



OHIO STATE BOARD OF PHARMACY

65 S. FRONT STREET, ROOM 504
COLUMBUS, OHIO 43215
TELEPHONE: 614/466-4143

03-3-03675

THE STATE BOARD OF PHARMACY

VS

MORRIS LEVY, R.Ph.

THE MATTER OF MORRIS LEVY, DOCKET NO. 6-163-1, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MONDAY, JUNE 23, 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 Morris Levy, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge of Maury's Pharmacy, Inc., Terminal Distributor of Dangerous Drugs License No. 02-125100, pursuant to Section 4729.27 of the Revised Code, 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 Maury's Pharmacy, Inc. did, on or about June 12, 1983, receive in commerce misbranded drugs, hold or offer for sale, and sell misbranded drugs, to wit: approximately 1,000 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, dba Linwood West, 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 Maury's Pharmacy, Inc. did, on or about January 5, 1981, receive in commerce misbranded drugs, hold or offer for sale, and sell misbranded drugs, to wit: approximately 1,000 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.

- (4) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about November 24, 1980, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: approximately 1,000 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.
- (5) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about February 15, 1983, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: Asendin-50mg (100) were purchased from Tri-State Pharmaceutical, dba Linwood West, 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.
- (6) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, between the dates of December 9, 1983 and September 21, 1984, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased on 11 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.
- (7) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about February 15, 1983, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: at least three different drugs were purchased from Tri-State Pharmaceutical, dba Linwood West, 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" 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.
- (8) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, between the dates of September 15, 1983 and September 19, 1984, receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit:

drugs were purchased on at least 13 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" 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.

- (9) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about October 13, 1985, receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: 40 tablets of Wytensin-4mg were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio in plastic prescription vials and were to be 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.
- (10) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about October 13, 1985, receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: three different drugs were purchased from unknown sources in plastic prescription vials to be 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.
- (11) From the evidence presented, the State Board of Pharmacy finds that Maury's Pharmacy, Inc. did, on or about October 13, 1985, receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: two different drugs were purchased from unknown sources and were to be dispensed to patients pursuant to written or oral prescriptions. These drugs were misbranded; in that, they were labeled 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.

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 (11) of the Findings Of Fact constitutes dishonesty 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 (11) of the Findings Of Fact constitutes violating the provisions of Chapters 2925., 3715., and 3719. of the Ohio Revised Code.

MORRIS LEVY, R.Ph.
Page Four
Order of the Board

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 Morris Levy, No. 03-3-03675:

(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 Morris Levy for 12 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 nine thousand five hundred dollars (\$9,500.00).

(C) Further, the Board suspends the suspension, and eight thousand five hundred dollars (\$8,500.00) of the monetary penalty imposed in paragraph (B) above, on condition that Morris Levy:

- (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.

The one thousand dollar (\$1,000.00) monetary penalty that was not suspended is 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.

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

MOTION CARRIED.

SO ORDERED.

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. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

MORRIS LEVY, R.Ph.
Page Five
Order of the Board

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

ORDER ISSUED: July 14 1986

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: John E. Breen, Assistant Attorney General
Arnold Morelli, Attorney; 1029 Main Street;
Cincinnati, Ohio 45202