



OHIO STATE BOARD OF PHARMACY

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-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-001208-026)

In The Matter Of:

BRENDA S. BLAND, R.Ph.

270 Boyce Road

Centerville, Ohio 45458

(R.Ph. No. 03-3-23037)

INTRODUCTION

THE MATTER OF BRENDA S. BLAND CAME FOR HEARING ON FEBRUARY 7, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); ANN D. ABELE, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

BRENDA S. BLAND WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Michael Cluxton, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Brenda S. Bland, R.Ph., Respondent
- (2) Eugene Bland, Respondent's husband

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated December 8, 2000.
- (2) Exhibit 1A--Hearing Request letter date-stamped January 2, 2001.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated January 9, 2001.
- (4) Exhibit 1C--Copy of Pharmacist File computer record of Brenda S. Bland showing original date of registration as January 27, 2000.

- (5) Exhibit 1D--Copy of Hearing Schedule letter dated January 3, 2001.
- (6) Exhibit 2--Copy of prescription number 4430587.
- (7) Exhibit 3--Copy of Statement of Gary Hochstein, D.D.S. signed and notarized on June 6, 2000.
- (8) Exhibit 4--Copy of Statement of Brenda Bland signed and notarized on June 6, 2000.
- (9) Exhibit 5--Copy of Statement of Lisa M. Ross signed and notarized on June 7, 2000.
- (10) Exhibit 6--Copy of Statement of Tracy Brandenburg signed and notarized on June 15, 2000.
- (11) Exhibit 7--Copy of four-page Indictment of Brenda Sue Bland, No. 2000 CR 01840, in the Montgomery County Court of Common Pleas, dated August 3, 2000.
- (12) Exhibit 8--Copy of "Application For Intervention In Lieu Of Conviction", State of Ohio vs. Brenda Bland, Case No. 00-CR-1840, in the Montgomery County Court of Common Pleas dated August 30, 2000.
- (13) Exhibit 9--Copy of "Decision and Order of Treatment In Lieu Of Conviction", State of Ohio vs. Brenda S. Bland, Case No. 00-CR-1840, in the Montgomery County Court of Common Pleas dated September 20, 2000.
- (14) Exhibit 10--Amber prescription vial labeled RX# 4430587 for Darvocet-N 100mg tab in the name of Terri A. Bland last filled on May 26, 2000, containing fifteen tablets of Darvocet-N 100mg.
- (15) Exhibit 11--Copy of Statement of Jennifer Poppaw signed and notarized on June 7, 2000.
- (16) Exhibit 12--Copy of prescription number 4429944.
- (17) Exhibit 13--Amber prescription vial labeled RX# 6064330 for Desyrel tab 50mg in the name of Eugene Bland last filled December 30, 1999, containing two tablets of Darvocet-N 100mg.
- (18) Exhibit 14--Copy of Statement of Raymond Luna, M.D. signed and notarized on June 7, 2000.

Respondent's Exhibits:

- (1) Exhibit A--Certificate of Achievement awarded to Brenda Bland for Completion of the Chemical Dependency Education Program dated December 21, 2000.
- (2) Exhibit B--Letter from Jeffrey R. Wilbert, PhD, Clinical Psychologist, dated February 2, 2001.
- (3) Exhibit C--Two-page letter from Christine Bland, not dated.
- (4) Exhibit D--Letter from Terri Bland dated February 5, 2001.

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, 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 Brenda S. Bland was originally licensed in the state of Ohio on January 27, 2000, pursuant to examination. On December 8, 2000, Brenda S. Bland's license was summarily suspended in accordance with Section 3719.121 of the Ohio Revised Code.
- (2) Brenda S. Bland did, on or about May 26, 2000, intentionally make and/or knowingly possess a false or forged prescription, to wit: when documenting a telephone prescription for her daughter for ten units of Darvocet-N-100mg, having no refills and not written "DAW," Brenda S. Bland wrote the prescription for thirty units of

Darvocet-N 100mg, having one refill, and being written as "DAW." Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (3) Brenda S. Bland did, on or about April of 2000, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when one of Brenda S. Bland's pharmacy technicians became distraught at work over a personal situation, without a valid prescription, Brenda S. Bland gave the technician a tablet of alprazolam, a schedule III controlled substance, to calm her down and prevent her from leaving the pharmacy. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (4) Brenda S. Bland did, on or about April 6, 2000, intentionally create and/or knowingly possess a false or forged prescription, to wit: Brenda S. Bland has admitted to creating telephone prescription number 4429944 for 30 Darvocet-N 100mg, DAW, for her own personal use when it was not issued by an authorized prescriber. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (5) Brenda S. Bland did, on or about unknown dates prior to June 6, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy, beyond the express or implied consent of the owner, to wit: Brenda S. Bland has admitted to stealing Darvocet-N 100mg and Trazodone without authorization: Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) 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 (5) of the Findings of Fact constitute being guilty of dishonesty and 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 paragraph (4) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Brenda S. Bland on December 8, 2000.

