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**OHIO STATE BOARD OF PHARMACY**

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**ORDER OF THE STATE BOARD OF PHARMACY**  
(Docket No. D-931122-027)

In The Matter Of:

**ROBERT E. MILLS, R.Ph.**  
5811 Lake Michigan  
Fairfield, Ohio 45014  
(R.Ph. No. 03-3-12022)

INTRODUCTION

THE MATTER OF ROBERT MILLS CAME TO HEARING ON JUNE 29, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ROBERT E. MILLS WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Cheryl Rooks, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Robert E. Mills, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter of Robert Mills dated November 22, 1993.
- (2) Exhibit 1A - Notice of Opportunity letter of The Medicine Shoppe dated November 22, 1993.
- (3) Exhibit 1B - Request for Hearing and Certificate of Service dated November 30, 1993; Notice of Appearance and Certificate of Service dated November 30, 1993; and three-page copy of Notice of Opportunity letter of The Medicine Shoppe dated November 22, 1993.
- (4) Exhibit 1C - Hearing Schedule letter dated December 3, 1993.
- (5) Exhibit 1D - Amendment to Notice of Opportunity letter of Robert Mills dated January 21, 1994.
- (6) Exhibit 1E - Amendment to Notice of Opportunity letter of The Medicine Shoppe dated January 21, 1994.

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- (7) Exhibit 1F - Supplemental Request for Hearing and Certificate of Service dated February 1, 1994; copy of Hearing Schedule letter dated December 3, 1993; three-page copy of Notice of Opportunity letter of The Medicine Shoppe dated November 22, 1993; and three-page copy of Amendment to Notice of Opportunity letter of The Medicine Shoppe dated January 21, 1994.
- (8) Exhibit 1G - Pharmacist File Front Sheet of Robert E. Mills showing original date of registration as March 30, 1977; and Renewal Application for Pharmacist License, No. 03-3-12022, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Robert E. Mills dated July 7, 1993.
- (9) Exhibit 1H - Ohio State Board of Pharmacy Annual Application for Licensure as a Terminal Distributor of Dangerous Drugs of The Medicine Shoppe dated March 7, 1977; and Renewal Application for DDD License, No. 02-142650, for a terminal distributor of dangerous drugs license from January 1, 1993, to December 31, 1993 of The Medicine Shoppe dated December 7, 1992.
- (10) Exhibit 2 - Prescription number 663252.
- (11) Exhibit 3 - Prescription number 666738.
- (12) Exhibit 4 - Prescription number 664947.
- (13) Exhibit 5 - Prescription number 666736.
- (14) Exhibit 6 - Prescription number 668353.
- (15) Exhibit 7 - Prescription number 669918.
- (16) Exhibit 8 - Copy of Prescription History of patient Betty Pritt from November 1, 1990, to December 28, 1992.
- (17) Exhibit 9 - Prescription number 673355.
- (18) Exhibit 10 - Prescription number 674730.
- (19) Exhibit 11 - Prescription number 674944.
- (20) Exhibit 12 - Prescription number 676525.
- (21) Exhibit 13 - Prescription number 678220.
- (22) Exhibit 14 - Prescription number 679356.
- (23) Exhibit 15 - Prescription number 681258.
- (24) Exhibit 16 - Prescription number 682735.
- (25) Exhibit 17 - Prescription number 682734.
- (26) Exhibit 18 - Prescription number 684183.
- (27) Exhibit 19 - Prescription number 685399.
- (28) Exhibit 20 - Prescription number 686581.
- (29) Exhibit 21 - Prescription number 687961.
- (30) Exhibit 22 - Copy of Prescription History of patient Betty Pritt from November 1, 1990, to December 28, 1992.
- (31) Exhibit 23 - Twenty-five page Transcript of Audio Taped Interview of Robert Mills, R.Ph. with Michael Cluxton and Cheryl Rooks on February 11, 1993.
- (32) Exhibit 24 - Three-page handwritten statement of Robert Mills signed and notarized on January 29, 1993.
- (33) Exhibit 25 - Handwritten statement of F. Thomas Jenike, M.D. signed and notarized on January 29, 1993.
- (34) Exhibit 26 - Ohio State Board of Pharmacy Statement Form of F. Thomas Jenike, M.D. signed and notarized on February 10, 1993.
- (35) Exhibit 27 - Forty-seven page Transcript of Audio Taped Interview of Robert Mills, R.Ph. with Michael Cluxton and Cheryl Rooks on April 28, 1993.
- (36) Exhibit 28 - Ohio State Board of Pharmacy Statement Form of Theodore M. Hunter, M.D. signed and notarized on April 23, 1993.

