
OHIO STATE BOARD OF PHARMACY

BEFORE THE STATE BOARD OF PHARMACY
(Docket No. D-870224-106)

In The Matter Of:

BERNARD MARGOLIS, R.Ph.
3233 Dellwood Road
Cleveland Heights, Ohio 44118

INTRODUCTION

THE MATTER OF BERNARD MARGOLIS CAME TO HEARING ON JUNE 23, 1987 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: GERALD CLOUSE, R.Ph. (presiding); NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; JEROME WIESENHAHN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

BERNARD MARGOLIS WAS REPRESENTED BY ERIC R. HOFFMAN, AND THE STATE OF OHIO WAS REPRESENTED BY YVETTE MCGEE, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Exhibits

- (1) Exhibit #A - Notice of Opportunity in the matter of Bernard Margolis, 3233 Dellwood Road, Cleveland Heights, OH 44118 dated February 24, 1987.
- (2) Exhibit #B - Request for hearing dated March 13, 1987.
- (3) Exhibit #C - Hearing schedule letter dated March 17, 1987.
- (4) Exhibit #1 - Applications for renewal for terminal distributor's licenses for 1982, 1984, 1986,; dangerous drug distributor inspection report dated 07/01/85, 07/02/85 & 07/03/85; response to pink sheet dated 07/08/85; application for registration as a distributor of dangerous drugs showing Bernard Margolis as owner of McFetridge Drug; Dangerous drug distributor inspection report dated 11/15/79 for McFetridge Drug, 3471 Fairmount Blvd., Cleveland Heights, Ohio and dangerous drug distributor inspection report dated 11/15/79 showing cancellation of McFetridge Drug at 3475 Fairmount, Cleveland Heights, Ohio.
- (5) Exhibit #2 - Statement dated 07/30/85 by Louis Saunders consisting of 17 pages.
- (6) Exhibit #6 - Statement dated 07/30/85 by Bernard Margolis consisting of 3 pages.
- (7) Exhibit #7 - Statement dated 07/30/85 by Louis Saunders consisting of 66 pages.
- (8) Exhibit #8 - Statement dated 07/30/85 by Louis Saunders and Bernard Margolis consisting of 3 pages.
- (9) Exhibit #9 - Statement dated 07/30/85 by Louis Saunders consisting of 11 pages.

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- (10) Exhibit #10 - Statement dated 07/30/85 by Louis Saunders and Bernard Margolis consisting of 1 page.
- (11) Exhibit #11 - Statement dated 07/30/85 by Louis Saunders consisting of 2 pages.
- (12) Exhibit #12 - Statement dated 07/30/85 by Bernard Margolis consisting of 1 page.
- (13) Exhibit #13 - Statement dated 07/30/85 by Louis Saunders consisting of 3 pages.
- (14) Exhibit #4 - Certificate of Death in the name of Myrl Schwarz.
- (15) Exhibit #5 - Medical Records from Mt. Sinai Medical Center consisting of 48 pages in the name of Myrl Schwarz.
- (16) Exhibit #26 - Medical Records from Suburban Community Hospital in the name of Myrl Schwarz consisting of 193 pages.
- (17) Exhibit #27 - Statement dated 01/09/86 by Dr. Morton L. Angell consisting of 4 pages and letter dated January 13, 1987 from Tobias Hirshman.
- (18) Exhibit #28 - Statement dated 12/17/85 by Dr. Stuart Markowitz consisting of 3 pages.
- (19) Exhibit #21 - Prescriptions in the name of Merle Vertes.
- (20) Exhibit #29 - Statement dated 02/19/87 by Dr. Erwin Raffel consisting of 5 pages.
- (21) Exhibit #30 - Statement dated 02/19/87 by Dr. Benton Cole consisting of 5 pages.
- (22) Exhibit #24 - Prescriptions in the name of Doris Alburn.
- (23) Exhibit #25 - Prescriptions in the name of Alice Maltby.

