 1990.
- (48) Exhibit 36 - Prescription Number 302522.
- (49) Exhibit 37 - Four-page statement of K. M. Lloyd, M.D. signed and notarized on June 25, 1990.
- (50) Exhibit 38 - Prescription Number 299869.
- (51) Exhibit 39 - Two patient profile ledger cards for Ronald & Kathy Fauls.
- (52) Exhibit 40 - Five-page statement of Stephen Dubos, D.O. signed and notarized on June 25, 1990.
- (53) Exhibit 41 - Prescription Number 304493.
- (54) Exhibit 42 - Five-page statement of Reed Hoffmaster, M.D. signed and notarized on June 27, 1990.
- (55) Exhibit 43 - Prescription Numbers 295218/295219.
- (56) Exhibit 44 - Two patient profile ledger cards for Harry and Donna Johnson.
- (57) Exhibit 45 - Certificate from State of Ohio, The State Medical Board, regarding the license status to practice medicine and surgery of James Allen Patrick, M.D. dated July 31, 1990.
- (58) Exhibit 46 - Prescription Number 263823.
- (59) Exhibit 47 - Five-page statement of Paul J. Murphy, D.D.S. signed and notarized on June 26, 1990.
- (60) Exhibit 48 - Prescription Number 294016.
- (61) Exhibit 49 - Five-page statement of Charles McGowen, M.D. signed and notarized on June 25, 1990.
- (62) Exhibit 50 - One patient profile ledger card for William and Jackie O'Hara.
- (63) Exhibit 51 - Prescription Number 308595.
- (64) Exhibit 52 - Prescription Number 308596.
- (65) Exhibit 53 - Prescription Number 293945.
- (66) Exhibit 54 - Certified Copy of Ohio Department of Health, Division of Vital Statistics, Certificate of Death of Richard J. Jarvis showing date of death as October 16, 1981.

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- (67) Exhibit 55 - Amber vial with handwritten label marked "Aldoril-25, A.M. Perry".
- (68) Exhibit 56 - One tube of Elase Ointment marked Prescription Number 300126.
- (69) Exhibit 57 - Prescription Number 308683.
- (70) Exhibit 58 - Prescription Number 264506.
- (71) Exhibit 59 - Prescription Number 308452.
- (72) Exhibit 60 - Prescription Number 306507.
- (73) Exhibit 61 - Prescription Number 308332.
- (74) Exhibit 62 - Three large boxes of outdated drugs, contents listed on Exhibit 8.
- (75) Exhibit 63 - Twenty-one inspection sheets issued by Ohio State Board of Pharmacy Inspector D. Smith dated as follows: October 27, 1964; January 12, 1966; September 24, 1966; March 28, 1967; August 15, 1968; March 12, 1969; April 9, 1970; February 3, 1971; March 29, 1972; September 22, 1973; January 10, 1974; May 20, 1975; January 28, 1976; February 23, 1977; February 16, 1978; August 27, 1979; August 19, 1980; April 27, 1982; January 6, 1983; February 22, 1984; and one dated March 1985, received at the Ohio State Board of Pharmacy on March 15, 1985.
- (76) Exhibit 64 - Three-page statement of Nazim Jaffer, M.D. signed and notarized on June 26, 1990.

Respondent's Exhibits:

- (1) Exhibit A - Letter from Ronald L. McKay dated February 28, 1991.
- (2) Exhibit 1 - Copy of Affidavit of William E. O'Hara concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (3) Exhibit 2 - Copy of Affidavit of Jacquelyn O'Hara concerning Joseph Parteleno, RPh. dated March 1, 1991.
- (4) Exhibit 3 - Copy of Affidavit of Shirley J. Centofanti concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (5) Exhibit 4 - Copy of Affidavit of Anthony S. Centofanti concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (6) Exhibit 5 - Copy of "The Vindicator" newspaper, Local Section B, article named "Pharmacist charged with drug trafficking" dated February 20, 1991.
- (7) Exhibit 6 - Copy of Affidavit of John R. DiPiero concerning Joseph Parteleno dated March 4, 1991.
- (8) Exhibit 7 - Copy of Affidavit of John Vicarel concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (9) Exhibit 8 - Copy of Affidavit of Alex J. Vasko concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (10) Exhibit 9 - Copy of Affidavit of Joseph F. McGlone and Margaret A. McGlone concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (11) Exhibit 10 - Copy of Affidavit of Marjorie Brown concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (12) Exhibit 11 - Copy of Affidavit of Theodore Shirilla concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (13) Exhibit 12 - Copy of Affidavit of Edmond R. Fabrizio concerning Joseph Parteleno, R.Ph. dated March 4, 1991.

