



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990219-030)

In The Matter Of:

MICHAEL A. MISOCKY, R.Ph.

4 B Locbury Court
Germantown, MD 20874
(R.Ph. No. 03-2-21342)

INTRODUCTION

THE MATTER OF MICHAEL A. MISOCKY CAME TO HEARING ON SEPTEMBER 8, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MICHAEL A. MISOCKY WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Louis R. Mandi, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing dated February 19, 1999.
- (2) Exhibit 1A--Copy of three-page Addendum Notice dated May 17, 1999.

- (3) Exhibit 1B--Two-page Memorandum from Michael A. Misocky dated March 19, 1999.
- (4) Exhibit 1C--Copy of Scheduling Letter dated March 23, 1999.
- (5) Exhibit 1D--Continuance Request letter dated April 16, 1999.
- (6) Exhibit 1E--Hearing Schedule letter dated April 28, 1999.
- (7) Exhibit 2--Copy of prescription for Coumadin 2mg and copy of prescription label numbered 0239944507 dated June 26, 1997.
- (8) Exhibit 3A--Copy of letter from Thomas W. Lally dated August 17, 1999.
- (9) Exhibit 3B--Copy of "Notice and Release and Settlement of Claim", File No. P303-153108-01, dated February 12, 1999.
- (10) Exhibit 4--Copy of prescription for Ultram 50mg dated August 28, 1998.
- (11) Exhibit 5--Copy of prescription for Propuslid (*sic* Propulsid) 10mg dated September 4, 1998.
- (12) Exhibit 6--Copy of handwritten statement of Normalee Kerr Stuart dated April 28, 1999.
- (13) Exhibit 7--Copy of handwritten statement of Gina Bady dated April 29, 1999.
- (14) Exhibit 8--Copy of handwritten statement of Andy Sperling, not dated.

Respondent's Exhibits:

- (1) Exhibit A--Five-page letter from Michael A. Misocky, not dated.

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) On February 19, 1999, Michael A. Misocky was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of February 26, 1999, Michael A. Misocky received the Notice of Opportunity for Hearing of February 19, 1999, informing him of the allegations against him, and his rights.
- (3) As demonstrated by return receipt of May 21, 1999, Michael A. Misocky received the Addendum Notice of May 17, 1999, informing him of the additional allegation against him, and his rights.
- (4) Michael A. Misocky sent his contentions in writing by letter sent Federal Express on September 1, 1999.
- (5) Records of the Board of Pharmacy indicate that Michael A. Misocky was originally licensed in the state of Ohio on August 4, 1995, pursuant to reciprocity, and that he is currently licensed to practice pharmacy in the state of Ohio.

- (6) Michael A. Misocky did, on or about June 26, 1997, sell a drug that was misbranded, to wit: while practicing pharmacy at Rite Aid #2399, Canton, Ohio, Michael A. Misocky sold fifty-nine tablets of Coumadin 5mg to a patient, whereas the patient's prescription was for one hundred tablets of Coumadin 2mg. As a result of such conduct, the patient, an eighty-three-year-old man, was hospitalized for several days and needed two surgeries. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSION OF LAW

Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby imposes a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.