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**Minutes Of The Meeting**  
Ohio State Board of Pharmacy  
Columbus, Ohio  
December 2, 3, 4, 5, 6, 1996

MONDAY, DECEMBER 2, 1996

10:15 a.m. ROLL CALL

The State Board of Pharmacy convened in Studio Three, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Suzanne L. Neuber, R.Ph. (President); Diane Adelman, R.Ph.; Paul Lamping, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

Also present were Assistant Attorney General Mary Hollern and Assistant Executive Director William Winsley.

Due to the fact that a quorum was not present, the Board reviewed administrative matters, correspondence, and reports not requiring official action.

11:00 a.m.

Board member John Hanna arrived and joined the meeting. Mr. Lamping moved that the Board go into Executive Session for the purpose of conferring with the Assistant Attorney General regarding pending and imminent court matters and the investigation of complaints regarding licensees and registrants. The motion was seconded by Mrs. Plant and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Hanna-Yes, Lamping-Yes, Plant-Yes, and Repke-Yes.

11:38 a.m.

The Executive Session was concluded and the meeting opened to the public. The Board recessed for lunch.

1:00 p.m.

RES. 97-074

The Board convened in Room 1919 and was joined by Board Member Joseph Maslak for the purpose of meeting with the reciprocity candidates. Mrs. Plant moved that the following candidates be approved and their licenses (identification cards) to practice pharmacy in Ohio be issued except for Daphne Roan, a candidate from Indiana whose license to practice in Ohio will be issued upon receipt of the Official Application by the office:

AYOUB, HUDA W.	03-3-22100	VIRGINIA
BRANDT, SCOTT S.	03-3-22119	MICHIGAN
CHAPMAN, JR., GEORGE L.	03-3-22106	NORTH CAROLINIA
CHUANG, MEI-HUA	03-3-22091	MASSACHUSETTS
CRISS, PAMELA L.	03-3-22109	VIRGINIA
DONALDSON, CRAIG D.	03-3-22117	ILLINOIS
HELM, ERIN W.	03-3-22112	NORTH CAROLINA
HOMAN, DARRELL A.	03-3-22114	KENTUCKY

JENNINGS, CHRISTIAN P.	03-3-22107	GEORGIA
JOHNSON, STEVEN T.	03-3-22099	MICHIGAN
KAUFFMAN, HEATHER A.	03-3-22101	PENNSYLVANIA
KNIGHT, JOYCE M.	03-3-22090	IOWA
KOSYAK, MICHAEL E.	03-3-22088	TEXAS
MARTRAY, DEANN E.	03-3-22097	WEST VIRGINIA
McDOUGLE, BARRY L.	03-3-22110	WEST VIRGINIA
MOIOFFER, MOLLY A.	03-3-22108	WISCONSIN
MUSMANSKY, ELIZABETH S.	03-3-22113	WASHINGTON
NESBIT, JULIA A.	03-3-22078	MICHIGAN
QUEDENFELD, ELIZABETH A.	03-3-22098	NORTH CAROLINA
RHODES, ADRIA L.	03-3-22087	GEORGIA
SCHRODER, JR., MARK J.	03-3-22092	KENTUCKY
SHAHAN, RACHELLE A.	03-3-22116	WEST VIRGINIA
SKINNER, MICHELLE L.	03-3-22120	WEST VIRGINIA

The motion was seconded by Mr. Hanna and approved (Aye-6/Nay-0).

1:25 p.m.

The Board reconvened in Studio Three for the purpose of continuing their business meeting.

The Board was joined by Assistant Attorney General Mary Hollern; David Rowland, Legal Affairs Administrator; Tim Benedict, Compliance Administrator; and Pharmacy Board Compliance Agent Lynn Mudra. Mrs. Plant moved that the Board go into Executive Session for the purpose of discussing the investigation of complaints and charges against licensees and registrants of the Board. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

1:30 p.m.

Board member Amonte Littlejohn arrived and joined the meeting.

1:45 p.m.

RES. 97-075

The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board summarily suspend the license of R.Ph. David Scott Blazy (03-1-17436) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-6/Nay-0).

RES. 97-076

Mrs. Plant moved that the Board authorize the Assistant Attorney General to enter into discussions regarding a settlement agreement in the matter of Ralph Lee LeVange, R.Ph. Conditions to be included in any agreement must include an indefinite suspension, a monetary penalty of five hundred dollars (\$500.00), and must appear personally before the Board prior to his license to practice in Ohio being reinstated. The motion was seconded by Mr. Maslak and approved (Aye-6/Nay-0).

RES. 97-077

Mrs. Plant moved that the Board authorize the Assistant Attorney General to enter into discussions regarding a settlement agreement in the matter of Robert J. Dougherty, R.Ph. Conditions to be included in any agreement must include suspension of license to practice until June, 1998, inpatient and aftercare with an approved treatment provider, and must appear personally before the Board prior to his license to practice in Ohio being reinstated. The motion was seconded by Mr. Lamping and approved (Aye-6/Nay-0).

1:55 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a disciplinary hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Gary A. Polcar, R.Ph., South Russell, Ohio.

4:35 p.m.

The hearing was concluded and Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony presented during the hearing. The motion was seconded by Mr. Littlejohn and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

4:50 p.m.

RES. 97-078

The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-951201-029)

In The Matter Of:

**GARY A. POLCAR, R.Ph.**  
16221 Snyder Road  
South Russell, Ohio 44022  
(R.Ph. No. 03-1-10141)

INTRODUCTION

THE MATTER OF GARY A. POLCAR CAME TO HEARING ON DECEMBER 2, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

GARY A. POLCAR WAS REPRESENTED BY NICHOLAS E. PHILLIPS, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert Graf, Director of Loss Prevention, Medic Drug
- (2) Frank Bodi, Ohio State Board of Pharmacy
- (3) Gary Polcar, Respondent

Respondent's Witnesses:

- (1) Linda Polcar, Wife of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated December 1, 1995.
- (2) Exhibit 1A--Request for Administrative Hearing letter dated December 20, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated December 28, 1995.
- (4) Exhibit 1C--Amendment Notice dated February 13, 1996.
- (5) Exhibit 1D--Pharmacist File Front Sheet of Gary Anthony Polcar showing original date of registration as July 20, 1972.
- (6) Exhibit 1E--Renewal Application for Pharmacist License, No. 03-1-10141, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Gary A. Polcar dated June 19, 1995.
- (7) Exhibit 1F--Hearing Schedule letter dated June 24, 1996.
- (8) Exhibit 1G--Amendment/Addendum Notice dated August 14, 1996.

