
STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY

vs

RODNEY W. BYRD, R.Ph.

THE MATTER OF RODNEY W. BYRD, DOCKET NO. 6-155-1, 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 Rodney W. Byrd, as the Secretary-Treasurer of B & B Drug, Inc., dba 20-Mile Pharmacy, and as a practicing pharmacist, are responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy at 20-Mile Pharmacy pursuant to Ohio Revised Code Section 2901.24 and Ohio Administrative Code Rule 4729-5-23.
- (2) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, between the dates of May 8, 1982 and February 4, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased from Wesco Pharmaceutical, Inc., dba Linwood West, 219 Dunn Street, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags 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 20-Mile Pharmacy, between the dates of December 1, 1982 and February 4, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased from Wesco Pharmaceutical, dba Linwood West, 219 Dunn Street, 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" 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.

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- (4) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, on or about August 25, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased from Wesco Pharmaceutical, 219 Dunn Street, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags 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.
- (5) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, on or about August 25, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased from Wesco Pharmaceutical, 219 Dunn Street, 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" and/or as "samples" and, therefore, were false and misleading when sold at retail. Such conduct is in violation of Ohio Revised Sections 3715.64(A) and 3719.81, and is prohibited by Sections 3715.52 and 2925.36 of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, between the dates of October 4, 1983 and March 25, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags 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.
- (7) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, between the dates of November 4, 1983 and February 25, 1984, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased 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" 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.

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- (8) From the evidence presented, the State Board of Pharmacy finds that 20-Mile Pharmacy, on or about October 8, 1985, did receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: misbranded drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, in a plastic prescription vial, and were to be 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.

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 (8) of the Findings Of Fact constitutes gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (8) of the Findings Of Fact constitutes dishonesty in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (8) constitutes violations of the provisions of Chapters 2925., 3715., and 3719. 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 held by Rodney W. Byrd, No, 03-2-08819:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby places on probation the pharmacist identification card held by Rodney W. Byrd for 24 months. The terms of probation provide that Rodney W. Byrd:

- (1) does not violate any drug laws of the state of Ohio, any other state, or the federal government; and
- (2) abides by the rules of the State Board of Pharmacy.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of seven thousand five hundred dollars (\$7,500.00).

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(C) Further, the Board suspends six thousand four hundred dollars (\$6,400.00) of the monetary penalty imposed in paragraph (B) above on condition that the terms of probation are followed. The one thousand one hundred dollar (\$1,100.00) 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.