



OHIO STATE BOARD OF PHARMACY

65 S. Front Street, Room 504
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY (Docket No. D-880112-135)

In The Matter Of:

ALAN G. ISRAEL, R.Ph.
24709 Dianne Drive
Beachwood, Ohio 44122

INTRODUCTION

THE MATTER OF ALAN G. ISRAEL CAME TO HEARING ON APRIL 21, 1988 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: NORMAN LEIBOW, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; JEROME WIESENHAHN, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

ALAN G. ISRAEL WAS REPRESENTED BY GERALD GOLD, AND THE STATE OF OHIO WAS REPRESENTED BY CHRISTOPHER COSTANTINI, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Richard Rob

Respondent's Witnesses:

- (1) Alan G. Israel, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity dated January 12, 1988 in the matter of Alan Israel.
- (2) Exhibit B - Hearing request letter dated January 22, 1988.
- (3) Exhibit C - Hearing schedule letter dated February 2, 1988.
- (4) Exhibit D - Notice of Opportunity dated January 12, 1988 in the matter of C.A.A.B. Pharmacy, Inc.

- (5) Exhibit 1 - Corporate papers for CAAB Pharmacy.
- (6) Exhibit 1A - Corporate papers for R-B Pharmacy (Bonn Drug).
- (7) Exhibit 1B - Cards showing that Alan Israel was pharmacist and responsible pharmacist 1978 thru 1987.
- (8) Exhibit 2 - Journal entry of conviction & sentence.
- (9) Exhibit 3 - Written confession by R.Ph. Israel to Richard Rob.
- (10) Exhibit 4A - Photograph of Rx Vial 184879.
- (11) Exhibit 4B - Drug sample from Rx Vial 184879.
- (12) Exhibit 4C - Billing printout from BC-BS.
- (13) Exhibit 4D - Receipt for Rx Vial 184879.
- (14) Exhibit 4E - Statement of Leon Lane.
- (15) Exhibit 5 - Prescription 192291.
- (16) Exhibit 6 - Statement by R.Ph. Israel.
- (17) Exhibit 8A - Photograph of Rx Vial 193475.
- (18) Exhibit 8B - Drug sample from Rx Vial 193475.
- (19) Exhibit 9A - Photograph of Rx Vial 193965.
- (20) Exhibit 9B - Drug sample from Rx Vial 193965.
- (21) Exhibit 9C - Billing printout from BC-BS.
- (22) Exhibit 9D - Receipt for Rx Vial 193965.
- (23) Exhibit 9E - Statement by Elmer Flowers.
- (24) Exhibit 10 - Prescription 193977.
- (25) Exhibit 11 - Prescription 194148.
- (26) Exhibit 12 - Prescription 194350.
- (27) Exhibit 13 - Prescription 195146.
- (28) Exhibit 14 - Prescription 196180.
- (29) Exhibit 15 - Prescription 195339.
- (30) Exhibit 16 - Prescription 195340.
- (31) Exhibit 17 - Prescription 195761.
- (32) Exhibit 18A- Photograph of Rx Vial 195895.
- (33) Exhibit 18B- Drug sample from Rx Vial 195895.
- (34) Exhibit 19 - Prescription 196457.
- (35) Exhibit 20A- Prescription 196575.
- (36) Exhibit 20B- Photograph of Rx Vial 196575.
- (37) Exhibit 20C- Drug sample from Rx Vial 196575.
- (38) Exhibit 20D- Billing form of BC-BS.
- (39) Exhibit 20E- Receipt for drugs.
- (40) Exhibit 20F- Statement of Charles Guzauskas.
- (41) Exhibit 21 - Prescription 196608.
- (42) Exhibit 22 - Prescription 197164.
- (43) Exhibit 23 - Prescription 196712.
- (44) Exhibit 24 - Prescription 197445.
- (45) Exhibit 25 - Prescription 197635.
- (46) Exhibit 26A- Prescription 197866.
- (47) Exhibit 26B- Three undercover drug purchases - Rx 197866.
- (48) Exhibit 27A- Prescription 197867.
- (49) Exhibit 27B- Three undercover drug purchases - Rx 197867.
- (50) Exhibit 28 - Prescription 198329.
- (51) Exhibit 29 - Prescription vial and drugs from Rx 198645.
- (52) Exhibit 30 - Prescription 198898.
- (53) Exhibit 31 - Prescription 198931.
- (54) Exhibit 32 - Prescription 198992.
- (55) Exhibit 33 - Prescription 199061.
- (56) Exhibit 34 - Prescription 199064.

