

STATE BOARD OF PHARMACY

Room 504
65 South Front Street
COLUMBUS, OHIO
43215
614/466-4143

THE STATE BOARD OF PHARMACY

VS

GARY R. BIEN, R.Ph.

THE MATTER OF GARY R. BIEN, R.Ph., DOCKET NO. 6-56-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MARCH 23, 1983. AFTER CONSIDERATION OF THE EVIDENCE ADDUCED, MOTION WAS MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings of Fact

- (1) From the evidence presented, the State Board of Pharmacy finds Gary R. Bien was found guilty of a felony on October 13, 1982 by the Hamilton County Court of Common Pleas, to wit: obtaining Percodan, a dangerous drug, by committing a theft offense; in violation of Section 2925.21 of the Ohio Revised Code.
- (2) From the evidence presented, the State Board of Pharmacy finds Gary R. Bien, on or about June 19, 1982, did obtain and exert control over dangerous drugs, to wit: Carbrital, Fastin, Obetrol, Percodan, Tuinal, Valium, and Zomax, without the consent or beyond the scope of the consent given by the owner, Visconti Lechler Pharmacy, 6106 Hamilton Avenue, Cincinnati, Ohio 45223; in violation of Section 2925.21(A) of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds Gary R. Bien, on or about June 19, 1982, did sell Schedule II controlled substances to one Thomas Bruce Hoffman in amounts less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to wit: 12 Percodan tablets, 5 Obetrol tablets, and 3 Tuinal capsules; in violation of Section 2925.03 of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds Gary R. Bien, on or about June 19, 1982, did sell Schedule III and Schedule IV controlled substances to one Thomas Bruce Hoffman in amounts less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to wit: 7 Carbrital capsules, 27 Fastin capsules, 31 Valium 5mg tablets, and 32 Valium 10mg tablets; in violation of Section 2925.03 of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds Gary R. Bien, on or about June 19, 1982, at Visconti Lechler Pharmacy, 6106 Hamilton Avenue, Cincinnati, Ohio 45223, did dispense Carbrital, Fastin, Obetrol, Percodan, Tuinal, Valium, and Zomax without a prescription; in violation of the "Federal Food, Drug, and Cosmetic Act", and Section 3715.64(A)(13)(b) of the Ohio Revised Code.

Conclusions of Law

- (1) The State Board of Pharmacy, on the basis of paragraph (1) of the Findings of Fact, concludes that Gary R. Bien is guilty of a felony within the meaning of division (A) 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 (5) of the Findings of Fact constitutes willful violations of more than one time any 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 set forth above, the State Board of Pharmacy takes the following action concerning the registered pharmacist license of Gary R. Bien, No. 03-20-9645:

- (A) On the basis of paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the registered pharmacist identification card of Gary R. Bien for 24 months.
- (B) On the basis of paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the registered pharmacist identification card of Gary R. Bien for 24 months.
- (C) Further, the two 24-month suspensions shall run concurrently and the Board suspends the two 24-month suspensions on the condition that Gary R. Bien abides by the terms of probation set by the Board. The terms provide that Gary R. Bien shall not violate any drug laws of the State of Ohio, any other state, 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.

GARY R. BIEN, R.Ph.
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Order of the Board

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt Requested

ORDER ISSUED: April 23, 1983

FZW/sb

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc/Assistant Attorney General

Sylvan P. Reisenfeld, Attorney; 2355 Auburn Ave.; Cincinnati, OH 45219