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- (14) Exhibit 13 - Copy of Affidavit of Gene Opsitnik concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (15) Exhibit 14 - Copy of Affidavit of Josephine G. Greco concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (16) Exhibit 15 - Copy of Affidavit of Richard L. Creed concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (17) Exhibit 16 - Copy of Affidavit of Michael J. Flaherty concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (18) Exhibit 17 - Copy of Affidavit of Richard D. Rosen and Mary Catherine Rosen concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (19) Exhibit 18 - Copy of Affidavit of John Daliman concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (20) Exhibit 19 - Copy of letter from V. Jack Costa, D.D.S. regarding Joseph Parteleno dated March 1, 1991.
- (21) Exhibit 20 - Copy of Affidavit of Joseph L. Paris concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (22) Exhibit 21 - Copy of Affidavit of Daniel P. DeGenova, D.D.S. concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (23) Exhibit 22 - Copy of Affidavit of Michael C. Clemente concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (24) Exhibit 23 - Copy of Affidavit of Marlene Shirilla concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (25) Exhibit 24 - Copy of Affidavit of John P. Daliman, Esq. concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (26) Exhibit 25 - Copy of Affidavit of Carol Clemente Wagner concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (27) Exhibit 26 - Copy of Affidavit of Ronald L. McKay concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (28) Exhibit 27 - Copy of Affidavit of Albert J. Leone concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (29) Exhibit 28 - Copy of Affidavit of Robert Brown concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (30) Exhibit 29 - Copy of Affidavit of Bob R. Raybuck concerning Joseph Parteleno, R.Ph. dated March 1, 1991.
- (31) Exhibit 30 - Copy of letter to Joe from Dom not dated.
- (32) Exhibit 31 - Two-page copy of Affidavit of Eugene B. Fox concerning Joseph Parteleno, R.Ph. and George Pavlich, Compliance Agent dated March 6, 1991.
- (33) Exhibit 32 - Copy of Affidavit of Rose Marie Mikolay concerning Joseph Parteleno, R.Ph. dated March 6, 1991.
- (34) Exhibit 33 - Copy of Affidavit of Donna J. Johnson concerning Joseph Parteleno, R.Ph. dated March 6, 1991.
- (35) Exhibit 34 - Copy of Affidavit of Harry Johnson concerning Joseph Parteleno, R.Ph. dated March 6, 1991.
- (36) Exhibit 35 - Copy of Affidavit of Gerald A. Morell, Sr. concerning Joseph Parteleno, R.Ph. dated March 5, 1991.
- (37) Exhibit 36 - Copy of Affidavit of Alice H. Cooper concerning Joseph Parteleno, R.Ph. dated March 5, 1991.
- (38) Exhibit 37 - Copy of Affidavit of Donald J. Cooper concerning Joseph Parteleno, R.Ph. dated March 4, 1991.
- (39) Exhibit 38 - Copy of Affidavit of Joanne Spencer concerning Joseph Parteleno, R.Ph. dated March 5, 1991.