- (9) Exhibit 2--Handwritten statement of Gary A. Polcar signed and witnessed on November 15, 1995.
- (10) Exhibit 2A--Handwritten statement of Gary A. Polcar signed and witnessed on November 18, 1995.
- (11) Exhibit 3--Five-page Medic Discount Drug #853 Tax Insurance Summary - Sealed Patient Record.
- (12) Exhibit 4--Four-page Medic Discount Drug #853 Tax Insurance Summary - Sealed Patient Record.
- (13) Exhibit 6--Three-page statement of Dr. Richard Zahn signed and notarized on March 7, 1996.
- (14) Exhibit 6A--Letter from Richard C. Zahn, M.D. dated March 12, 1996.
- (15) Exhibit 7--Two-page certified Order in the Geauga County Common Pleas Court, Case No. 96 C 000063, of Gary Polcar dated June 18, 1996.
- (16) Exhibit 8--Three-page certified Judgment of Conviction in the Geauga County Common Pleas Court, Case No. 96 C 000063, of Gary Polcar dated July 30, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of four-page Summary and Procedural History of Case submitted by Nicholas E. Phillips, not dated.
- (2) Exhibit B--Copy of letter from Ronald J. Makovicka, not dated.
- (3) Exhibit C--Copy of letter from Sherri Eigsti dated June 22, 1996.
- (4) Exhibit D--Copy of three-page letter from Jerry M. Zober, M.D. dated April 26, 1996.
- (5) Exhibit E--Copy of two-page letter from Richard A. Schiller, Ph.D. dated June 20, 1996.
- (6) Exhibit F--Copy of statement of Gary A. Polcar dated January 28, 1996.
- (7) Exhibit G--Copy of letter from Mrs. Linda E. Polcar dated May 13, 1996.
- (8) Exhibit H--Copy of letter from Rev. David C. Norling dated June 21, 1996.
- (9) Exhibit I--Copy of letter from Rev. Mark A. Simone dated May 13, 1996.
- (10) Exhibit J--Copy of letter from Tom Wheeler dated May 14, 1996.
- (11) Exhibit K--Copy of letter from Veronica Perry dated November 27, 1996.

FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board indicate that Gary A. Polcar was originally licensed to practice pharmacy in the state of Ohio on July 20, 1972, and his license was summarily suspended in accordance with Section 3719.121 of the Ohio Revised Code on December 1, 1995.
- (2) Gary A. Polcar did, from January 14, 1993, through October 22, 1995, knowingly sell controlled substances in an amount equal to or exceeding one hundred times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Gary A. Polcar sold Acetaminophen w/Codeine 60mg, a schedule III controlled substance, in the following amounts to a female individual in Florida without prescription:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Dollar Amount</u>
01-14-93	284142	refill	150	31.67
02-05-93	284142	refill	150	31.67
02-23-93	296831	new	150	31.67
03-13-93	296831	refill	150	31.67
03-30-93	296831	refill	150	31.67
04-16-93	296831	refill	150	31.67
04-29-93	296831	refill	150	31.67
05-17-93	296831	refill	150	31.67
06-04-93	306605	new	150	31.67
06-20-93	306605	refill	150	31.67
07-06-93	306605	refill	150	31.67
07-20-93	306605	refill	150	31.67

08-03-93	306605	refill	150	31.67
08-15-93	306605	refill	150	31.76
08-31-93	314004	new	150	31.76
10-04-93	314004	refill	150	31.76
10-21-93	314004	refill	150	31.76
11-29-93	314004	refill	150	31.76
12-19-93	314004	refill	150	31.76
01-15-94	314004	refill	150	31.76
03-01-94	332119	new	150	31.76
03-22-94	332119	refill	150	31.76
04-17-94	332119	refill	150	31.76
05-08-94	332119	refill	150	31.76
05-30-94	332119	refill	150	31.76
06-21-94	332119	refill	150	31.76
07-15-94	344976	new	150	31.76
08-02-94	344976	refill	150	31.76
08-23-94	344976	refill	150	31.76
09-13-94	344976	refill	100	22.49
09-24-94	344976	refill	150	31.76
10-18-94	344976	refill	150	31.76
11-06-94	344976	refill	150	31.76
11-29-94	356916	new	150	31.76
12-19-94	356916	refill	150	31.76
01-03-95	356916	refill	150	31.76
02-07-95	356916	refill	150	31.76
02-28-95	356916	refill	150	31.76
03-28-95	356916	refill	150	31.76
04-25-95	370689	new	150	31.76
05-21-95	370689	refill	150	31.76
06-13-95	370689	refill	150	31.76
07-06-95	370689	refill	150	31.76
07-29-95	370689	refill	150	31.76
08-22-95	370689	refill	150	31.76
09-12-95	382170	new	150	32.66
10-22-95	382170	refill	150	32.66

The foregoing forty-seven prescriptions and/or refills total 7,000 units of Acetaminophen w/Codeine 60mg. Such conduct is in violation of Section 2925.03(A)(10) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (3) Gary A. Polcar did, from January 14, 1993, through October 22, 1995, knowingly sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Gary A. Polcar sold the following controlled substances, in the following amounts to a female individual in Florida without prescription:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Drug</u>	<u>Dollar Amount</u>
01-14-93	284141	refill	90	Diazepam 5mg	9.71
01-14-93	284673	refill	100	Chloral Hydrate 7.5gr	11.42
02-05-93	284141	refill	90	Diazepam 5mg	9.71
02-05-93	284673	refill	100	Chloral Hydrate 7.5gr	13.31
02-23-93	284673	refill	100	Chloral Hydrate 7.5gr	13.31
02-23-93	296830	new	90	Diazepam 5mg	9.71
03-13-93	296830	refill	90	Diazepam 5mg	9.71
03-13-93	298866	new	100	Chloral Hydrate 7.5gr	13.31
03-30-93	296830	refill	90	Diazepam 5mg	9.71
03-30-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
04-16-93	296830	refill	90	Diazepam 5mg	9.71
04-16-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
04-29-93	296830	refill	90	Diazepam 5mg	9.71
04-29-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31