Respondent's Exhibits

- (1) Exhibit #1 - Compliance Guidelines.
- (2) Exhibit #2 - Letter dated June 18, 1987 from Hermann Menges, Jr., M.D.
- (3) Exhibit #3 - Letter dated June 12, 1987 from Gerald T. Kent, M.D.
- (4) Exhibit #4 - Letter dated June 15, 1987 from Fred A. Oldenburg, M.D.
- (5) Exhibit #5 - Letter dated June 13, 1987 from Kevin Geraci, M.D.
- (6) Exhibit #6 - Letter dated June 16, 1987 from Chester L. Plotkin, M.D.
- (7) Exhibit #7 - Letter dated June 17, 1987 from Ronald B. Golden, M.D.
- (8) Exhibit #8 - Letter dated June 11, 1987 from Howard E. Fagan, M.D.
- (9) Exhibit #9 - Affidavit of Donald P. Bookatz dated June 19, 1987.
- (10) Exhibit #10 - Affidavit of Mary Zemka dated June 19, 1987.
- (11) Exhibit #11 - Affidavit of Herman R. Gorden dated June 19, 1987.
- (12) Exhibit #12 - Affidavit of Mary K. Megery dated June 19, 1987.
- (13) Exhibit #13 - Affidavit of Nathan Levine dated June 15, 1987.
- (14) Exhibit #14 - Affidavit of Lawrence Scheps dated June 19, 1987.
- (15) Exhibit #15 - Affidavit of Harold Schwartz dated June 11, 1987.

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FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, as a practicing pharmacist and owner of McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, during 1978, 1979, 1980, 1981, and 1982, and as the responsible pharmacist during 1982, was responsible for compliance with all state and federal laws regulating the distribution of drugs and the practice of pharmacy at McFetridge Drug, Terminal Distributor of Dangerous Drugs License Numbers 02-163900 and 02-05-7152, as defined in paragraphs (A) and (C) of Rule 4729-5-23 of the Ohio Administrative Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between December 31, 1981 and December 27, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount, as defined in Section 2925.01 of the Revised Code, to wit: Louis Saunders, an employee under Mr. Margolis' control and supervision admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold without a prescription, Placidyl-500mg (Ethchlorvynl), a Schedule IV controlled substance and prescription drug, to Myrl Swarz, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
389449	12/31/81	30
389449	01/06/82	30
389449	01/15/82	30
389449	01/28/82	30
389449	02/04/82	30
389449	02/13/82	30
389449	02/24/82	30
389449	03/03/82	30
389449	03/10/82	30
389449	03/17/82	30
389449	03/24/82	30
389449	04/01/82	30
389449	04/12/82	30
389449	04/27/82	30
389449	05/05/82	30
389449	05/15/82	30
389449	05/29/82	30
389449	06/05/82	30
389449	06/15/82	30
389449	06/27/82	30
389449	07/01/82	30
389449	07/08/82	30
389449	07/17/82	30

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
389449	08/02/82	30
389449	08/09/82	30
389449	08/17/82	30
389449	09/03/82	30
389449	09/20/82	30
389449	09/28/82	30
389449	10/04/82	30
389449	10/13/82	30
389449	10/23/82	30
389449	10/29/82	30
389449	11/03/82	30
389449	11/13/82	30
389449	11/17/82	30
389449	11/29/82	30
389449	12/04/82	30
389449	12/11/82	30
389449	12/18/82	30
389449	12/27/82	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 6, 1982 and December 27, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to wit: Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold, without a prescription, Ativan-1mg (Lorazepam), a Schedule IV controlled substance and prescription drug, to Myrl Swarz, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
401275	01/06/82	75
401275	01/15/82	75
401275	01/28/82	75
401275	02/04/82	75
401275	02/13/82	75
401275	02/24/82	75
401275	03/03/82	75
401275	03/10/82	75
401275	03/17/82	75
401275	03/24/82	75
401275	04/01/82	75
401275	04/12/82	75
401275	04/27/82	75

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
401275	05/05/82	75
401275	05/15/82	75
401275	05/29/82	75
401275	06/15/82	75
401275	06/27/82	75
401275	07/01/82	75
401275	07/08/82	75
401275	07/17/82	75
401275	08/02/82	75
401275	08/09/82	75
401275	08/17/82	75
401275	09/03/82	75
401275	09/20/82	75
401275	09/28/82	75
401275	10/04/82	75
401275	10/13/82	75
401275	10/23/82	75
401275	10/29/82	75
401275	11/13/82	75
401275	11/17/82	75
401275	11/29/82	75
401275	12/04/82	75
401275	12/11/82	75
401275	12/18/82	75
401275	12/27/82	75

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did sell a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Mr. Margolis did sell from McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, to Merle Vertes, without a prescription, the following amounts of Darvon-32mg, a Schedule IV controlled substance:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402339	06/29/82	30
402339	08/23/82	30
402339	09/12/82	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

