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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

vs

J. LARRY CUSTER, R.Ph.  
11817 Nathanshill Lane  
Cincinnati, Ohio 45249

THE MATTER OF J. LARRY CUSTER, DOCKET NO. 6-165-3, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MONDAY, SEPTEMBER 22, 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 J. Larry Custer, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge pursuant to Section 4729.27 of the Revised Code of Lar-Pharm, Inc., dba Horwitz Drug, Terminal Distributor of Dangerous Drugs License Number 02-078300, 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 Lar-Pharm, Inc., dba Horwitz Drug, on or about October 16, 1980, did receive in commerce misbranded drugs, hold or offer for sale, and sell misbranded drugs, to wit: approximately 10,000 tablets of Furosemide-40mg, a drug product that did not have an effective application under Section 505 of the Federal Food, Drug, and Cosmetic Act, were purchased from Wesco Pharmaceutical, 219 Dunn Street, Cincinnati, Ohio, and 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 Lar-Pharm, Inc., dba Horwitz Drug, on or about August 5, 1981, did receive in commerce misbranded drugs, hold or offer for sale, and sell misbranded drugs, to wit: approximately 12,000 tablets of Furosemide-40mg, a drug product that did not have an effective application under Section 505 of the Federal Food, Drug, and Cosmetic Act, were purchased from Wesco Pharmaceutical, 29115 Greenfield Road, Southfield, Michigan, and 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.

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- (4) From the evidence presented, the State Board of Pharmacy finds that Lar-Pharm, Inc., dba Horwitz Drug, on or about June 17, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following misbranded drug was purchased from Wesco Pharmaceutical, 625 N. Wayne Avenue, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags and were dispensed to patients pursuant to written or oral prescriptions:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
06/17/83	Rufen-400mg	1,500

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 Lar-Pharm, Inc., dba Horwitz Drug, between the dates of November 4, 1983 and November 29, 1984, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following misbranded drugs were purchased from Tri-State Pharmaceutical, 219 Dunn Street, or 625 N. Wayne Street, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags and were dispensed to patients pursuant to written or oral prescriptions:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
11/04/83	Tolectin DS	5 X 100
06/18/84	Tolectin DS	5 X 100
11/28/84	Flagyl-250mg	5 X 100
11/29/84	Reglan	1 X 500
11/29/84	Tolectin DS	5 X 100

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.

- (6) From the evidence presented, the State Board of Pharmacy finds that Lar-Pharm, Inc., dba Horwitz Drug, on or about September 3, 1981, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following misbranded drugs were purchased from Tri-State Pharmaceutical, 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:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
09/03/81	Zomax	1 X 1000
09/03/81	Tolectin DS	1 X 1000

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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 Lar-Pharm, Inc., dba Horwitz Drug, on or about February 14, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following misbranded drugs were purchased from Tri-State Pharmaceutical, dba Linwood West, 625 N. Wayne Street, Cincinnati, Ohio, in plastic prescription vials and/or plastic bags and were dispensed to patients pursuant to written or oral prescriptions:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
02/14/83	Zomax	2 X 1000

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.

- (8) From the evidence presented, the State Board of Pharmacy finds that Lar-Pharm, Inc., dba Horwitz Drug, between the dates of November 4, 1983 and May 7, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following drugs were purchased from Tri-State Pharmaceutical, 219 Dunn Street, and/or 625 N. Wayne 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:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
11/04/83	Lo-Ovral-28	24 cycles
02/21/84	Norinyl 135-21	24 cycles
05/07/84	Norinyl 150-28	36 cycles
05/23/84	Lo-Ovral-28	48 cycles
08/06/84	Lo-Ovral-21	24 cycles
09/11/84	Ovral-28	6 cycles
09/25/84	Ortho-Novum 150-28	24 cycles
11/30/84	Ortho-Novum 135-28	24 cycles
12/18/84	Norinyl 135-28	12 cycles
01/07/85	Ovral-28	24 cycles
01/07/85	Modicon-28	5 cycles
02/26/85	Ortho-Novum 135-28	12 cycles
05/07/85	Ortho-Novum 135-28	24 cycles
05/07/85	Norinyl 150-28	12 cycles

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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- (9) From the evidence presented, the State Board of Pharmacy finds that Lar-Pharm, Inc., dba Horwitz Drug, on or about September 30, 1982, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: 36 cycles of Norinyl 150-28 were purchased from Tri-State 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.
- (10) From the evidence presented, the State Board of Pharmacy finds that Lar-Pharm, Inc., dba Horwitz Drug, on or about February 14, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: the following drugs were purchased from Tri-State Pharmaceutical, dba Linwood West, 625 N. Wayne 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:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
02/14/83	Lo-Ovral-21	24 cycles
02/14/83	Lo-Ovral-28	24 cycles

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 (10) 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 (10) 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 (10) of the Findings Of Fact constitutes willfully violating the provisions of Chapters 2925., 3715., and 3719. of the Ohio Revised Code.