05-17-93	296830	refill	90	Diazepam 5mg	9.71
05-17-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
06-04-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
06-04-93	306606	new	90	Diazepam 5mg	9.71
06-20-93	306606	refill	90	Diazepam 5mg	9.71
06-20-93	308058	new	100	Chloral Hydrate 7.5gr	13.31
07-06-93	306606	refill	90	Diazepam 5mg	9.71
07-06-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
07-20-93	306606	refill	90	Diazepam 5mg	9.71
07-20-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
08-03-93	306606	refill	90	Diazepam 5mg	9.71
08-03-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
08-15-93	306606	refill	90	Diazepam 5mg	9.80
08-15-93	308058	refill	100	Chloral Hydrate 7.5gr	13.40
08-31-93	308058	refill	100	Chloral Hydrate 7.5gr	13.40
08-31-93	314005	new	90	Diazepam 5mg	9.80
10-04-93	314005	refill	90	Diazepam 5mg	9.80
10-04-93	317098	new	100	Chloral Hydrate 7.5gr	13.40
10-21-93	314005	refill	90	Diazepam 5mg	9.80
11-07-93	317098	refill	100	Chloral Hydrate 7.5gr	13.40
11-29-93	314005	refill	90	Diazepam 5mg	9.80
12-19-93	314005	refill	90	Diazepam 5mg	9.80
12-19-93	317098	refill	100	Chloral Hydrate 7.5gr	13.40
01-15-94	314005	refill	90	Diazepam 5mg	9.80
03-01-94	332120	new	90	Diazepam 5mg	9.80
03-22-94	332120	refill	90	Diazepam 5mg	9.80
04-17-94	332120	refill	90	Diazepam 5mg	9.80
05-08-94	332120	refill	90	Diazepam 5mg	9.80
05-30-94	332120	refill	90	Diazepam 5mg	9.80
06-21-94	332120	refill	90	Diazepam 5mg	9.80
07-15-94	344975	new	90	Diazepam 5mg	9.80
08-02-94	344975	refill	90	Diazepam 5mg	9.80
08-23-94	344975	refill	90	Diazepam 5mg	9.80
08-23-94	348197	new	30	Prosom 2mg	31.40
09-13-94	317098	refill	60	Chloral Hydrate 7.5gr	9.80
09-16-94	344975	refill	90	Diazepam 5mg	9.80
10-18-94	344975	refill	90	Diazepam 5mg	9.80
11-06-94	344975	refill	90	Diazepam 5mg	9.80
11-08-94	317098	refill	100	Chloral Hydrate 7.5gr	14.40
11-29-94	356917	new	100	Diazepam 5mg	10.25
12-19-94	356917	refill	100	Diazepam 5mg	10.25
01-03-95	356917	refill	100	Diazepam 5mg	10.25
01-17-95	317098	refill	100	Chloral Hydrate 7.5gr	14.40
02-07-95	356917	refill	100	Diazepam 5mg	10.25
02-27-95	356917	refill	100	Diazepam 5mg	10.25
02-27-95	356917	refill	100	Diazepam 5mg	10.25
02-28-95	365592	new	100	Chloral Hydrate 7.5gr	14.40
03-28-95	368178	new	100	Diazepam 5mg	10.25
04-25-95	365592	refill	100	Chloral Hydrate 7.5gr	14.40
04-25-95	368178	refill	100	Diazepam 5mg	10.25
05-21-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82
05-21-95	368178	refill	100	Diazepam 5mg	10.25
06-13-95	365592	refill	30	Chloral Hydrate 7.5gr	8.00
07-06-95	365592	refill	70	Chloral Hydrate 7.5gr	13.04
07-06-95	368178	refill	100	Diazepam 5mg	10.25
07-29-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82
07-29-95	368178	refill	100	Diazepam 5mg	10.25
08-22-95	368178	refill	100	Diazepam 5mg	10.25
09-12-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82
09-12-95	382172	new	100	Diazepam 5mg	10.25
10-22-95	382172	refill	100	Diazepam 5mg	10.25

