
OHIO STATE BOARD OF PHARMACY

THE OHIO STATE BOARD OF PHARMACY
(Docket No. D-880523-224)

In The Matter Of:

BENJAMIN L. BONN, R.Ph.
24101 S. Woodland Road
Cleveland, OH 44122

INTRODUCTION

THE MATTER OF BENJAMIN L. BONN CAME TO HEARING ON SEPTEMBER 26, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

BENJAMIN L. BONN WAS REPRESENTED BY THOMAS G. LOBE, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Richard Rob, Blue Cross
- (2) Robert Cole, Pharmacy Board

Respondent's Witnesses:

- (1) Benjamin L. Bonn, Respondent
- (2) Raymond Bonn

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity Letter for Benjamin L. Bonn dated May 23, 1988.
- (2) Exhibit B - Notice of Opportunity Letter for Raymond Bonn dated May 23, 1988.
- (3) Exhibit C - Request for Hearing Letter for Raymond Bonn dated June 6, 1988.
- (4) Exhibit D - Request for Hearing Letter for Benjamin L. Bonn dated June 8, 1988.

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- (5) Exhibit E - Schedule Letter for Raymond Bonn dated June 14, 1988.
- (6) Exhibit F - Schedule Letter for Benjamin L. Bonn dated June 14, 1988.
- (7) Exhibit G - Board of Pharmacy change of address schedule letter for Raymond Bonn dated September 1, 1988.
- (8) Exhibit H - Board of Pharmacy change of address schedule letter for Benjamin Bonn dated September 1, 1988.
- (9) Exhibit I - Request for Consolidated Hearing for Benjamin Bonn and Raymond Bonn dated September 8, 1988.
- (10) Exhibit J - Schedule Letter for Consolidated Hearing dated September 15, 1988.
- (11) Exhibit 1 - Pharmacist Renewal Applications for Raymond Bonn for the licensure years of 1984-1985, 1985-1986, and 1986-1987.
- (12) Exhibit 2 - Journal entry of guilty and sentence dated January 15, 1987.
- (13) Exhibit 3 - Written confession by Alan Israel to Rich Rob.
- (14) Exhibit 4a - Photograph of Rx vial #184879 for Leon Lane.
- (15) Exhibit 4b - Drug sample from vial in photograph in Exhibit 4a.
- (16) Exhibit 4c - Billing printout for Leon Lane.
- (17) Exhibit 4d - Receipt for drug received in Exhibit 4b.
- (18) Exhibit 4e - Statement by Leon Lane.
- (19) Exhibit 5 - Prescription #192291.
- (20) Exhibit 6 - Statement by Alan Israel.
- (21) Exhibit 7 - Prescription #193143.
- (22) Exhibit 8a - Photograph of Rx vial #193475 for Leon Lane.
- (23) Exhibit 8b - Drug sample from vial in photograph in Exhibit 8a.
- (24) Exhibit 9a - Photograph of Rx vial #193965 for Elmer Powers.
- (25) Exhibit 9b - Drug sample from vial in photograph in Exhibit 9a.
- (26) Exhibit 9c - Billing printout from Elmer Powers.
- (27) Exhibit 9d - Receipt for drug received in Exhibit 9b.
- (28) Exhibit 10 - Prescription #193977.
- (29) Exhibit 11 - Prescription #194148.
- (30) Exhibit 12 - Prescription #194350.
- (31) Exhibit 13 - Prescription #195146.
- (32) Exhibit 14 - Prescription #195680.
- (33) Exhibit 15 - Prescription #195339.
- (34) Exhibit 16 - Prescription #195340.
- (35) Exhibit 17 - Prescription #195761.
- (36) Exhibit 18a - Photograph of Rx vial #195895 for Elmer Powers.
- (37) Exhibit 18b - Drug sample from vial in photograph in Exhibit 18a.
- (38) Exhibit 19 - Prescription #196457.
- (39) Exhibit 20a - Prescription #196575.
- (40) Exhibit 20b - Photograph of Rx vial #196575 for Charles Guzauskas.
- (41) Exhibit 20c - Drug sample from vial in photograph in Exhibit 20b.
- (42) Exhibit 20d - Billing Statement from BC/BS.
- (43) Exhibit 20e - Receipt for drug received in Exhibit 20c.
- (44) Exhibit 20f - Statement by Charles Guzauskas.
- (45) Exhibit 21 - Prescription #196608.
- (46) Exhibit 22 - Prescription #197164.
- (47) Exhibit 23 - Prescription #196712.

