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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

VS

ROBERT S. McCUNN, R.Ph.

THE MATTER OF ROBERT S. McCUNN, DOCKET NO. 6-171-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON WEDNESDAY, JUNE 25, 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 Robert S. McCunn, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code since January 1, 1984, and the pharmacist in full and actual charge pursuant to Section 4729.27 of the Revised Code, for Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio, Terminal Distributor of Dangerous Drugs License No. 02-368050, 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 Robert S. McCunn did, as the responsible pharmacist for Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio, between the dates of January 3, 1984 and May 24, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased on at least 121 different occasions 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.
- (3) From the evidence presented, the State Board of Pharmacy finds that Robert S. McCunn did, as the responsible pharmacist for Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio, between the dates of January 23, 1984 and May 29, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased on at least 35 different occasions 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" or as "samples" and, therefore, were

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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.

- (4) From the evidence presented, the State Board of Pharmacy finds that Robert S. McCunn did, as the responsible pharmacist for Drug Emporium, Inc., 5160 E. Main Street, Columbus, Ohio, between the dates of June 1, 1985 and June 18, 1985, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: at least four different misbranded drugs were purchased from Drug Emporium, Inc., 260 Graceland, Columbus, Ohio; Drug Emporium, Inc., 5685 Columbus Square Shopping Center, Columbus, Ohio; and, Drug Emporium, Inc., 232 N. Wilson Road, Columbus, Ohio, and were sold to Tri-State Pharmaceutical, 625 N. Wayne Avenue, Cincinnati, Ohio. 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 (4) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes violating the provisions of Chapters 2925., 3715. and 3719. of the Ohio 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 Robert S. McCunn, No. 03-2-13179:

(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Robert S. McCunn for 24 months, effective October 1, 1986.

(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 ten thousand dollars (\$10,000.00), 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.

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(C) Further, the Board suspends the suspension on condition that Robert S. McCunn:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board on September 23, 1986;
- (2) does not violate any drug laws of the state of Ohio, any other state, or the federal government; and
- (3) 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.