



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990218-029)

In The Matter Of:

COLIN E. BAYLISS, R.Ph.

Inmate #52674-060

Box 1000, Randolph Unit

Morgantown, West Virginia 26507

(R.Ph. No. 03-3-08811)

INTRODUCTION

THE MATTER OF COLIN E. BAYLISS CAME FOR HEARING ON AUGUST 6, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

COLIN E. BAYLISS WAS NOT PRESENT BUT WAS REPRESENTED BY SCOTT P. SANDROCK, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) John Bettac, Special Agent, United States Office of Inspector General

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated February 18, 1999.

- (2) Exhibit 1A--Copy of Pharmacist File Front Sheet of Colin Ernest Bayliss showing original date of registration as August 14, 1967; and two-page copy of Renewal Application for Pharmacist License, No. 03-3-08811, for a license to practice pharmacy in Ohio from September 15, 1997, through September 15, 1998, dated July 19, 1997.
- (3) Exhibit 1B--Hearing Request letter dated March 2, 1999.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated March 10, 1999.
- (5) Exhibit 1D--Copy of Hearing Continuance Request letter dated March 18, 1999.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated March 19, 1999.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated March 23, 1999.
- (8) Exhibit 1G--Copy of Hearing Continuance Request letter dated August 19, 1999.
- (9) Exhibit 1H--Copy of Hearing Schedule letter dated August 20, 1999.
- (10) Exhibit 1I--Copy of Hearing Continuance Request letter dated April 26, 2000.
- (11) Exhibit 1J--Copy of Hearing Schedule letter dated April 27, 2000.
- (12) Exhibit 1K--Copy of Hearing Continuance Request letter dated September 12, 2000.
- (13) Exhibit 1L--Copy of Hearing Schedule letter dated September 15, 2000.
- (14) Exhibit 1M--Copy of Hearing Schedule letter dated January 9, 2001.
- (15) Exhibit 1N--Copy of Hearing Continuance Request letter dated April 23, 2001.
- (16) Exhibit 1O--Copy of Hearing Continuance Denial letter dated May 15, 2001.
- (17) Exhibit 2--Copy of letter from Colin E. Bayliss dated November 18, 1996.
- (18) Exhibit 4--Copy of letter from Colin E. Bayliss dated July 27, 1998.
- (19) Exhibit 5--Copy of letter from Colin E. Bayliss dated August 1, 1997
- (20) Exhibit 6--Copy of twenty-page Indictment, United States of America v. NHML, Inc., dba Clinitec Laboratory, Colin E. Bayliss, Raymond H. Pinkerton, Hermenegildo T. Villavecer, Virgil Villavecer, Case No. 5:96CR331, United States District Court for the Northern District of Ohio, Eastern Division.
- (21) Exhibit 7--Copy of five-page Judgment In A Criminal Case, United States v. Colin E. Bayliss, Case No. 5:96CR331-002, United States District Court, Northern District of Ohio.
- (22) Exhibit 8--Copy of two-page letter from Colin E. Bayliss dated November 16, 1998.

Respondent's Exhibits:

- (1) Exhibit A--Copy of twenty-six-page Opinion, United States of America v. NHML, Inc. dba Clinitec; Colin E. Bayliss; Raymond H. Pinkerton, Nos. 98-3882, 98-3883, 98-3884, United States Court of Appeals for the Sixth Circuit.
- (2) Exhibit B--Copy of Office of the Inspector General, Office of Investigations, U.S. Department of Health and Human Services Report of interview of Wendy Vincent Arrendale dated April 24, 1996.
- (3) Exhibit C--Copy of two-page Attorney General Health Care Fraud Section, Medicaid Fraud Control Unit Memorandum regarding Clinitec Labs, Docket No. M1930293; and two-page document titled "Medicaid and Medicare Regulations".
- (4) Exhibit 8--Copy of two-page letter from Colin E. Bayliss dated November 16, 1998.

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) Records of the State Board of Pharmacy indicate that Colin E. Bayliss was originally licensed as a pharmacist by the State of Ohio on August 14, 1967, pursuant to examination, and that Colin E. Bayliss' license to practice pharmacy in Ohio lapsed on September 15, 1998.
- (2) Colin E. Bayliss was convicted, on or about July 25, 1997, in the United States District Court, Northern District of Ohio, Eastern Division, United States v. Colin E. Bayliss, Case No. 5:96CR331-002, of the following:

Thirty-nine (39) counts of False or Fraudulent Claims, felonies in violation of 18 U.S.C. 287;

One (1) count of Conspiracy to Defraud the United States, a felony in violation of 18 U.S.C. 371;

Three (3) counts of Aiding and Abetting Payment to a Non-Licensed Physician (Anti-Kickback), felonies in violation of 42 U.S.C.1320a-7(b)(1)(A) and (2)(A); and,

One (1) count of Making False Statements to a Federal Agent, a felony in violation of 18 U.S.C. 1001.

This conviction was the result of the following activity: on or about September 1989, through October 1993, Colin E. Bayliss conspired with others to defraud the United States of monies by submitting false claims to Medicare, Railroad Retirement Medicare, and Ohio Medicaid programs using fraudulent, fictitious or false claims, resulting in the payment of \$1,750,000.00 to Clinitec. On or about January 1990, through October 1993, Colin E. Bayliss and others conducted a marketing program that paid kickbacks to nursing homes and paid money to Frances Renee Reber for the referral of patients by University Manor Nursing Home to Clinitec for laboratory services.

On July 20, 1998, Colin E. Bayliss was sentenced to sixty-three (63) months in federal prison; Colin E. Bayliss was directed to pay to the United States a special assessment of \$2,200.00; and, Colin E. Bayliss was ordered to make restitution in the sum of \$1,665,000.00 (jointly, with co-defendants and severally liable).

Such conduct is in violation of Sections 2913.02, 2913.40, and 2923.03 of the Ohio Revised Code.

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and on the basis of the foregoing Findings of Fact and Conclusion of Law, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-08811, held by Colin E. Bayliss effective as of the date of the mailing of this Order.

Colin E. Bayliss, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.