- (57) Exhibit 35A- Prescription 199066.
- (58) Exhibit 35B- Photograph of Rx Vial 199066.
- (59) Exhibit 35C- Drug sample from Rx Vial 199066.
- (60) Exhibit 35D- Billing form from BC-BS.
- (61) Exhibit 35E- Statement of Irene Gartland.
- (62) Exhibit 35F- Receipt for drugs Rx 199066.
- (63) Exhibit 36A- Prescription 199075.
- (64) Exhibit 36B- Prescription vial and drugs from Rx 199075.
- (65) Exhibit 37A- Prescription 199079.
- (66) Exhibit 37B- Three tubes of drugs from Rx 199079.
- (67) Exhibit 38A- Prescription 198098.
- (68) Exhibit 38B- Photograph of Rx Vial 198098.
- (69) Exhibit 38C- Drug sample Rx Vial 198098.
- (70) Exhibit 39A- Prescription 199099.
- (71) Exhibit 39B- Photograph of Rx Vial 199099.
- (72) Exhibit 39C- Drug sample of Rx Vial 199099.
- (73) Exhibit 40 - Prescription 199192.
- (74) Exhibit 41A- Prescription 199179.
- (75) Exhibit 41B- Photograph of Rx Vial 199179.
- (76) Exhibit 41C- Drug sample from Rx Vial 199179.
- (77) Exhibit 42 - Prescription 199264.
- (78) Exhibit 43 - Prescription 199363.
- (79) Exhibit 44 - Prescription 199527.
- (80) Exhibit 45 - Prescription 199561.
- (81) Exhibit 46 - Prescription 199639.
- (82) Exhibit 47A- Prescription 199694.
- (83) Exhibit 47B- Prescription vial and drugs from Rx 199694.
- (84) Exhibit 48A- Prescription 199695.
- (85) Exhibit 48B- Prescription vial and drugs from Rx 199695.
- (86) Exhibit 49A- Prescription 199902.
- (87) Exhibit 49B- Prescription vial and drugs from Rx 199902.
- (88) Exhibit 50A- Prescription 200111.
- (89) Exhibit 50B- Prescription vial and drugs from Rx 200111.
- (90) Exhibit 51A- Prescription 200112.
- (91) Exhibit 51B- Prescription vial and drugs from Rx 200112.
- (92) Exhibit 52A- Prescription 200113.
- (93) Exhibit 52B- Prescription vial and drugs from Rx 200113.
- (94) Exhibit 53A- Prescription 200186.
- (95) Exhibit 53B- Prescription vial and drugs from Rx 200186.
- (96) Exhibit 55 - Prescription 200310.
- (97) Exhibit 56A- Prescription 200361.
- (98) Exhibit 56B- Prescription vial and drugs from Rx 200361.
- (99) Exhibit 57A- Prescription 200362.
- (100) Exhibit 57B- Prescription vial and drugs from Rx 200362.
- (101) Exhibit 58 - Prescription 200533.
- (102) Exhibit 59A- Prescription 200616.
- (103) Exhibit 59B- Prescription vial and drugs from Rx 200616.
- (104) Exhibit 60A- Prescription 200876.
- (105) Exhibit 60B- Two tubes of drugs from Rx 200876.
- (106) Exhibit 61 - Prescription 200997.
- (107) Exhibit 62A- Photograph of vial of prescription 201128.
- (108) Exhibit 62B- Drugs sample from Rx 201128.

- (109) Exhibit 63A- Prescription 201264.
- (110) Exhibit 63B- Photograph of Rx Vial 201264.
- (111) Exhibit 63C- Drugs sample from Rx Vial 201264.
- (112) Exhibit 63D- Receipt for drugs.

