THE STATE BOARD OF PHARMACY

vs

HARRY L. THOM, JR., R.Ph.

THE MATTER OF HARRY L. THOM, JR., DOCKET NO. 6-83-3, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MAY 23, 1984. 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 Harry L. Thom, Jr. did, on one or more occasions between December 30, 1981 and July 21, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, without a valid prescription, dispense approximately 1,750 tablets of Percodan, a Schedule II controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.

(2) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on one or more occasions between March 12, 1982 and June 24, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, without a valid prescription, dispense approximately 940 tablets of Valium 10mg, a Schedule IV controlled substance and prescription drug, in an amount equal to or exceeding three times the bulk amount as defined in Section 2925.01 of the Revised Code; in violation of Section 2925.03(A)(7) of the Revised Code.

(3) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about May 27, 1982 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 175 tablets of Percodan and approximately 450 tablets of Valium 10mg, both of which are controlled substances, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount, 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.

(4) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about July 6, 1982 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 300 tablets of Percodan, an amount equal to or exceeding three times the bulk amount, and 200 tablets of Valium 10mg, an amount less than the minimum bulk amount, both of which are 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.

(5) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about September 3, 1982 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 150 tablets of Percodan and 400 tablets of Valium 10mg, both of which are controlled substances, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount, 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.

(6) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about October 8, 1982 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 75 tablets of Percodan, an amount equal to or exceeding the bulk amount but an amount less than three times that amount, and 200 tablets of Valium 10mg, an amount less than the minimum bulk amount, both of which are 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.

(7) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about March 24, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 50 tablets of Percodan, an amount less than the minimum bulk amount, and 400 tablets of Valium 10mg, an amount equal to or exceeding the bulk amount but an amount less than three times that amount, both of which are 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.

(8) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about April 15, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 150 tablets of Percodan, an amount equal to or exceeding the bulk amount but an amount less than three times that amount, and 150 tablets of Valium 10mg, an amount less than the minimum bulk amount, both of which are 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.

(9) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about June 8, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 150 tablets of Percodan and 450 tablets of Valium 10mg, both of which are controlled substances, in amounts equal to or exceeding the bulk amount but in amounts less than three times that amount, 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.

(10) From the evidence presented, the State Board of Pharmacy finds that Harry L. Thom, Jr. did, on or about June 24, 1983 at Discount Drug Mart, 6160 Brecksville Road, Independence, Ohio 44131, distribute by dispensing approximately 50 tablets of Percodan and approximately 150 tablets of Valium 10mg, both of which are controlled substances, in amounts less than the minimum bulk amount, 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.

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 (10) 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 (1) through (10) of the Findings Of Fact constitutes willful violations of more than one time of the provisions of Chapter 2925. 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 Harry L. Thom, Jr., R.Ph. No. 03-2-06324:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the identification card held by Harry L. Thom, Jr. for 24 months.

(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 three thousand dollars ($3,000), 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 43215, with the enclosed form.

(C) Further, the Board suspends the suspension when Harry L. Thom, Jr., takes and successfully completes a jurisprudence examination offered by the Board. Once the suspension has been suspended, it shall remain suspended on condition that Harry L. Thom, Jr. does not violate any drug laws of the State of Ohio, any other state, or the federal government, and that he abides 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.