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- (5) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did sell a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Mr. Margolis did sell from McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, to Merle Vertes, without a prescription, the following amounts of Darvon-65mg, a Schedule IV controlled substance:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
410246	08/18/83	30
410246	05/08/83	30
410246	07/31/83	30
413882	09/19/83	30
413882	10/04/83	30
413882	10/11/83	30
413882	10/23/83	30
415571	12/04/83	30
415571	12/08/83	30
415571	01/02/84	30
415571	01/09/84	30
415571	02/06/84	30
415571	02/26/84	30
415571	08/07/84	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did sell a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Mr. Margolis did sell from McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, to Merle Vertes, without a prescription, the following amounts of Fiorinal #3, a Schedule III controlled substance:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402097	08/18/83	15
413884	10/04/83	15
413884	10/11/83	15
413884	10/23/83	15
415572	12/04/83	15
415572	12/08/83	15
415572	01/02/84	15
415572	02/06/84	15
415572	02/26/84	15

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

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- (7) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did sell a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Mr. Margolis did sell from McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, to Merle Vertes, without a prescription, the following amounts of Synalgos DC, a Schedule III controlled substance:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
415200	12/04/83	20
415200	01/02/84	20
415200	01/09/84	20
415200	02/26/84	20

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (8) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did sell a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Mr. Margolis did sell from McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, to Merle Vertes, without a prescription, the following amounts of Tylenol #3, a Schedule III controlled substance:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
415199	01/02/84	30
415199	02/26/84	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (9) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 7, 1982 and December 30, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold, without a prescription, Darvon-32mg, a Schedule IV controlled substance and prescription drug to Merle Vertes, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402339	01/07/82	30
402339	01/13/82	30

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402339	02/05/82	30
402339	02/13/82	30
402339	02/20/82	30
402339	02/26/82	30
402339	02/29/82	30
402339	04/04/82	30
402339	04/10/82	30
402339	04/15/82	30
402339	04/23/82	30
402339	05/03/82	30
402339	05/07/82	30
402339	05/12/82	30
402339	05/17/82	30
402339	05/22/82	30
402339	05/26/82	30
402339	05/30/82	30
402339	06/02/82	30
402339	06/05/82	30
402339	06/09/82	30
402339	06/15/82	30
402339	06/19/82	30
402339	06/26/82	30
402339	06/29/82	30
402339	07/01/82	30
402339	07/03/82	30
402339	07/06/82	30
402339	07/10/82	30
402339	07/13/82	30
402339	08/02/82	30
402339	08/06/82	30
402339	08/15/82	30
402339	08/18/82	30
402339	08/21/82	30
402339	08/24/82	30
402339	08/28/82	30
402339	09/03/82	30
402339	09/10/82	30
402339	09/15/82	30
402339	09/20/82	30
402339	09/23/82	30
402339	09/28/82	30
402339	10/01/82	30
402339	10/05/82	30
402339	10/08/82	30
402339	10/12/82	30
402339	10/16/82	30
402339	10/18/82	30
402339	10/20/82	30
402339	10/22/82	30
402339	10/26/82	30

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402339	11/05/82	30
402339	11/08/82	30
402339	11/11/82	30
402339	11/14/82	30
402339	11/17/82	30
402339	11/22/82	30
402339	11/24/82	30
402339	11/30/82	30
402339	12/04/82	30
402339	12/07/82	30
402339	12/11/82	30
402339	12/14/82	30
402339	12/18/82	30
402339	12/21/82	30
402339	12/27/82	30
402339	12/30/82	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (10) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 5, 1982 and December 30, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold, without a prescription, Fiorinol #3, a Schedule III controlled substance and prescription drug to Merle Vertes, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402097	01/05/82	15
402097	01/13/82	15
402097	01/28/82	15
402097	02/05/82	15
402097	02/11/82	15
402097	02/20/82	15
402097	02/26/82	15
402097	04/04/82	15
402097	04/10/82	15
402097	04/15/82	15
402097	04/23/82	15
402097	04/27/82	15