Respondent's Exhibits:

(None)

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that, on or about November 26, 1986, Alan G. Israel was found guilty of one count of theft in violation of Revised Code Section 2913.02, a felony of the fourth degree, by the Cuyahoga County Court of Common Pleas.
- (2) From the evidence presented, the State Board of Pharmacy finds that Alan G. Israel engaged in dishonest and unprofessional conduct while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, to wit: Alan G. Israel did obtain remuneration by fraud, misrepresentation, and deception by billing Blue Cross Blue Shield Mutual of Northern Ohio for:
 - (a) more expensive brand name drugs when less expensive generic drugs were dispensed, and
 - (b) prescriptions that were not dispensed to Blue Cross beneficiaries.
- (3) From the evidence presented, the State Board of Pharmacy finds that Alan G. Israel did knowingly make and affix false labels to prescription vials containing dangerous drugs, to wit:

<u>Rx No.</u>	<u>Drug Prescribed</u>	<u>Drug Dispensed</u>	<u>Drug On Rx Label</u>
200111	Valium-5mg	Generic	Valium-5mg
200112	Robaxin	Generic	Robaxin
200876	Mycolog	Generic	Mycolog
199099	Persantine	Generic	Persantine
196575	Donnatal	Generic	Donnatal
199098	Isordil	Generic	Isordil
193965	Robaxin	Generic	Robaxin
199179	Robaxisal	Generic	Robaxisal
199079	Mycolog	Generic	Mycolog
199694	V-Cillin K	Generic	V-Cillin K
199695	Valium 5	Generic	Valium 5
199066	Antivert	Generic	Antivert

Such conduct is prohibited by Division (D) of Section 2925.23 of the Ohio Revised Code.

- (4) From the evidence presented, the State Board of Pharmacy finds that Alan G. Israel and other pharmacists did, while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, engage in dishonest and unprofessional conduct in the practice of pharmacy, to wit: Alan G. Israel and the other pharmacists obtained remuneration for the corporation by fraud, misrepresentation, or deception by dispensing generic drugs while billing the third-party carrier for the prescribed brand name drug, as follows:

<u>Date</u>	<u>Rx No.</u>	<u>Drug Prescribed/Billed</u>	<u>Amount Over-Billed</u>
06/04/84	184879	Bactrim DS	NA
10/23/85	192291	Isordil Titradoso	\$14.91
12/13/85	192291	Isordil Titradoso	14.91
01/24/86	192291	Isordil Titradoso	17.45
03/05/86	192291	Isordil Titradoso	17.45
12/27/85	193143	Hydrodiuril	6.49
04/10/86	193143	Hydrodiuril	4.70
??	193475	Benadryl	NA
??	193965	Robaxin	NA
01/04/86	193977	Hygroton	26.78
03/18/86	194148	Hydrodiuril	8.74
04/23/86	194350	Isordil	18.40
10/24/85	195146	Lasix	9.85
01/04/86	195146	Lasix	9.85
01/20/86	195146	Lasix	9.85
02/17/86	195146	Lasix	9.85
02/14/86	195180	Librax	17.70
12/31/85	195339	Isordil	22.61
01/31/86	195339	Isordil	24.51
02/27/86	195339	Isordil	25.92
03/31/86	195339	Isordil	25.92
04/30/86	195339	Isordil	25.92
05/29/86	195339	Isordil	25.92
12/31/85	195340	Lasix	12.25
01/31/86	195340	Lasix	12.25
02/27/86	195340	Lasix	12.25
03/31/86	195340	Lasix	12.25
04/30/86	195340	Lasix	12.25
12/15/85	195761	Lomotil	22.01
02/25/86	195761	Lomotil	22.01
??	195895	Librax	NA
12/24/85	196457	Mycolog	26.39
10/23/85	196575	Donnatal	4.70
12/24/85	196575	Donnatal	4.70
02/27/86	196575	Donnatal	3.07
04/04/86	196575	Donnatal	3.07
04/22/86	196608	Lomotil	23.01
01/11/86	197164	Librax	31.54
04/01/86	197164	Librax	31.66
05/14/86	197164	Librax	31.66