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- (48) Exhibit 24 - Prescription #197445.
- (50) Exhibit 26a - Prescription #197866.
- (51) Exhibit 26b - Drug purchases (4) from Rx #197866 in Exhibit 26a.
- (52) Exhibit 27a - Prescription #197867.
- (53) Exhibit 27b - Drug purchases (4) from Rx #197867 in Exhibit 27a.
- (54) Exhibit 28 - Prescription #198329.
- (55) Exhibit 29 - Prescription vial and drug from Rx #198645.
- (56) Exhibit 30 - Prescription #198898.
- (57) Exhibit 31 - Prescription #198931.
- (58) Exhibit 32 - Prescription #198992.
- (59) Exhibit 33 - Prescription #199061.
- (60) Exhibit 34 - Prescription #199064.
- (61) Exhibit 35a - Prescription #199066.
- (62) Exhibit 35b - Photograph of Rx vial #199066 for Irene Gartland.
- (63) Exhibit 35c - Drug sample from vial in photograph in Exhibit 35b.
- (64) Exhibit 35d - Billing form of BC/BS.
- (65) Exhibit 35e - Statment by Irene Gartland.
- (66) Exhibit 35f - Receipt for drugs received in Exhibit 35c.
- (67) Exhibit 36a - Prescription #199075.
- (68) Exhibit 36b - Prescription vial and drugs from #199075.
- (69) Exhibit 37a - Prescription #199079.
- (70) Exhibit 37b - Prescription tubes (3) and drugs from #199079.
- (71) Exhibit 38a - Prescription #199098.
- (72) Exhibit 38b - Photograph of vial #199098 for Charles Guzauskas.
- (73) Exhibit 38c - Drug sample from vial in photograph in Exhibit 38b.
- (74) Exhibit 39a - Prescription #199099.
- (75) Exhibit 39b - Photograph of vial #199099 for Charles Guzauskas.
- (76) Exhibit 39c - Drug sample from vial in photograph in Exhibit 39b.
- (77) Exhibit 40 - Prescription #199192.
- (78) Exhibit 41a - Prescription #199179.
- (79) Exhibit 41b - Photograph of vial #199179 for Elmer Powers.
- (80) Exhibit 41c - Drug sample from vial in photograph in Exhibit 41b.
- (81) Exhibit 42 - Prescription #199264.
- (82) Exhibit 43 - Prescription #199363.
- (83) Exhibit 44 - Prescription #199527.
- (84) Exhibit 45 - Prescription #199561.
- (85) Exhibit 46 - Prescription #199639.
- (86) Exhibit 47a - Prescription #199694.
- (87) Exhibit 47b - Prescription vial and drugs from #199694.
- (88) Exhibit 48a - Prescription #199695.
- (89) Exhibit 48b - Prescription vial and drugs from #199695.
- (90) Exhibit 49a - Prescription #199902.
- (91) Exhibit 49b - Prescription vial and drugs from #199902.
- (92) Exhibit 50a - Prescription #200111.
- (93) Exhibit 50b - Prescription vial and drugs from #200111.
- (94) Exhibit 51a - Prescription #200112.
- (95) Exhibit 51b - Prescription vial and drugs from #200112.
- (96) Exhibit 52a - Prescription #200113.
- (97) Exhibit 52b - Prescription vial and drugs from #200113.
- (98) Exhibit 53 - Prescription #200186.

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- (99) Exhibit 55 - Prescription #200310.
- (100) Exhibit 56a - Prescription #200361.
- (101) Exhibit 56b - Prescription vial and drugs from #200361.
- (102) Exhibit 57a - Prescription #200362.
- (103) Exhibit 57b - Prescription vial and drugs from #200362.

