

File: H
88-2-OR1

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

1		
2	In the Matter of the Hearing to)	
3	Determine Whether or Not to Revoke,)	FINDINGS OF FACT
4	Suspend, or Place on Probation the)	CONCLUSIONS OF LAW
	Pharmacy Permit Number 1223 issued)	AND ORDER
	to KENNY'S DRUG, INC.)	No. 88 - 2 - H

DIRECTED TO: KENNY'S DRUG, INC.
1926 W. Buckeye Road
Phoenix, AZ 85009

This matter came before the Arizona State Board of Pharmacy for hearing on the 18th day of May, 1988, pursuant to Complaint and Notice of Hearing No. 88-2-H (hereinafter referred to as "Complaint"), Danny Jacob, president, presided, with Norma McConnell, vice president, and members Mike Noel, Martha Barron, and Sumner "Al" Brooks in attendance and participating therein.

The State was represented by the office of the Attorney General, Michael Baker. The respondent, HERBERT S. HULSEY, president was present but was not represented by counsel.

The Board, after consideration of the evidence and testimony presented, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I

KENNY'S DRUG, INC. is the holder of Pharmacy Permit No. 1223 which permits the practice of Pharmacy and the compounding and dispensing of prescription orders at 1926 West Buckeye Road, Phoenix, Arizona.

II

Sufficient evidence was presented, including HERBERT S. HULSEY'S admission to the facts as stated in Paragraph IV., A. thru T. of the complaint,

1 testimony of Investigator James Threadgill and inspection forms dating back to
2 1980 to substantiate the charges contained in the Complaint.

3 CONCLUSIONS OF LAW

4 III

5 That the Findings of Fact set forth herein above constitute sufficient
6 evidence to find that KENNY'S DRUG, INC. is in violation of those State and
7 Federal Laws, Rules and Regulations contained in Paragraph IV., A. thru T. of the
8 Complaint.

9 IV

10 The above described violations constitute grounds for discipline pursuant to
11 A.R.S. § 32-1932.

12 ORDER

13 V

14 In view of the above Findings of Fact and Conclusions of Law the Board hereby
15 issues the following Order:

- 16 1. That the Permit No. 1223 issued to KENNY'S DRUG, INC. be revoked effective
17 July 18, 1988.
- 18 2. That the revocation of Permit No. 1223 issued to KENNY'S DRUG, INC. be
19 stayed with the following conditions:
 - 20 A. The Responsible Pharmacist and Store Manager shall appear before the
21 Board on June 21, 1988 to review and clarify pharmacy procedures.
 - 22 B. Structural deficiencies shall be corrected, ie., termite infested
23 shelving.
 - 24 C. Outdated merchandise shall be removed from prescription room active
25 shelving and outdated OTC items shall be removed from active sales area
26

1 of store under procedural guidelines to be developed by management and
2 approved by the Board or its designee prior to September 1, 1988.

3
4 D. Shelving shall be clean and free from dirt.

5 E. Written procedurals will be required to affirm that this will continue
6 by management and approved by the Board or its designee prior to
7 September 1, 1988.

8
9 F. Readily retrievable records and documentation system shall be
10 established and maintained providing accountability of Controlled
11 Substances in and out of KENNY'S DRUG.

12 G. In lieu of Revocation and upon implementation of the above conditions, a
13 three (3) year Probation will be imposed beginning July 18, 1988 and
14 ending July 18, 1991.

15 H. From July 18, 1988 and ending July 18, 1991, KENNY'S DRUG, INC. will
16 receive four (4) inspections per year by the Board of Pharmacy. KENNY'S
17 DRUG, INC. shall defray the costs of three (3) said inspections per year
18 at the rate of \$300.00 per year.

19
20 I. From July 18, 1988 and ending July 18, 1991, any violation of federal or
21 state laws, rules and regulations regarding the practice of pharmacy or
22 any violations of this Order will provide sufficient grounds for
23 Revocation of Permit No. 1223 issued to KENNY'S DRUG, INC. after notifi-
24 cation, opportunity to be heard, and motion carried by majority vote of
25 Board quorum.
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KENNY'S DRUG, INC. is hereby notified they have the right to petition this Board for a rehearing within ten(10) days after receipt of this Order pursuant to the provisions of Administrative Rule R4-23-109.

DATED this 21st day of June, 1988

ARIZONA STATE BOARD OF PHARMACY

S E A L

By *Llyn A. Lloyd*
Llyn A. Lloyd
Executive Secretary

Copies of the Foregoing Notice of Order mailed by certified mail this 22nd day of June, 1988 to

Herbert S. Hulsey, Pres.
Kenny's Drug, Inc.
1926 W. Buckeye Road
Phoenix, AZ 85009

And by Courier Mail to:
Michael Baker
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Attorney for the State.