Pursuant to Section 4729.16 of the Ohio Revised Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-23037, held by Brenda S. Bland and such suspension is effective as of the date of the mailing of this Order.

- (A) Brenda S. Bland, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Brenda S. Bland, 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.

Further, on June 8, 2001, the Board will suspend the suspension provided that Brenda S. Bland meets the following requirements:

- (A) Brenda S. Bland must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist and must abide by the treatment plan as designed by that psychiatrist or psychologist. The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment.
- (B) Brenda S. Bland must provide documentation of the following:
 - (1) Compliance with the licensed psychiatrist's or psychologist's recommended treatment plan;
 - (2) A report by the licensed psychiatrist or psychologist regarding Brenda S. Bland's fitness for readmission into the practice of pharmacy;
 - (3) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (4) Compliance with the terms of this Order.
- (C) If reinstatement is not accomplished within three years of the effective date of this Order, Brenda S. Bland must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.
- (D) Brenda S. Bland's license will be placed on probation for two years effective as of the date the identification card to practice pharmacy is issued. The terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Brenda S. Bland's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) Brenda S. Bland may not serve as a responsible pharmacist.
- (3) Brenda S. Bland may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Brenda S. Bland must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (5) Brenda S. Bland must abide by the rules of the State Board of Pharmacy.
- (6) Brenda S. Bland must comply with the terms of this Order.

Brenda S. Bland is hereby advised that 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.

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

MOTION CARRIED.

SO ORDERED.



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 8, 2000

Brenda S. Bland, R.Ph.
270 Boyce Road
Centerville, Ohio 45458

Re: Ohio Registered Pharmacist
License No. 03-3-23037

Dear Ms. Bland:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the state of Ohio.

In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Montgomery County, Ohio, has submitted to this Board information which indicates that on or about September 14, 2000, you were found eligible for Treatment in Lieu of Conviction in the Common Pleas Court of Montgomery County, Ohio, after having been indicted for six felony drug abuse offenses.

YOU ARE HEREBY NOTIFIED that Section 3719.121 of the Ohio Revised Code states, in pertinent part:

(C) On receiving notification pursuant to Section 2929.24 or 3719.12 of the Revised Code, the Board under which a person has been issued a license, . . . immediately shall suspend the license, . . . of that person on a plea of guilty to, a finding by a jury or court of the person's guilt of, or conviction of a felony drug abuse offense . . .

WHEREFORE, PURSUANT TO SECTION 3719.121(C) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing is held by the Board under Chapter 119. of the Revised Code, during which time you may not engage in the practice of pharmacy.

At such hearing, the following allegations will also be considered by the Board:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on January 27, 2000, pursuant to examination, and are currently licensed to practice pharmacy in the state of Ohio.
- (2) You did, on or about May 26, 2000, intentionally make and/or knowingly possess a false or forged prescription, to wit: when documenting a telephone prescription for your daughter for ten units of Darvocet N-100, having no refills and not written "DAW," you wrote the prescription for thirty units of Darvocet N-100, having one refill, and being written as "DAW." Such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) You did, on or about April of 2000, knowingly sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when one of your pharmacy technicians became distraught at work over a personal situation, with a prescription you gave her a tablet of Xanax, a schedule III controlled substance, to calm her down and prevent her from leaving the pharmacy. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) You did, on or about April 6, 2000, intentionally create and/or knowingly possess a false or forged prescription, to wit: you have admitted to creating telephone prescription number 4429944 for 30 Darvocet N-100, DAW, for you own personal use when it was not issued by an authorized prescriber. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) You did, on or about unknown dates prior to June 6, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy, beyond the express or implied consent of the owner, to wit: you have admitted to have stolen the following dangerous drugs without authorization:

<u>Drug</u>	<u>Qty.</u>
Desyrel 50mg	9
Effexor 75mg	13
Xanax 0.5mg	25
Darvocet N-100	22

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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 notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

BY ORDER OF THE STATE BOARD OF PHARMACY

William T. Winsley, M.S., R.Ph.
Executive Director