Respondent's Exhibits:

- (1) Exhibit A - Hearing Memorandum for Benjamin Bonn.
- (2) Exhibit A - Hearing Memorandum for Raymond Bonn.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Benjamin L. Bonn on or about November 26, 1986, was found guilty of one count of theft in violation of Revised Code Section 2913.02, a felony of the fourth degree, by the Cuyahoga County Court of Common Pleas.
- (2) From the evidence presented, the State Board of Pharmacy finds that Benjamin L. Bonn engaged in dishonest and unprofessional conduct while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, to wit: Benjamin L. Bonn did obtain remuneration by fraud, misrepresentation, and deception by billing Blue Cross Blue Shield Mutual of Northern Ohio for:
 - (a) more expensive brand name drugs when less expensive generic drugs were dispensed, and
 - (b) prescriptions that were not dispensed to Blue Cross beneficiaries.
- (3) From the evidence presented, the State Board of Pharmacy finds that Benjamin L. Bonn did knowingly make and affix false labels to prescription vials containing dangerous drugs, to wit:

	<u>Rx No.</u>	<u>Drug Prescribed</u>	<u>Drug Dispensed</u>	<u>Drug On Rx Label</u>
[1]	200111	Valium-5mg	Generic	Valium-5mg
[2]	199099	Persantine	Generic	Persantine
[3]	197867	Hydrodiuril	Generic	Hydrodiuril
[4]	197866	Librax	Generic	Librax
[5]	193965	Robaxin	Generic	Robaxin

Such conduct is prohibited by Division (D) of Section 2925.23 of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Benjamin L. Bonn and other pharmacists did, while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, engage in dishonest and unprofessional conduct in the

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practice of pharmacy, to wit: Benjamin L. Bonn and the other pharmacists obtained remuneration for the corporation by fraud, misrepresentation, or deception by dispensing generic drugs while billing the third-party carrier for the prescribed brand name drug, as follows:

	<u>Date</u>	<u>Rx No.</u>	<u>Drug Prescribed/Billed</u>	<u>Amount Over-Billed</u>
[1]	10/23/85	192291	Isordil Titrados	\$14.91
[2]	12/13/85	192291	Isordil Titrados	14.91
[3]	01/24/86	192291	Isordil Titrados	17.45
[4]	03/05/86	192291	Isordil Titrados	17.45
[5]	12/27/85	193143	Hydrodiuril	6.49
[6]	04/10/86	193143	Hydrodiuril	4.70
[7]	??	193475	Benadryl	NA
[8]	??	193965	Robaxin	NA
[9]	01/04/86	193977	Hygroton	26.78
[10]	03/18/86	194148	Hydrodiuril	8.74
[11]	04/23/86	194350	Isordil	18.40
[12]	10/24/85	195146	Lasix	9.85
[13]	01/04/86	195146	Lasix	9.85
[14]	01/20/86	195146	Lasix	9.85
[15]	02/17/86	195146	Lasix	9.85
[16]	02/14/86	195180	Librax	17.70
[17]	12/31/85	195339	Isordil	22.61
[18]	01/31/86	195339	Isordil	24.51
[19]	02/27/86	195339	Isordil	25.92
[20]	03/31/86	195339	Isordil	25.92
[21]	04/30/86	195339	Isordil	25.92
[22]	05/29/86	195339	Isordil	25.92
[23]	12/31/85	195340	Lasix	12.25
[24]	01/31/86	195340	Lasix	12.25
[25]	02/27/86	195340	Lasix	12.25
[26]	03/31/86	195340	Lasix	12.25
[27]	04/30/86	195340	Lasix	12.25
[28]	12/15/85	195761	Lomotil	22.01
[29]	02/25/86	195761	Lomotil	22.01
[30]	??	195895	Librax	NA
[31]	12/24/85	196457	Mycolog	26.39
[32]	10/23/85	196575	Donnatal	4.70
[33]	12/24/85	196575	Donnatal	4.70
[34]	02/27/86	196575	Donnatal	3.07
[35]	04/04/86	196575	Donnatal	3.07
[36]	04/22/86	196608	Lomotil	23.01
[37]	01/11/86	197164	Librax	31.54
[38]	04/01/86	197164	Librax	31.66
[39]	05/14/86	197164	Librax	31.66
[40]	05/13/86	196712	Hygroton	27.61
[41]	03/21/86	197445	Donnatal	8.48
[42]	03/27/86	197635	Aldactazide	10.26
[43]	04/22/86	197635	Aldactazide	10.26
[44]	12/18/85	197866	Librax	8.04
[45]	02/26/86	197866	Librax	8.67