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- (40) Exhibit 39 - Copy of Affidavit of Eileen R. Flora concerning Joseph Parteleno, R.Ph. dated March 6, 1991.
- (41) Exhibit 40 - Copy of Affidavit of Jack Walters and Marianne Walters concerning Joseph Parteleno, R.Ph. dated March 5, 1991.
- (42) Exhibit 41 - Copy of Affidavit of Celia Anderson concerning Joseph Parteleno, R.Ph. dated March 5, 1991.
- (43) Exhibit 42 - Copy of letter from Mary Jane Smith and William Smith dated March 1, 1991.
- (44) Exhibit 43 - Affidavit of Thomas C. Eisweirth concerning Joseph Parteleno, R.Ph. dated March 16, 1991.
- (45) Exhibit 44 - Affidavit of Joseph Parteleno, R.Ph. concerning George Pavlich, Compliance Agent, dated March 15, 1991.
- (46) Exhibit 45 - Ohio State Board of Pharmacy Voluntary Compliance Bulletin No. 90-001, regarding new Ohio Administrative Code Rule 4729-5-09 effective September 1, 1989.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Joseph V. Parteleno was originally licensed in the state of Ohio on August 4, 1953, pursuant to examination, and was the owner and the Responsible Pharmacist pursuant to Sections 4729.55 and 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code at Bittner's Pharmacy, 329 Elm Street, Struthers, Ohio 44471.
- (2) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308601 for 30 units of the drug Tenormin 50mg, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308602 for 30 units of the drug Macrochantin 50mg, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308604 for 90 units of the drug Aldoril-25, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

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- (5) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 18, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308662 for 60 units of the drug Lasix 40mg, having no refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 18, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308663 for 100 units of the drug Isordil 10mg, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 21, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308684 for 30 units of the drug Dyazide, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 21, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308685 for 100 units of the drug Coumadin 2.5mg, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about August 25, 1989, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 295067 for 24 units of the drug Hycomine Compound, having 2 refills, when such prescription had been authorized for original filling on October 28, 1987, and for the last refill on December 9, 1988, but was not authorized by the physician for subsequent refill. Unauthorized refills were given to the patient pursuant to this prescription on 28 separate occasions from August 25, 1989 through May 7, 1990. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about June 26, 1989, make a false or forged prescription

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for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 294711 for 30 units of the drug Synthroid .15mg, having 6 refills, when such prescription had been authorized for original filling on October 2, 1987, and for the last refill to be no later than October 2, 1988, but was not nor could have been authorized by the physician for subsequent refill. Unauthorized refills were given to the patient pursuant to this prescription on 12 separate occasions from June 28, 1989 through May 18, 1990. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 21, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308680 for 30 units of the drug Moduretic 5/50, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 21, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308681 for 35 units of the drug Klotrix, having 5 refills, when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about December 30, 1986, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 289968 for 40 units of the drug Corgard 40mg, when such prescription was not authorized by the physician. Unauthorized refills were given pursuant to this prescription on 16 separate occasions. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about October 23, 1985, September 22, 1989, November 10, 1989, and March 17, 1990, knowingly sell a controlled substance in an amount equal to or greater than bulk but less than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit: Joseph V. Parteleno, or a pharmacist under his direction, sold 200 units of Darvocet-N 100 to Eileen Clemente when there was no authorization by a physician for dispensing or possession by the patient on those dates. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

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- (15) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about October 23, 1985, September 22, 1989, November 10, 1989, and March 17, 1990, intentionally make and knowingly possess a false or forged prescription, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created and retained prescription number 282369 for 50 units of Darvocet-N 100, having no refills, for patient Eileen Clemente, when no such prescription had been ordered by the listed physician. Joseph V. Parteleno, or a pharmacist under his direction, initially filled the false and forged prescription on the first date and gave refills pursuant to that same document on the latter three dates. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (16) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about January 27, 1989, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 302522 for 50 units of the drug Sumycin 250mg when such prescription was not authorized by the physician. Unauthorized refills were given pursuant to this prescription on 9 separate occasions. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, between January 24, 1989 and May 17, 1990, inclusive, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created false and forged orders for dangerous drugs pursuant to prescription number 299869 for 100 units of the drug Librax, having 3 refills, by refilling the original prescription on 32 different occasions, when such prescriptions were not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (18) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about June 22, 1989, October 18, 1989, and November 18, 1989, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit: Joseph V. Parteleno, or a pharmacist under his direction, sold 270 units of Valium 2mg to Kathleen Fauls when there was no authorization by a physician for dispensing or possession by the patient on those dates. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (19) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about June 22, 1989, October 18, 1989, and November 18, 1989, intentionally make and knowingly possess a false or forged