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402097	05/03/82	15
402097	05/07/82	15
402097	05/12/82	15
402097	05/17/82	15
402097	05/22/82	15
402097	05/26/82	15
402097	05/30/82	15
402097	06/02/82	15
402097	06/09/82	15
402097	06/12/82	15
402097	06/15/82	15
402097	06/19/82	15
402097	06/22/82	15
402097	06/24/82	15
402097	06/29/82	15
402097	07/01/82	15
402097	07/03/82	15
402097	07/06/82	15
402097	07/10/82	15
402097	07/13/82	15
402097	07/16/82	15
402097	07/18/82	15
402097	08/02/82	15
402097	08/06/82	15
402097	08/07/82	15
402097	08/16/82	15
402097	08/21/82	15
402097	08/24/82	15
402097	08/28/82	15
402097	08/31/82	15
402097	09/03/82	15
402097	09/07/82	15
402097	09/10/82	15
402097	09/13/82	15
402097	09/20/82	15
402097	09/23/82	15
402097	09/28/82	15
402097	10/01/82	15
402097	10/05/82	15
402097	10/08/82	15
402097	10/12/82	15
402097	10/16/82	15
402097	10/20/82	15
402097	10/22/82	15
402097	10/26/82	15
402097	11/05/82	15
402097	11/08/82	15
402097	11/14/82	15
402097	11/17/82	15
402097	11/22/82	15
402097	11/26/82	15
402097	11/30/82	15

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402097	12/04/82	15
402097	12/07/82	15
402097	12/11/82	15
402097	12/14/82	15
402097	12/18/82	15
402097	12/23/82	15
402097	12/27/82	15
402097	12/30/82	15

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 2, 1982 and December 30, 1982 at McPetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold, without a prescription, Synalgos DC, a Schedule III controlled substance and prescription drug to Merle Vertes, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402096	01/02/82	20
402096	01/07/82	20
402096	01/11/82	20
402096	02/05/82	20
402096	02/16/82	20
402096	02/23/82	20
402096	02/26/82	20
402096	04/19/82	20
402096	04/27/82	20
402096	05/03/82	20
402096	05/07/82	20
402096	05/12/82	20
402096	05/17/82	20
402096	05/22/82	20
402096	06/05/82	20
402096	06/15/82	20
402096	06/22/82	20
402096	06/26/82	20
402096	06/29/82	20
402096	07/03/82	20
402096	07/06/82	20
402096	07/10/82	20
402096	07/13/82	20
402096	07/16/82	20

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
402096	08/02/82	20
402096	08/06/82	20
402096	08/15/82	20
402096	08/18/82	20
402096	08/24/82	20
402096	08/28/82	20
402096	08/31/82	20
402096	09/03/82	20
402096	09/07/82	20
402096	09/13/82	20
402096	09/20/82	20
402096	10/01/82	20
402096	10/05/82	20
402096	10/12/82	20
402096	10/18/82	20
402096	10/22/82	20
402096	10/26/82	20
402096	11/08/82	20
402096	11/11/82	20
402096	11/14/82	20
402096	11/17/82	20
402096	11/22/82	20
402096	11/26/82	20
402096	11/30/82	20
402096	12/04/82	20
402096	12/11/82	20
402096	12/18/82	20
402096	12/23/82	20
402096	12/27/82	20
402096	12/30/82	20

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (12) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 28, 1982 and December 27, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold, without a prescription, Tylenol #3, a Schedule III controlled substance and prescription drug to Merle Vertes, as follows:

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
403658	01/28/82	30
403658	02/01/82	30
403658	02/11/82	30
403658	02/16/82	30
403658	02/23/82	30
403658	02/26/82	30
403658	02/29/82	30
403658	04/10/82	30
403658	04/19/82	30
403658	04/27/82	30
403658	05/03/82	30
403658	05/07/82	30
403658	05/12/82	30
403658	05/17/82	30
403658	05/22/82	30
403658	05/28/82	30
403658	06/05/82	30
403658	06/12/82	30
403658	06/15/82	30
403658	06/19/82	30
403658	06/22/82	30
403658	06/26/82	30
403658	06/29/82	30
403658	07/14/82	30
403658	07/16/82	30
403658	07/16/82	30
403658	08/06/82	30
403658	08/16/82	30
403658	08/31/82	30
403658	09/07/82	30
403658	09/13/82	30
403658	09/23/82	30
403658	09/28/82	30
403658	10/05/82	30
403658	10/08/82	30
403658	10/12/82	30
403658	10/18/82	30
403658	10/22/82	30
403658	10/26/82	30
403658	11/05/82	30
403658	11/08/82	30
403658	11/11/82	30
403658	11/14/82	30
403658	11/17/82	30
403658	11/22/82	30
403658	11/26/82	30
403658	11/30/82	30
403658	12/04/82	30
403658	12/11/82	30
403658	12/18/82	30
403658	12/23/82	30
403658	12/27/82	30