The foregoing seventy-five prescriptions and/or refills are summarized as follows: forty-six prescriptions and/or refills totaling 4,280 units of Diazepam 5mg; twenty-eight prescriptions and/or refills totaling 2,660 units of Chloral Hydrate 7.5gr; and one prescription totaling 30 units of Prosom. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (4) Gary A. Polcar did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Gary A. Polcar created and maintained on file the following unauthorized prescriptions:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Drug</u>	<u>Dollar Amount</u>
01-14-93	284141	refill	90	Diazepam 5mg	9.71
01-14-93	284142	refill	150	Acetaminophen w/Codeine 60mg	31.67
01-14-93	284673	refill	100	Chloral Hydrate 7.5gr	11.42
02-05-93	284141	refill	90	Diazepam 5mg	9.71
02-05-93	284142	refill	150	Acetaminophen w/Codeine 60mg	31.67
02-05-93	284673	refill	100	Chloral Hydrate 7.5gr	13.31
02-23-93	284673	refill	100	Chloral Hydrate 7.5gr	13.31
02-23-93	296830	new	90	Diazepam 5mg	9.71
02-23-93	296831	new	150	Acetaminophen w/Codeine 60mg	31.67
03-13-93	296830	refill	90	Diazepam 5mg	9.71
03-13-93	296831	refill	150	Acetaminophen w/Codeine 60mg	31.67
03-13-93	298866	new	100	Chloral Hydrate 7.5gr	13.31
03-30-93	296830	refill	90	Diazepam 5mg	9.71
03-30-93	296831	refill	150	Acetaminophen w/Codeine 60mg	31.67
03-30-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
04-16-93	296830	refill	90	Diazepam 5mg	9.71
04-16-93	296831	refill	150	Acetaminophen w/Codeine 60mg	31.67
04-16-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
04-29-93	296830	refill	90	Diazepam 5mg	9.71
04-29-93	296831	refill	150	Acetaminophen w/Codeine 60mg	31.67
04-29-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
05-17-93	296830	refill	90	Diazepam 5mg	9.71
05-17-93	296831	refill	150	Acetaminophen w/Codeine 60mg	31.67
05-17-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
06-04-93	298866	refill	100	Chloral Hydrate 7.5gr	13.31
06-04-93	306605	new	150	Acetaminophen w/Codeine 60mg	31.67
06-04-93	306606	new	90	Diazepam 5mg	9.71
06-20-93	306605	refill	150	Acetaminophen w/Codeine 60mg	31.67
06-20-93	306606	refill	90	Diazepam 5mg	9.71
06-20-93	308058	new	100	Chloral Hydrate 7.5gr	13.31
07-06-93	306605	refill	150	Acetaminophen w/Codeine 60mg	31.67
07-06-93	306606	refill	90	Diazepam 5mg	9.71
07-06-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
07-20-93	306605	refill	150	Acetaminophen w/Codeine 60mg	31.67
07-20-93	306606	refill	90	Diazepam 5mg	9.71
07-20-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
08-03-93	306605	refill	150	Acetaminophen w/Codeine 60mg	31.67
08-03-93	306606	refill	90	Diazepam 5mg	9.71
08-03-93	308058	refill	100	Chloral Hydrate 7.5gr	13.31
08-15-93	306605	refill	150	Acetaminophen w/Codeine 60mg	31.76
08-15-93	306606	refill	90	Diazepam 5mg	9.80
08-15-93	308058	refill	100	Chloral Hydrate 7.5gr	13.40
08-31-93	308058	refill	100	Chloral Hydrate 7.5gr	13.40
08-31-93	314004	new	150	Acetaminophen w/Codeine 60mg	31.76
08-31-93	314005	new	90	Diazepam 5mg	9.80
10-04-93	314004	refill	150	Acetaminophen w/Codeine 60mg	31.76
10-04-93	314005	refill	90	Diazepam 5mg	9.80
10-04-93	317098	new	100	Chloral Hydrate 7.5gr	13.40
10-21-93	314004	refill	150	Acetaminophen w/Codeine 60mg	31.76
10-21-93	314005	refill	90	Diazepam 5mg	9.80
11-07-93	317098	refill	100	Chloral Hydrate 7.5gr	13.40

11-29-93	314004	refill	150	Acetaminophen w/Codeine 60mg	31.76
11-29-93	314005	refill	90	Diazepam 5mg	9.80
12-19-93	314004	refill	150	Acetaminophen w/Codeine 60mg	31.76
12-19-93	314005	refill	90	Diazepam 5mg	9.80
12-19-93	317098	refill	100	Chloral Hydrate 7.5gr	13.40
01-15-94	314004	refill	150	Acetaminophen w/Codeine 60mg	31.76
01-15-94	314005	refill	90	Diazepam 5mg	9.80
03-01-94	332119	new	150	Acetaminophen w/Codeine 60mg	31.76
03-01-94	332120	new	90	Diazepam 5mg	9.80
03-22-94	332119	refill	150	Acetaminophen w/Codeine 60mg	31.76
03-22-94	332120	refill	90	Diazepam 5mg	9.80
04-17-94	332119	refill	150	Acetaminophen w/Codeine 60mg	31.76
04-17-94	332120	refill	90	Diazepam 5mg	9.80
05-08-94	332119	refill	150	Acetaminophen w/Codeine 60mg	31.76
05-08-94	332120	refill	90	Diazepam 5mg	9.80
05-30-94	332119	refill	150	Acetaminophen w/Codeine 60mg	31.76
05-30-94	332120	refill	90	Diazepam 5mg	9.80
06-21-94	332119	refill	150	Acetaminophen w/Codeine 60mg	31.76
06-21-94	332120	refill	90	Diazepam 5mg	9.80
07-15-94	344975	new	90	Diazepam 5mg	9.80
07-15-94	344976	new	150	Acetaminophen w/Codeine 60mg	31.76
08-02-94	344975	refill	90	Diazepam 5mg	9.80
08-02-94	344976	refill	150	Acetaminophen w/Codeine 60mg	31.76
08-23-94	344975	refill	90	Diazepam 5mg	9.80
08-23-94	344976	refill	150	Acetaminophen w/Codeine 60mg	31.76
08-23-94	348197	new	30	Prosom 2mg	31.40
09-13-94	317098	refill	60	Chloral Hydrate 7.5gr	9.80
09-13-94	344976	refill	100	Acetaminophen w/Codeine 60mg	22.49
09-16-94	344975	refill	90	Diazepam 5mg	9.80
09-24-94	344976	refill	150	Acetaminophen w/Codeine 60mg	31.76
10-18-94	344975	refill	90	Diazepam 5mg	9.80
10-18-94	344976	refill	150	Acetaminophen w/Codeine 60mg	31.76
11-06-94	344975	refill	90	Diazepam 5mg	9.80
11-06-94	344976	refill	150	Acetaminophen w/Codeine 60mg	31.76
11-08-94	317098	refill	100	Chloral Hydrate 7.5gr	14.40
11-29-94	356916	new	150	Acetaminophen w/Codeine 60mg	31.76
11-29-94	356917	new	100	Diazepam 5mg	10.25
12-19-94	356916	refill	150	Acetaminophen w/Codeine 60mg	31.76
12-19-94	356917	refill	100	Diazepam 5mg	10.25
01-03-95	356916	refill	150	Acetaminophen w/Codeine 60mg	31.76
01-03-95	356917	refill	100	Diazepam 5mg	10.25
01-17-95	317098	refill	100	Chloral Hydrate 7.5gr	14.40
02-07-95	356916	refill	150	Acetaminophen w/Codeine 60mg	31.76
02-07-95	356917	refill	100	Diazepam 5mg	10.25
02-27-95	356917	refill	100	Diazepam 5mg	10.25
02-27-95	356917	refill	100	Diazepam 5mg	10.25
02-28-95	356916	refill	150	Acetaminophen w/Codeine 60mg	31.76
02-28-95	365592	new	100	Chloral Hydrate 7.5gr	14.40
03-28-95	356916	refill	150	Acetaminophen w/Codeine 60mg	31.76
03-28-95	368178	new	100	Diazepam 5mg	10.25
04-25-95	365592	refill	100	Chloral Hydrate 7.5gr	14.40
04-25-95	368178	refill	100	Diazepam 5mg	10.25
04-25-95	370689	new	150	Acetaminophen w/Codeine 60mg	31.76
05-21-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82
05-21-95	368178	refill	100	Diazepam 5mg	10.25
05-21-95	370689	refill	150	Acetaminophen w/Codeine 60mg	31.76
06-13-95	365592	refill	30	Chloral Hydrate 7.5gr	8.00
06-13-95	370689	refill	150	Acetaminophen w/Codeine 60mg	31.76
07-06-95	365592	refill	70	Chloral Hydrate 7.5gr	13.04
07-06-95	368178	refill	100	Diazepam 5mg	10.25
07-06-95	370689	refill	150	Acetaminophen w/Codeine 60mg	31.76
07-29-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82