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	<u>Date</u>	<u>Rx No.</u>	<u>Drug Prescribed/Billed</u>	<u>Amount Over-Billed</u>
[46]	04/14/86	197866	Librax	8.73
[47]	12/18/85	197867	Hydrodiuril	3.62
[48]	02/26/86	197867	Hydrodiuril	3.74
[49]	04/14/86	197867	Hydrodiuril	4.06
[50]	01/09/86	198329	Parafon Forte	5.55
[51]	01/22/86	198645	V Cillin K	NA
[52]	01/31/86	198898	Robaxin	\$13.38
[53]	02/20/86	198898	Robaxin	14.57
[54]	03/11/86	198898	Robaxin	14.57
[55]	04/04/86	198898	Robaxin	14.57
[56]	01/31/86	198931	Hydrodiuril	8.75
[57]	02/04/86	198992	Robaxin	5.83
[58]	02/07/86	199061	V Cillin K	2.87
[59]	02/07/86	199064	Hydrodiuril	7.79
[60]	02/07/86	199066	Antivert	12.84
[61]	02/24/86	199066	Antivert	12.84
[62]	02/07/86	199075	Hygroton	7.29
[63]	02/07/86	199079	Mycolog	12.69
[64]	03/05/86	199079	Mycolog	14.94
[65]	03/18/86	199079	Mycolog	14.94
[66]	02/08/86	199098	Isordil	11.34
[67]	03/22/86	199098	Isordil	11.34
[68]	05/08/86	199098	Isordil	11.34
[69]	02/08/86	199099	Persantin	27.33
[70]	04/08/86	199099	Persantin	20.28
[71]	02/12/86	199192	Bactrim DS	19.65
[72]	02/11/86	199179	Robaxisal	19.39
[73]	04/22/86	199179	Robaxisal	19.39
[74]	02/14/86	199264	Persantin	4.75
[75]	02/18/86	199363	V Cillin K	8.43
[76]	02/25/86	199527	V Cillin K	4.20
[77]	02/26/86	199561	Isordil	13.01
[78]	03/03/86	199639	Mycolog	15.94
[79]	04/14/86	199639	Mycolog	15.94
[80]	03/05/86	199694	V Cillin K	3.87
[81]	03/05/86	199695	Valium	2.23
[82]	03/15/86	199902	Hygroton	9.89
[83]	03/24/86	200111	Valium	8.15
[84]	03/24/86	200112	Robaxin	7.54
[85]	05/23/86	200112	Robaxin	7.54
[86]	03/24/86	200113	Lomotil	4.31
[87]	03/26/86	200186	Bactrim DS	12.20
[88]	04/24/86	200310	Bactrim DS	12.29
[89]	04/03/86	200361	Zyloprim	3.76
[90]	04/03/86	200362	Robaxin	7.54
[91]	04/11/86	200533	Bactrim DS	14.43
[92]	04/15/86	200616	Lomotil	5.20
[93]	04/26/86	200876	Mycolog	15.53
[94]	05/02/86	200997	Hydrodiuril	4.10
[95]	??	201128	Valium	NA
[96]	05/14/86	201264	V Cillin K	6.20

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- (5) From the evidence presented, the State Board of Pharmacy finds that Benjamin Bonn did violate paragraph (B) of Ohio Administrative Code Rule 4729-5-17 on more than one occasion while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, to wit: Benjamin L. Bonn did not record the name of the manufacturer or distributor of the generic drugs dispensed on the prescriptions listed in paragraph (3) above.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (1) of the Findings Of Fact constitutes being guilty of a felony.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (1) through (5) of the Findings Of Fact constitutes gross immorality.
- (3) 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 dishonesty and unprofessional conduct in the practice of pharmacy.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (3) and (5) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate and aiding and abetting the violations of Chapter 2925. and 4729. of the Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-3-03446, held by Benjamin L. Bonn:

(A) On the basis of paragraph (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand five hundred dollars (\$2,500.00), due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

(B) On the basis of paragraphs (1) through (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Benjamin L. Bonn, No. 03-3-03446, for three years.

(C) Further, the Board suspends two years of the three-year suspension imposed in paragraph (B) above on condition that Benjamin L. Bonn:

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- (1) successfully completes a Jurisprudence examination offered by the Board;
- (2) does not violate the 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.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.