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Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (13) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did, on one or more occasions between July 19, 1982 and July 26, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, without a written or oral prescription, sell controlled substances in an amount less than the minimum bulk amount to Merle Vertes, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Drug</u>	<u>Quantity</u>	<u>Schedule</u>
402096	07/19/82	Synalgos DC	20	III
402096	07/23/82	Synalgos DC	20	III
402097	07/19/82	Fiorinal #3	15	III
402097	07/23/82	Fiorinal #3	15	III
402097	07/26/82	Fiorinal #3	15	III
402339	07/19/82	Darvon-32mg	30	IV
402339	07/23/82	Darvon-32mg	30	IV
402339	07/26/82	Darvon-32mg	30	IV

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (14) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 2, 1982 and July 7, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold without a prescription Tylenol #4, a Schedule IV controlled substance and prescription drug, to Henry Feudo, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
400437	01/02/82	30
400437	01/12/82	30
400437	01/29/82	30
400437	02/10/82	30
400437	02/24/82	30
400437	03/06/82	30
400437	03/17/82	30
400437	03/30/82	30
400437	04/08/82	30
400437	07/07/82	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

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- (15) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 2, 1982 and April 8, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold without a prescription Soma Compound, a Schedule III controlled substance and prescription drug, to Henry Feudo, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
399052	01/02/82	30
399052	01/12/82	30
399052	01/29/82	30
399052	02/10/82	30
399052	02/24/82	30
399052	03/06/82	30
399052	03/17/82	30
399052	03/17/82	30
399052	03/30/82	30
399052	04/08/82	30

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (16) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between January 2, 1982 and December 17, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold without a prescription Valium-5mg, a Schedule IV controlled substance and prescription drug, to Henry Feudo, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
400401	01/02/82	100
400401	01/12/82	100
400401	01/20/82	100
400401	01/29/82	100
400401	02/10/82	100
400401	02/24/82	100

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<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
400401	03/06/82	100
400401	03/17/82	100
400401	03/30/82	100
400401	04/08/82	100
405099	07/07/82	100
408681	12/17/82	60

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (17) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did, on or about December 12, 1983 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, without a written or oral prescription, sell Darvocet-N100, a Schedule IV controlled substance and prescription drug, in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, to Doris Alburn, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
409039	12/12/83	100

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (18) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did, on one or more occasions between March 8, 1978 and May 13, 1980 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, without a written or oral prescription, sell Darvocet-N100, a Schedule IV controlled substance and prescription drug, in an amount less than the minimum bulk amount to Doris Alburn, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
373907	03/08/78	100
373907	06/10/78	100
373907	05/13/80	100

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (19) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis, on one or more occasions between February 5, 1982 and August 11, 1982 at McFetridge Drug, 3471 Fairmount Boulevard, Cleveland Heights, Ohio 44118, did allow, without a written or oral prescription, the sale of a controlled substance

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in an amount less than the minimum bulk amount as defined in Section 2925.01 of the Revised Code, in that Louis Saunders, an employee under Mr. Margolis' control and supervision, admitted to Robert Cole, Investigator for the Ohio Board of Pharmacy, that he sold without a prescription Darvocet-N100, a Schedule IV controlled substance and prescription drug, to Doris Alburn, as follows:

<u>Rx #</u>	<u>Date Sold</u>	<u>Quantity Sold</u>
373907	02/05/82	100
373907	03/10/82	100
373907	05/24/82	100
373907	08/11/82	100

Such conduct is not in accordance with Revised Code Chapters 3715., 3719., and 4729., and is prohibited by Section 2925.03(A)(1) of the Revised Code.

- (20) From the evidence presented, the State Board of Pharmacy finds that Bernard Margolis did not keep a record of all controlled substances received or dispensed, in violation of Sections 3719.07 and 3719.37 of the Ohio Revised Code, Rules 4729-5-17 and 4729-9-14 of the Ohio Administrative Code, and the federal narcotic law as defined in Section 4729.02 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 (20) of the Findings Of Fact constitutes 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 (20) of the Findings Of Fact constitutes willful violations of the provisions of Chapters 2925., 3715., 3719., and 4729. of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following action concerning the pharmacist license, No. 03-3-06051, held by Bernard Margolis:

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(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 Bernard Margolis for 24 months, effective October 1, 1987.

(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 five thousand dollars (\$5,000.00), 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, 65 S. Front Street, Room 504, Columbus, Ohio 43266-0320, with the enclosed form.

(C) Further, the Board will suspend 23 months of the 24-month suspension imposed in paragraph (A) above provided that Bernard Margolis:

- (1) takes and successfully completes a Jurisprudence examination offered by the Board during its September, 1987 meeting;
- (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 [the effective date] 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.