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prescription, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created and retained prescription number 304493 for 90 units of Valium 2mg, having no refills, for patient Kathleen Fauls, when no such prescription had been ordered by the listed physician. Joseph V. Parteleno, or a pharmacist under his direction, initially filled the false and forged prescription on the first date and gave refills pursuant to that same document on the latter two dates. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (20) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about the following dates, knowingly sell a controlled substance in an amount greater than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit: Joseph V. Parteleno, or a pharmacist under his direction, sold 420 units of Ionamin 30mg to Donna Johnson when there was no authorization by a physician for dispensing or possession by the patient on these dates:

11-05-87	06-07-89	06-24-89	07-28-89	08-05-89
09-08-89	10-23-89	11-24-89	12-12-89	12-26-89
01-26-90	03-02-90	04-21-90	04-30-90	

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (21) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about the following dates, intentionally make and knowingly possess a false or forged prescription, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created and retained prescription number 295218 for 30 units of Ionamin 30mg for patient Donna Johnson, when no such prescriptions had been ordered by the listed physician. Joseph V. Parteleno, or a pharmacist under his direction, initially filled the false and forged prescription on the first date and gave refills pursuant to that same document on the latter 13 dates:

11-05-87	06-07-89	06-24-89	07-28-89	08-05-89
09-08-89	10-23-89	11-24-89	12-12-89	12-26-89
01-26-90	03-02-90	04-21-90	04-30-90	

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (22) From the evidence presented the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or greater than bulk but less than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit:

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Joseph V. Parteleno, or a pharmacist under his direction, sold 195 units of Darvocet-N 100 to Donna Johnson when there was no authorization by a physician for dispensing or possession by the patient on these dates:

05-26-89	06-24-89	07-28-89	09-08-89	01-04-90
01-26-90	02-03-90	03-02-90	03-16-90	04-07-90
04-21-90	04-30-90			

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (23) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about the following dates, intentionally make and knowingly possess a false or forged prescription, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created and retained prescription number 263823 for 15 units of Darvocet-N 100, for patient Donna Johnson, when no such prescriptions had been ordered by the listed physician. Joseph V. Parteleno, or a pharmacist under his direction, initially filled the false and forged prescription on the first date and gave refills pursuant to that same document on the latter dates:

05-26-89	06-24-89	07-28-89	09-08-89	01-04-90
01-26-90	02-03-90	03-02-90	03-16-90	04-07-90
04-21-90	04-30-90			

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (24) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 294016 for 60 units of the drug Lanoxin .25mg, having 5 refills, when such prescription was not authorized by the physician. This false prescription was refilled on 2 separate occasions. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (25) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 308596 for 100 units of the drug Salutensin when such prescription was not authorized by the physician. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

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- (26) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about August 18, 1987, make a false or forged prescription for a dangerous drug, to wit: Joseph V. Parteleno, or a pharmacist under his direction, created prescription number 293945 for 100 units of the drug Salutensin when such prescription was not authorized by the physician. This false prescription was re-filled on 10 separate occasions. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (27) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno did, on or about May 14, 1990, practice pharmacy without having his identification card or renewal identification card on his person. Such conduct is in violation of Section 4729.12 of the Ohio Revised Code.
- (28) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about September 1, 1989 and continuously thereafter, fail to maintain Bittner's Pharmacy prescription files in a three-part filing system, to wit: prescriptions for controlled substances were not kept separate from prescriptions for non-controlled drugs, nor was a "red C" used for any of the prescriptions. Such conduct is in violation of Rule 4729-5-09 of the Ohio Administrative Code and Section 1304.04(H)(2) of the Code of Federal Regulations.
- (29) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to place the generic manufacturer or the NDC number on prescriptions when dispensing equivalent drug products pursuant to the provisions of Sections 4729.38 and 4729.381 of the Ohio Revised Code. Such conduct is in violation of Rule 4729-5-17(C) of the Ohio Administrative Code.
- (30) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to record the refill information, dates, or amounts on original prescriptions or on an alternate record. Such conduct is in violation of Rule 4729-5-17(B) of the Ohio Administrative Code.
- (31) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to record the name or initials of the dispensing pharmacist or the date of dispensing when dispensing drugs pursuant to prescriptions. Such conduct is in violation of Rule 4729-5-17(A) of the Ohio Administrative Code.