07-29-95	368178	refill	100	Diazepam 5mg	10.25
07-29-95	370689	refill	150	Acetaminophen w/Codeine 60mg	31.76
08-22-95	368178	refill	100	Diazepam 5mg	10.25
08-22-95	370689	refill	150	Acetaminophen w/Codeine 60mg	31.76
09-12-95	365592	refill	100	Chloral Hydrate 7.5gr	16.82
09-12-95	382170	new	150	Acetaminophen w/Codeine 60mg	32.66
09-12-95	382172	new	100	Diazepam 5mg	10.25
10-22-95	382170	refill	150	Acetaminophen w/Codeine 60mg	32.66
10-22-95	382172	refill	100	Diazepam 5mg	10.25

Such conduct was in violation of Section 2925.23(B)(1) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (5) Gary A. Polcar did, from February 5, 1993, through October 22, 1995, knowingly sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Gary A. Polcar sold the following controlled substances in the following amounts to a male individual in Florida without prescription:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Drug</u>	<u>Dollar Amount</u>
02-05-93	294832	new	100	Acetaminophen w/Codeine 30mg	12.32
03-13-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
05-17-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
06-20-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
07-20-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
10-04-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.82
10-04-93	317097	new	30	Temazepam 15mg	9.62
11-07-93	317097	refill	30	Temazepam 15mg	9.62
11-07-93	320369	new	100	Acetaminophen w/Codeine 30mg	12.82
11-29-93	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
12-18-93	317097	refill	30	Temazepam 15mg	9.62
12-18-93	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
01-15-94	317097	refill	30	Temazepam 15mg	9.62
01-15-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
02-03-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
02-08-94	317097	refill	30	Temazepam 15mg	9.62
03-01-94	317097	refill	30	Temazepam 15mg	9.62
03-01-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
03-22-94	334502	new	30	Temazepam 15mg	9.62
03-22-94	334503	new	100	Acetaminophen w/Codeine 30mg	12.82
04-17-94	334502	refill	30	Temazepam 15mg	9.62
04-17-94	334502	refill	30	Temazepam 15mg	9.62
04-17-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-08-94	334502	refill	30	Temazepam 15mg	9.62
05-08-94	334502	refill	30	Temazepam 15mg	9.62
05-08-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-30-94	334502	refill	30	Temazepam 15mg	9.62
05-30-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-30-94	340915	new	30	Temazepam 30mg	14.29
06-21-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
06-21-94	340915	refill	30	Temazepam 30mg	14.29
07-15-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
07-15-94	340915	refill	30	Temazepam 30mg	14.29
07-15-94	340915	refill	30	Temazepam 15mg	9.62
08-02-94	340915	refill	30	Temazepam 15mg	9.62
08-02-94	340915	refill	30	Temazepam 30mg	10.61
08-02-94	346467	new	100	Acetaminophen w/Codeine 30mg	13.31
08-23-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.31
09-16-94	350235	new	30	Temazepam 30mg	10.61
10-18-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
10-18-94	350235	refill	30	Temazepam 30mg	10.61

11-06-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
11-29-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
11-29-94	350235	refill	30	Temazepam 30mg	10.61
12-19-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
12-20-94	350235	refill	30	Temazepam 30mg	10.61
01-03-95	350235	refill	30	Temazepam 30mg	10.61
01-03-95	360306	new	100	Acetaminophen w/Codeine 30mg	13.76
02-07-95	350235	refill	30	Temazepam 30mg	10.61
02-07-95	360306	refill	150	Acetaminophen w/Codeine 30mg	19.88
02-28-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
02-28-95	365477	new	30	Temazepam 30mg	10.61
03-28-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
03-28-95	365477	refill	30	Temazepam 30mg	10.61
04-25-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
04-25-95	365477	refill	30	Temazepam 30mg	10.61
04-25-95	370690	new	100	Diazepam 5mg	10.25
05-21-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
05-21-95	365477	refill	30	Temazepam 30mg	10.61
05-21-95	370690	refill	100	Diazepam 5mg	10.25
06-13-95	365477	refill	30	Temazepam 30mg	10.61
07-06-95	365477	refill	30	Temazepam 30mg	11.51
07-29-95	370690	refill	100	Diazepam 5mg	10.25
07-29-95	378595	new	30	Temazepam 30mg	11.51
07-29-95	378596	new	100	Acetaminophen w/Codeine 30mg	13.76
08-22-95	370690	refill	100	Diazepam 5mg	10.25
08-22-95	378595	refill	30	Temazepam 30mg	11.51
09-12-95	370690	refill	100	Diazepam 5mg	10.25
09-12-95	378595	refill	30	Temazepam 30mg	11.51
09-12-95	378596	refill	100	Acetaminophen w/Codeine 30mg	13.76
10-22-95	370690	refill	100	Diazepam 5mg	10.25
10-22-95	378596	refill	100	Acetaminophen w/Codeine 30mg	13.76
10-22-95	378595	refill	30	Temazepam 30mg	11.51

