OHIO STATE BOARD OF PHARMACY

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

THE STATE BOARD OF PHARMACY

vs

RICHARD M. SCHWARTZ, R.Ph.

THE MATTER OF RICHARD M. SCHWARTZ, DOCKET NO. 6-120-2, WAS HEARD PURSUANT TO CHAPTERS 119. AND 4729. OF THE REVISED CODE ON MONDAY, APRIL 21, 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 Richard M. Schwartz did purchase samples of dangerous drugs, in violation of Division (D) of Revised Code Section 4729.51 and Revised Code Section 3719.81, to wit: Mr. Schwartz admitted to Robert L. Cole, Investigator for the Board, that he purchased Ovral, Lo-Ovral, and Wytensin from a Tom Butler prior to May 1, 1984.

(2) From the evidence presented, the State Board of Pharmacy finds that Richard M. Schwartz, on or about March 19, 1984 at St. Lukes Medical Building Pharmacy, 11201 Shaker Blvd., Cleveland, Ohio 44104, dispensed a drug sample in violation of Revised Code Section 3719.81, to wit: one monthly cycle of Lo-Ovral-28 was dispensed on Prescription No. 746542 to a Betty Moore. Such conduct is prohibited by Section 2925.36 of the Revised Code.

(3) From the evidence presented, the State Board of Pharmacy finds that Richard M. Schwartz, on or about April 16, 1984 at St. Lukes Medical Building Pharmacy, 11201 Shaker Blvd., Cleveland, Ohio 44104, dispensed a drug sample in violation of Revised Code Section 3719.81, to wit: two monthly cycles of Lo-Ovral-28 were dispensed on Prescription No. 752617 to Cornalia Young. Such conduct is prohibited by Section 2925.36 of the Revised Code.

(4) From the evidence presented, the State Board of Pharmacy finds that Richard M. Schwartz did receive in commerce drugs that were misbranded, to wit: Ovral, Lo-Ovral, and Wytensin. Such conduct is prohibited by Division (C) of Revised Code Section 3715.52.

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 (1) through (4) of the 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 (1) through (4) 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 (1) through (4) of the Findings Of Fact constitutes willful violations of the provisions of Chapters 2925., 3715., 3719., and 4729. of the 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 Richard M. Schwartz, No. 03-3-14342:

(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 Richard M. Schwartz for 24 months, effective July 1, 1986.

(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 two thousand seven hundred fifty dollars ($2,750.00), 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.

(C) Further, the Board suspends 21 months of the 24-month suspension imposed in paragraph (A) above on condition that Richard M. Schwartz:

(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.

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 ... (of 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.

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.

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: June 9, 1986

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

FZW/sb

cc: John E. Breen, Assistant Attorney General