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- (37) Exhibit 29 - Prescription number 680097.
- (38) Exhibit 30 - Prescription number 681388.
- (39) Exhibit 31 - Prescription number 683047.
- (40) Exhibit 32 - Prescription number 685958.
- (41) Exhibit 33 - Prescription number 687083.
- (42) Exhibit 34 - Prescription number 688275.
- (43) Exhibit 35 - Prescription number 689506.
- (44) Exhibit 36 - Prescription number 690727.
- (45) Exhibit 37 - Prescription number 692047.
- (46) Exhibit 38 - Prescription number 693245.
- (47) Exhibit 39 - Prescription number 694300.
- (48) Exhibit 40 - Prescription number 695766.
- (49) Exhibit 41 - Prescription number 697147.
- (50) Exhibit 42 - Prescription number 698461.
- (51) Exhibit 43 - Prescription number 699803.
- (52) Exhibit 44 - Prescription number C700906.
- (53) Exhibit 45 - Ohio State Board of Pharmacy Statement Form of William R. Krall, M.D. signed and notarized on March 9, 1993.
- (54) Exhibit 46 - Two-page Ohio State Board of Pharmacy Statement Form of Roy Roberts signed and notarized on March 11, 1993.
- (55) Exhibit 47 - Prescription History of patient Roy Roberts from January 1, 1990 to April 26, 1993.
- (56) Exhibit 48 - Prescription number 684441.

**Respondent's Exhibits:**

- (1) Exhibit 1 - Letter from Betty Pritt dated May 27, 1994.
- (2) Exhibit 2 - Copy of letter from William R. Krall, M.D. dated June 27, 1994.
- (3) Exhibit 3 - Two-page letter from Pearl Roberts dated March 24, 1994.

**FINDINGS OF FACT**

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

- (1) Records of the Board indicate that Robert E. Mills was originally licensed in the state of Ohio on March 30, 1977, pursuant to reciprocity, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that Robert E. Mills is the Responsible Pharmacist at The Medicine Shoppe, Fairfield, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-16 of the Ohio Administrative Code.
- (2) Robert E. Mills did, on or about the following dates, make a false or forged prescription for a dangerous drug, to wit: Robert E. Mills created and dispensed the following purported prescriptions which were not authorized by a practitioner:

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<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
663252	11-01-90	Lanoxin .25mg	30
666738	12-29-90	Meclizine HCl 25mg	100
664947	11-29-90	Lanoxin .25mg	30
666736	12-29-90	Lanoxin .25mg	30
668353	01-29-91	Lanoxin .25mg	30
669918	02-26-91	Lanoxin .25mg	30
671660	03-29-91	Lanoxin .25mg	30
673355	04-27-91	Lanoxin .25mg	30
674730	05-22-91	Lanoxin .25mg	30
674944	05-28-91	Meclizine HCl 25mg	100
676525	06-25-91	Lanoxin .25mg	30
678220	07-25-91	Lanoxin .25mg	30
679356	08-20-91	Lanoxin .25mg	30
681258	10-05-91	Lanoxin .25mg	30
682735	11-07-91	Meclizine HCl 25mg	100
682734	11-07-91	Lanoxin .25mg	30
684183	12-10-91	Lanoxin .25mg	30
685399	01-09-92	Lanoxin .25mg	30
686581	02-06-92	Lanoxin .25mg	30
687961	03-10-92	Lanoxin .25mg	30

When confronted with this conduct by Board agents, Robert E. Mills admitted that he knew the law and should not have filled these prescriptions without contacting the practitioner. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (3) Robert E. Mills as the Responsible Pharmacist did, from November 29, 1990, through February 6, 1992, fail to keep complete and accurate records of dangerous drugs dispensed, to wit: numerous prescriptions which indicated that drugs had been dispensed had not been filed; and though were retrievable from the computer, such records were not uniformly maintained so as to ensure that patients did not receive more drugs than intended by the practitioner. Such conduct is in violation of Rule 4729-5-17 of the Ohio Administrative Code.
  
- (4) Robert E. Mills as the Responsible Pharmacist did, on or about January 29, 1993, knowingly make a false statement when the statement was made with the purpose to mislead a public official in the performance of his/her official function, to wit: when confronted with the fact that the practitioner indicated on prescription numbers 666738, 674944, and 682735 had not authorized the prescriptions, Robert E. Mills told Board agents that he had incorrectly recorded the prescribing physician and that another physician had authorized them; however, such was not the case. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

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- (5) Robert E. Mills did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each of the following occasions Robert E. Mills sold, without authorization from a practitioner, 100 tablets of Tylenol with Codeine #3, a schedule III controlled substance:

<u>Rx. No.</u>	<u>Date</u>	<u>Rx. No.</u>	<u>Date</u>
680097	09/09/91	692047	06/18/92
681388	10/08/91	693245	07/18/92
683047	11/13/91	694300	08/18/92
685958	01/21/92	695766	09/19/92
687083	02/17/92	697147	10/19/92
688275	03/18/92	698461	11/20/92
689506	04/18/92	699803	12/22/92
690727	05/18/92	700906	01/22/93

The physician of the patient to whom Robert E. Mills sold the drugs indicated to agents of the State Board of Pharmacy that he, the physician, refused to prescribe this drug in this quantity because of the patient's physical ailments and susceptibility to harm. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (6) Robert E. Mills did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions for controlled substances, to wit: each of the prescriptions listed below were forged and/or photocopied prescriptions and such prescriptions were not issued by a practitioner. Robert E. Mills did not obtain any additional information from the practitioner and he maintained the photocopies as if they had been actually issued by a practitioner:

<u>Rx. No.</u>	<u>Date</u>	<u>Rx. No.</u>	<u>Date</u>
680097	09/09/91	692047	06/18/92
681388	10/08/91	693245	07/18/92
683047	11/13/91	694300	08/18/92
685958	01/21/92	695766	09/19/92
687083	02/17/92	697147	10/19/92
688275	03/18/92	698461	11/20/92
689506	04/18/92	699803	12/22/92
690727	05/18/92	700906	01/22/93

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

**CONCLUSIONS OF LAW**

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (4) through (6) of the Findings of Fact constitute being guilty of dishonesty in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (4) through (6) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) 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 takes the following actions in the matter of Robert E. Mills:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places the identification card, No. 03-3-12022, held by Robert E. Mills on probation until October 1, 1997, and such probation is effective as of the date of the mailing of this Order. The terms of probation are as follows:
  - (1) Robert E. Mills must take and successfully complete the Federal Drug Law Examination and State Jurisprudence Examination offered by the Board prior to October 1, 1995.
  - (2) Robert E. Mills must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (3) Robert E. Mills must abide by the rules of the Ohio State Board of Pharmacy.
  - (4) Robert E. Mills must comply with the terms of this Order.

The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Robert E. Mills' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns until October 1, 1997.

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- (B) If Robert E. Mills fails to successfully complete the exams prior to October 1, 1995, his license to practice pharmacy in the state of Ohio will be suspended for one year, effective October 1, 1995, through October 1, 1996. During said suspension, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Robert E. Mills may not be employed by or work in a facility licensed by the Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension. Further, Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the 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 (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

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STATE BOARD OF PHARMACY  
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THE STATE BOARD OF PHARMACY

vs

ROBERT E. MILLS, R.Ph.

THE MATTER OF ROBERT E. MILLS, DOCKET NO. 6-153-1, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON WEDNESDAY, APRIL 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 Robert E. Mills, as the responsible pharmacist pursuant to Section 4729.55 of the Revised Code and the pharmacist in full and actual charge of The Medicine Shoppe, 5096 Pleasant Avenue, Fairfield, Ohio, 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 The Medicine Shoppe, on or about August 17, 1983, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased from Wesco Pharmaceuticals, 219 Dunn Street, 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.
- (3) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe, between the dates of November 25, 1983 and May 6, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: misbranded drugs were purchased on 41 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.

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- (4) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe, between the dates of November 25, 1983 and April 3, 1985, did receive in commerce misbranded drugs, hold and offer for sale, and sell misbranded drugs, to wit: drugs were purchased on 14 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.
- (5) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe, on or about October 16, 1985, did receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: misbranded drugs were purchased from Tri-State Pharmaceutical, 625 N. Wayne, Cincinnati, Ohio, in a plastic prescription vial 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.
- (6) From the evidence presented, the State Board of Pharmacy finds that The Medicine Shoppe, on or about October 16, 1985, did receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: drugs were purchased from Tri-State Pharmaceuticals, 625 N. Wayne, Cincinnati, Ohio, to be 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 Section 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 (6) of Findings Of Fact constitutes gross immorality.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (6) of the Findings Of Fact constitutes dishonesty in the practice of pharmacy.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (6) of the Findings Of Fact constitutes violations of Chapters 2925., 3715., and 3719. of the Revised Code.

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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 Robert E. Mills, No. 03-3-12022:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Robert E. Mills for 24 months.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of twelve thousand dollars (\$12,000.00).

(C) Further, the Board suspends the 24-month suspension imposed in paragraph (A) above, and ten thousand dollars (\$10,000.00) of the monetary penalty, on condition that Robert E. Mills:

- (1) does not violate any drug laws of the state of Ohio, any other state, or the federal government; and
- (2) abides by the rules of the State Board of Pharmacy.

The two thousand dollar (\$2,000.00) monetary penalty that was not suspended in paragraph (C) above 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.