The foregoing seventy-three prescriptions and/or refills are summarized as follows: thirty-three prescriptions and/or refills totaling 3,350 units of Acetaminophen w/Codeine 30mg; fourteen prescriptions and/or refills totaling 420 units of Temazepam 15mg; twenty prescriptions and/or refills totaling 600 units of Temazepam 30mg; and six prescriptions and/or refills totaling 600 Diazepam 5mg. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (6) Gary A. Polcar did, on August 23, 1994, and again on October 18, 1994, knowingly sell controlled substances in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Gary A. Polcar sold the following controlled substances, totaling 60 dosage units, to a male individual in Florida without prescription:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Drug</u>	<u>Dollar Amount</u>
08-23-94	348196	new	30	Flurazepam HCl 30mg	10.79
10-18-94	348196	refill	30	Flurazepam HCl 30mg	10.79

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (7) Gary A. Polcar did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Gary A. Polcar created and maintained on file the following unauthorized prescriptions:

<u>Date</u>	<u>Rx No.</u>	<u>Rx Type</u>	<u>Qty.</u>	<u>Drug</u>	<u>Dollar Amount</u>
02-05-93	294832	new	100	Acetaminophen w/Codeine 30mg	12.32
03-13-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32

05-17-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
06-20-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
07-20-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.32
10-04-93	294832	refill	100	Acetaminophen w/Codeine 30mg	12.82
10-04-93	317097	new	30	Temazepam 15mg	9.62
10-18-94	348196	refill	30	Flurazepam 30mg	10.79
11-07-93	317097	refill	30	Temazepam 15mg	9.62
11-07-93	320369	new	100	Acetaminophen w/Codeine 30mg	12.82
11-29-93	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
12-18-93	317097	refill	30	Temazepam 15mg	9.62
12-18-93	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
01-15-94	317097	refill	30	Temazepam 15mg	9.62
01-15-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
02-03-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
02-08-94	317097	refill	30	Temazepam 15mg	9.62
03-01-94	317097	refill	30	Temazepam 15mg	9.62
03-01-94	320369	refill	100	Acetaminophen w/Codeine 30mg	12.82
03-22-94	334502	new	30	Temazepam 15mg	9.62
03-22-94	334503	new	100	Acetaminophen w/Codeine 30mg	12.82
04-17-94	334502	refill	30	Temazepam 15mg	9.62
04-17-94	334502	refill	30	Temazepam 15mg	9.62
04-17-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-08-94	334502	refill	30	Temazepam 15mg	9.62
05-08-94	334502	refill	30	Temazepam 15mg	9.62
05-08-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-30-94	334502	refill	30	Temazepam 15mg	9.62
05-30-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
05-30-94	340915	new	30	Temazepam 30mg	14.29
06-21-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
06-21-94	340915	refill	30	Temazepam 30mg	14.29
07-15-94	334503	refill	100	Acetaminophen w/Codeine 30mg	12.82
07-15-94	340915	refill	30	Temazepam 30mg	14.29
07-15-94	340915	refill	30	Temazepam 15mg	9.62
08-02-94	340915	refill	30	Temazepam 15mg	9.62
08-02-94	340915	refill	30	Temazepam 30mg	10.61
08-02-94	346467	new	100	Acetaminophen w/Codeine 30mg	13.31
08-23-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.31
08-23-94	348196	new	30	Flurazepam 30mg	10.79
09-16-94	350235	new	30	Temazepam 30mg	10.61
10-18-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
10-18-94	350235	refill	30	Temazepam 30mg	10.61
11-06-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
11-29-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
11-29-94	350235	refill	30	Temazepam 30mg	10.61
12-19-94	346467	refill	100	Acetaminophen w/Codeine 30mg	13.76
12-20-94	350235	refill	30	Temazepam 30mg	10.61
01-03-95	350235	refill	30	Temazepam 30mg	10.61
01-03-95	360306	new	100	Acetaminophen w/Codeine 30mg	13.76
02-07-95	350235	refill	30	Temazepam 30mg	10.61
02-07-95	360306	refill	150	Acetaminophen w/Codeine 30mg	19.88
02-28-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
02-28-95	365477	new	30	Temazepam 30mg	10.61
03-28-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
03-28-95	365477	refill	30	Temazepam 30mg	10.61
04-25-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
04-25-95	365477	refill	30	Temazepam 30mg	10.61
04-25-95	370690	new	100	Diazepam 5mg	10.25
05-21-95	360306	refill	100	Acetaminophen w/Codeine 30mg	13.76
05-21-95	365477	refill	30	Temazepam 30mg	10.61
05-21-95	370690	refill	100	Diazepam 5mg	10.25
06-13-95	365477	refill	30	Temazepam 30mg	10.61
07-06-95	365477	refill	30	Temazepam 30mg	11.51

07-29-95	370690	refill	100	Diazepam 5mg	10.25
07-29-95	378595	new	30	Temazepam 30mg	11.51
07-29-95	378596	new	100	Acetaminophen w/Codeine 30mg	13.76
08-22-95	370690	refill	100	Diazepam 5mg	10.25
08-22-95	378595	refill	30	Temazepam 30mg	11.51
09-12-95	370690	refill	100	Diazepam 5mg	10.25
09-12-95	378595	refill	30	Temazepam 30mg	11.51
09-12-95	378596	refill	100	Acetaminophen w/Codeine 30mg	13.76
10-22-95	370690	refill	100	Diazepam 5mg	10.25
10-22-95	378596	refill	100	Acetaminophen w/Codeine 30mg	13.76