<u>Date</u>	<u>Rx No.</u>	<u>Drug Prescribed/Billed</u>	<u>Amount Over-Billed</u>
05/13/86	196712	Hygroton	27.61
03/21/86	197445	Donnatal	8.48
03/27/86	197635	Aldactazide	10.26
04/22/86	197635	Aldactazide	10.26
12/18/85	197866	Librax	8.04
02/26/86	197866	Librax	8.67
04/14/86	197866	Librax	8.73
12/18/85	197867	Hydrodiuril	3.62
02/26/86	197867	Hydrodiuril	3.74
04/14/86	197867	Hydrodiuril	4.06
01/09/86	198329	Parafon Forte	5.55
01/22/86	198645	V Cillin K	NA
01/31/86	198898	Robaxin	13.38
02/20/86	198898	Robaxin	14.57
03/11/86	198898	Robaxin	14.57
04/04/86	198898	Robaxin	14.57
01/31/86	198931	Hydrodiuril	8.75
02/04/86	198992	Robaxin	5.83
02/07/86	199061	V Cillin K	2.87
02/07/86	199064	Hydrodiuril	7.79
02/07/86	199066	Antivert	12.84
02/24/86	199066	Antivert	12.84
02/07/86	199075	Hygroton	7.29
02/07/86	199079	Mycolog	12.69
03/05/86	199079	Mycolog	14.94
03/18/86	199079	Mycolog	14.94
02/08/86	199098	Isordil	11.34
03/22/86	199098	Isordil	11.34
05/08/86	199098	Isordil	11.34
02/08/86	199099	Persantin	27.33
04/08/86	199099	Persantin	20.28
02/12/86	199192	Bactrim DS	19.65
02/11/86	199179	Robaxisal	19.39
04/22/86	199179	Robaxisal	19.39
02/14/86	199264	Persantin	4.75
02/18/86	199363	V Cillin K	8.43
02/25/86	199527	V Cillin K	4.20
02/26/86	199561	Isordil	13.01
03/03/86	199639	Mycolog	15.94
04/14/86	199639	Mycolog	15.94
03/05/86	199694	V Cillin K	3.87
03/05/86	199695	Valium	2.23
03/15/86	199902	Hygroton	9.89
03/24/86	200111	Valium	8.15
03/24/86	200112	Robaxin	7.54
05/23/86	200112	Robaxin	7.54
03/24/86	200113	Lomotil	4.31
03/26/86	200186	Bactrim DS	12.20
04/24/86	200310	Bactrim DS	12.29

<u>Date</u>	<u>Rx No.</u>	<u>Drug Prescribed/Billed</u>	<u>Amount Over-Billed</u>
04/03/86	200361	Zyloprim	3.76
04/03/86	200362	Robaxin	7.54
04/11/86	200533	Bactrim DS	14.43
04/15/86	200616	Lomotil	5.20
04/26/86	200876	Mycolog	15.53
05/02/86	200997	Hydrodiuril	4.10
??	201128	Valium	NA
05/14/86	201264	V Cillin K	6.20

- (5) From the evidence presented, the State Board of Pharmacy finds that Alan G. Israel did violate paragraph (A)(2) of Ohio Administrative Code Rule 4729-5-17 on more than one occasion while practicing pharmacy at The Bonn Drug, 2307 Lee Road, Cleveland Heights, Ohio 44118, to wit: Alan G. Israel did not record the name of the manufacturer or distributor of the generic drugs dispensed on the prescriptions listed in paragraph (3) above.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraph (1) of the Findings Of Fact constitutes being guilty of a felony.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes gross immorality.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) and (4) of the Findings Of Fact constitutes dishonesty and unprofessional conduct in the practice of pharmacy.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (5) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, and aiding and abetting the violation of the provisions of Chapters 2925., 3715., 3719., and 4729. of the Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-12132, held by Alan G. Israel:

(A) On the basis of paragraphs (1) through (4) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Alan G. Israel for 24 months.

(B) Further, the Board will suspend 21 months of the 24-month suspension imposed in paragraph (A) above provided that Alan G. Israel:

- (1) takes and successfully completes a Jurisprudence exam offered by the Board prior to November 1, 1988;
- (2) does not violate the 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.

(C) Further, the Board declares that Alan G. Israel's identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of 24 months from the effective date of this Order.

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 after receipt of 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.

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.

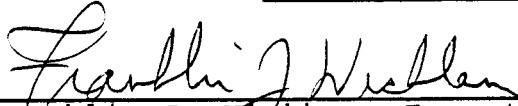
BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt

ORDER ISSUED: July 26, 1988

FZW/sb

By


Franklin Z. Wickham, Executive Director

cc: Christopher Costantini, Assistant Attorney General
Gerald Gold, Attorney For Respondent