



OHIO STATE BOARD OF PHARMACY

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

THE STATE BOARD OF PHARMACY

VS

MARVIN B. BYARD, R.Ph.

THE MATTER OF MARVIN B. BYARD, DOCKET NO. 6-175-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON THURSDAY, JUNE 26, 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 Marvin B. Byard is the responsible pharmacist required by Section 4729.55 of the Revised Code for Harrisville Clinic, R.F.D. #2, Adena, Ohio 43901, Terminal Distributor of Dangerous Drugs License No. 02-130400.
- (2) From the evidence presented, the State Board of Pharmacy finds that Harrisville Clinic, R.F.D. #2, Adena, Ohio, on or about January 13, 1986, did receive in commerce misbranded drugs, to wit: 30 systems of Transderm Nitro-10 was purchased from Ohio Valley Drug Company, 2 Fourth Street, Wheeling, West Virginia 26003, and was dispensed to patient Blanche Dulkowski pursuant to Prescription No. 17902. This drug was misbranded; in that, it was labeled "For Hospital Use Only - Not For Resale" and, therefore, was false and misleading when sold at retail. 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 Harrisville Clinic, R.F.D. #2, Adena, Ohio, on or about February 26, 1986, did receive in commerce misbranded drugs, and hold and offer for sale misbranded drugs, to wit: Transderm Nitro-5 (220 systems), Transderm Nitro-10 (210 systems), and Transderm Nitro-15 (30 systems) were purchased from Ohio Valley Drug Company, 2 Fourth Street, Wheeling, West Virginia 26003, and were dispensed to patients pursuant to written or oral prescriptions. These drugs were misbranded; in that, they were labeled "For Hospital Use Only - Not For Resale" and, therefore,

were false and misleading when sold at retail. 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.

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) and (3) of the Findings Of Fact constitutes dishonesty and 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) and (3) of the Findings Of Fact constitutes violating the provisions of Chapter 3715. of the Ohio Revised Code.

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 Marvin B. Byard, No. 03-3-13435:

(A) On the basis of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Marvin B. Byard for 12 months, effective October 1, 1986.

(B) Further, the Board suspends the suspension on condition that Marvin B. Byard:

- (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.

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.

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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 1953

FZW/sb

By

Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: John E. Breen, Assistant Attorney General
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