Such conduct was in violation of Section 2925.23(B)(1) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (8) Gary A. Polcar did, from January 14, 1993, through October 22, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Medic Drug, Inc., Bainbridge Twp., Ohio, beyond the express or implied consent of the owner, to wit: while working at Medic Drug, Inc., Gary A. Polcar stole 3,350 units of Acetaminophen w/Codeine 30mg, a schedule III controlled substance; 7,000 units of Acetaminophen w/Codeine 60mg, a schedule III controlled substance; 600 units of Diazepam 5mg, a schedule IV controlled substance; 2,660 units of Chloral Hydrate 7.5gr, a schedule IV controlled substance; 30 units of Prosom, a schedule IV controlled substance; 420 units of Temazepam 15mg, a schedule IV controlled substance; 600 units of Temazepam 30mg, a schedule IV controlled substance, and/or 60 units of Flurazepam 30mg, a schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) Gary A. Polcar did, on or about June 6, 1996, in the Geauga County Common Pleas Court, Case No. 96 C 000063, plead guilty to three counts of Trafficking in Drugs in violation of Section 2925.03(A)(2) of the Ohio Revised Code, felonies of the fourth degree, and one count of Illegal Processing of Drug Documents in violation of Section 2925.23(B) of the Ohio Revised Code, a felony of the fourth degree.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (9) 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 (9) 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 paragraphs (2) through (7), and (9) 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 December 1, 1995.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Gary A. Polcar:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist

identification card, No. 03-1-10141, held by Gary A. Polcar effective as of the date of the mailing of this Order.

- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-10141, held by Gary A. Polcar effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-10141, held by Gary A. Polcar effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "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.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Lamping and approved by the Board (Aye-7/Nay-0).

4:55 p.m. The meeting was recessed until 8:00 a.m., Tuesday, December 3, 1996.

#### TUESDAY, DECEMBER 3, 1996

8:12 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Studio Three, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

Suzanne L. Neuber, R.Ph. (President); Diane Adelman, R.Ph.; Robert Cavendish, R.Ph.; John Hanna, R.Ph.; Paul Lamping, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

**RES. 97-079** William Winsley, Assistant Executive Director, and Tim Benedict, Compliance Administrator, joined the Board. Electronic Signature policies proposed by University Hospitals, Cleveland and Ohio State University Hospitals, Columbus were considered by the Board. Following discussion, staff was instructed to discuss the Board's concerns and requested changes with each hospital. If revisions are made to the policies, they are to be returned to the next Board meeting for review.

8:19 a.m.

**RES. 97-080** Board Member Amonte Littlejohn arrived and joined the meeting. Patient record confidentiality concerns were discussed by staff and the Board. Discussion included amending the definition of "unprofessional conduct" in Ohio Revised Code Section 4729.16 to include illegal disclosure of patient records and referring the issue to the 1997 Ad Hoc Advisory Committee on Rule Review.

9:00 a.m.

Mr. Hanna left the meeting to take care of personal business. Mr. Lamping moved that the Board go into Executive Session for the purpose of discussing the investigation of complaints and charges against licensees and registrants of the Board and conferring with the Assistant Attorney General regarding matters pending in court. The motion was seconded by Mrs.

Adelman and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

9:06 a.m.

Mr. Hanna returned and joined the meeting.

9:25 a.m.

*RES. 97-081*

The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board deny the requests to continue the hearings scheduled for Monday, January 27, 1997 at 3:00 p.m. in the matters of R.Ph. Jack James Wilhelm and R.Ph. Robert Oberlin Urfer. The motion was seconded by Mr. Littlejohn and approved (Aye-7/Nay-0).

The Board recessed for twenty five minutes.

9:51 a.m.

The Board members reconvened for the purpose of continuing their business meeting. Material was distributed regarding Containment Technology Group, Inc.'s MIC Workstations and a video regarding these products was viewed by the Board.

*RES. 97-082*

The Executive Director presented a proposal by Conway-Green Co., Cleveland, Ohio to produce a compilation of federal and state laws and regulations governing the legal distribution of drugs in the state of Ohio on CD Rom. Following consideration and discussion, Mr. Hanna moved that the proposal be approved by the Board. The motion was seconded by Mr. Lamping and approved (Aye-7/Nay-0).

*RES. 97-083*

Correspondence dated November 27, 1996 from the Ohio State Medical Association was presented to the Board for their review and consideration. The Ohio State Medical Association was concerned about the content of a letter allegedly mailed by the manager of a Wal-Mart Pharmacy to a patient suffering from hypertension. The letter informed the patient of a new antihypertensive drug (Tiazac) that was recently approved by the Food and Drug Administration and is less expensive than Cardizem CD and Dilacor XR.

The Board noted that the letter made an offer for the pharmacist to speak with the patient's physician should the patient be interested in obtaining the less expensive medication. The Board did not share the same concerns as the state medical association since the letter was informative and provided that such drug could only be obtained by the patient through their physician following consultation and discussion with the pharmacist.

The Board also noted that physicians are not often aware of the approval and marketing of a new drug until they have been detailed by a sales representative for the company. The letter not only served to make the patient aware of a less expensive product that may be appropriate in treating the patient's medical condition but also the patient's physician.

Nancy Little, Licensing Administrator, joined the Board and reported on the November 13, 1996 meeting of the Joint Working Group of Health Care Regulatory Boards. A group response regarding the PEW Commission recommendations on health regulatory boards is being prepared for each individual board's review and consideration within the next month or two. It was also reported that the committee regarding the boards' Local Area Network (LAN) has been working with Neal Kaffen and that a Request For Proposal (RFP) will be prepared for the purpose of purchasing a proprietary licensing software program that will meet the unique requirements of each of the boards.

Sue Neuber reported on the meeting of the Recruitment Committee that was held at 7:00 a.m. in the Board's library. A letter requesting the increase in pay range for the Executive Director's position is being prepared for the Board President's signature. The letter must be submitted to the Reclassification section of the Personnel Division of the Ohio Department of Administrative Services by December 16, 1996 and all supporting documentation is due January 24, 1997.

Mr. Hanna reported that the State Board of Nursing's Formulary Committee has still not met and that he is not aware of any meetings scheduled in the near future.

*RES. 97-084* Mr. Lamping moved that the Board notify the National Association of Boards of Pharmacy that the "Pharmaceutical Society of New Zealand" should be accepted for associate membership. The motion was seconded by Mrs. Plant and approved (Aye-7/Nay-0).

*RES. 97-085* The Executive Director reported that Michigan reciprocity candidate Michael R. Vogt's application was received by the Board office and his license to practice (03-3-22089) issued on October 25, 1996.