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- (32) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to record the proper information on patient labels when dispensing drugs pursuant to prescriptions, to wit: all patient labels did not indicate all of the following information: name or initials of the dispensing pharmacist, date of dispensing, and any pertinent federal or state cautions. Such conduct is in violation of Rule 4729-5-16 of the Ohio Administrative Code.
- (33) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to take and keep on hand as records of purchase, date of receipt, or amount of drug received, the DEA 222 controlled substance order forms. Such conduct is in violation of Section 1305.06 of the Code of Federal Regulations, Section 3719.07 of the Ohio Revised Code, and Rule 4729-9-14(A)(1) of the Ohio Administrative Code.
- (34) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has not, as noted on a pink sheet dated May 14, 1990, provided adequate safeguards to prevent the sale or other distribution of dangerous drugs by persons other than a pharmacist or practitioner, to wit: Joseph V. Parteleno, or a pharmacist under his direction, has continuously permitted non-pharmacists to possess keys to an unbarricaded pharmacy. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code.
- (35) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has, as noted on a pink sheet dated May 14, 1990, continuously failed to maintain an adequate library by not possessing a book of current federal and state laws, regulations, and rules governing the legal distribution of drugs in Ohio. Such conduct is in violation of Rule 4729-9-02(A) of the Ohio Administrative Code.
- (36) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction did, on or about May 14, 1990, hold and/or offer for sale adulterated drugs, to wit: numerous outdated drugs were intermingled with the pharmacy drug stock and previous inspection reports dating back to 1964 indicate that outdated controlled substances has never been destroyed by Joseph V. Parteleno, or a pharmacist under his direction. Such conduct is in violation of Section 3715.52(A) of the Ohio Revised Code.
- (37) From the evidence presented, the State Board of Pharmacy finds that Joseph V. Parteleno or a pharmacist under his direction has continuously sold exempt drugs and syringes without recording such sales in a bound book, and without making any record of such sales. Such conduct is in violation of Section 3719.172 of the Ohio Revised Code and Section 1306.32 of the Code of Federal Regulations.

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- (38) From the evidence presented, the State Board of Pharmacy finds that the aforementioned violations of rule and statute have been subsequent to your having been warned through issuance of inspection sheets to Bittner's Pharmacy for these and related violations on the following dates:

10-27-64	01-12-66	09-24-66	03-28-67	08-15-68
03-12-69	04-09-70	02-03-71	03-29-72	09-22-73
01-10-74	05-20-75	01-28-76	02-23-77	02-16-78
08-27-79	08-19-80	04-27-82	01-06-83	02-22-84
03-??-85				

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 (26) of the Findings Of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (38) of the Findings Of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-2-05498, held by Joseph V. Parteleno:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Joseph V. Parteleno for five years.

(B) Further, the Board will suspend three years of the five year suspension imposed above and place the license on probation for five years on the condition that Joseph V. Parteleno:

(1) takes and successfully completes the Jurisprudence examination offered by the Board between January 1, 1993 and June 30, 1993;

(2) does not violate the drug laws of the state of Ohio, any other state, or the federal government;

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- (3) abides by the rules of the State Board of Pharmacy; and
- (4) complies with the terms of this Order.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Joseph V. Parteleno's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of five years.

The Board further stipulates that Joseph V. Parteleno may not serve as a responsible pharmacist during this five-year period.

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 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.