11:15 a.m.

The Board recessed for lunch.

1:00 p.m.

The Board reconvened with all members present, and was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a Chapter 119. Public Rules Hearing.

1:15 p.m.

All evidence and written testimony having been introduced and all persons in attendance having had an opportunity to testify on the proposed new, amended, and rescinded rules, the hearing record was closed by the Board President and the public hearing concluded. The Board recessed for ten minutes.

1:27 p.m.

Ernie Boyd, Executive Director; Kathy Karas, President-Elect; and Jim Turner, all of the Ohio Pharmacists Association, joined the Board for the purpose of discussing proposed revisions of the Ohio Pharmacy Practice Act and laws governing the legal distribution of drugs in Ohio.

2:03 p.m.

The discussion was concluded and the Board recessed for five minutes.

2:19 p.m.

Mr. Lamping moved that the Board go into Executive Session for the purpose of discussing the investigation of complaints and charges against licensees and registrants of the Board. The motion was seconded by Mr. Repke and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

The Board was joined by Assistant Attorney General Mary Hollern, and Board employees Tim Benedict, David Rowland, and William Winsley.

2:50 p.m.

The Executive Session was concluded and the meeting opened to the public. The Board recessed for ten minutes.

3:05 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an Adjudication Hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Pharmacy Intern Randall T. Lynn, Cincinnati. Board member Paul Lamping recused himself from the hearing.

4:22 p.m.

The hearing was concluded. Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony presented during the hearing. The motion was seconded by Mr. Hanna and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

4:42 p.m.

*RES. 97-086* The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-960614-067)

In The Matter Of:

**RANDALL T. LYNN**  
7232 Silvercrest Drive  
Cincinnati, Ohio 45236  
(D.O.B. 10/25/72)

INTRODUCTION

THE MATTER OF RANDALL T. LYNN CAME TO HEARING ON DECEMBER 3, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

RANDALL T. LYNN WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Sgt. William Fields, City of Springdale Police Department
- (2) Charles E. Greenert, Jr., Risk Management, Kroger Co.
- (3) Mike Cluxton, Ohio State Board of Pharmacy
- (4) Randall T. Lynn, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated June 14, 1996.
- (2) Exhibit 1A--Hearing Request letter dated June 28, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated July 11, 1996.
- (4) Exhibit 1C--Ohio Intern Register Record of Randall Todd Lynn showing original date of registration as September 29, 1993.
- (5) Exhibit 2--Copy of three-page Springdale Police Department Criminal Offense Report, No. 95-0988, regarding Randall Todd Lynn reported May 24, 1995.
- (6) Exhibit 3--Copy of Notice of Separation, Form No. 3024-1, of Randy Lynn dated October 3, 1994.
- (7) Exhibit 4--Fax copy of the Kroger Co. Year 1995, "13-period year" calendar.
- (8) Exhibit 5--Fax copy of Kroger Co. Payroll Printout of Randall Todd Lynn, hired on April 4, 1993.
- (9) Exhibit 6--Copy of two forged time cards of Randall Lynn dated May 13, 1995, and May 20, 1995.
- (10) Exhibit 7--Copy of envelope addressed to The Kroger Co., Attn.: Payroll Dept.; 150 Tri-county Parkway; Cincinnati, Ohio 45246 dated May 22, 1995.
- (11) Exhibit 8--Copy of Voluntary Statement of Randall T. Lynn dated May 26, 1995.
- (12) Exhibit 9--Copy of two-page Indictment in the Hamilton County Common Pleas Court, Case No. B9504870, in the matter of Randall Todd Lynn for Grand Theft, Ohio Revised Code Section 2913.02(A) filed June 13, 1995; and Prosecuting Attorney's Request for Issuance of Warrant Upon Indictment in the Hamilton County Common Pleas Court, Case No. B9504870, in the matter of Randall Todd Lynn.

- (13) Exhibit 10--Renewal Application for Intern License, No. 06-0-00776, for a license to practice pharmacy as an intern in Ohio from September 15, 1995, to September 15, 1996, of Randall Todd Lynn dated July 26, 1995.
- (14) Exhibit 11--Certified copy of Journal Entry in the Hamilton County Common Pleas Court, Case No. B954870, in the matter of Randall Lynn dated July 25, 1995.
- (15) Exhibit 12--Application for Examination as a Pharmacist of Randall T. Lynn signed and notarized on May 13, 1996.

Respondent's Exhibits:

- (1) None

#### FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Randall Todd Lynn was originally licensed to practice pharmacy as an intern in the state of Ohio on September 29, 1993.
- (2) Randall T. Lynn did, from October 18, 1994, through May 15, 1995, with the purpose to deprive, knowingly obtain or exert control over property of the Kroger Company by deception, to wit: Randall T. Lynn stole \$10,282.00 by submitting forged time cards. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Randall T. Lynn did, on or about July 26, 1995, knowingly make a false statement, or swear to the truth of a false statement, when the statement was made with the purpose to secure the issuance by the Board, a governmental agency, of registration as a pharmacy intern, to wit: Randall T. Lynn indicated on his notarized application for renewal that there were no felony charges pending when in fact he had been indicted on June 13, 1995, by the Hamilton County Grand Jury for Theft, a felony of the third degree. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Randall T. Lynn did, on or about May 13, 1996, knowingly make a false statement, or swear to the truth of a false statement, when the statement was made with the purpose to secure the issuance by the Board, a governmental agency, of a license, to wit: Randall T. Lynn indicated on his notarized application for examination as a pharmacist the following statement: "I have never been charged or convicted of a felony or misdemeanor, nor have I been the subject of disciplinary action by any state or federal agency" when in fact he had been indicted on June 13, 1995, by the Hamilton County Grand Jury for Theft, a felony of the third degree. Such conduct is in violation of Section 2921.13 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 (4) of the Findings of Fact constitute not being of good moral character and habits as provided in Rule 4729-5-04 of the Ohio Administrative Code.
- (2) 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 dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Sections 4729.07, 4729.08, and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby denies the Application for Registration by Examination submitted by Randall T. Lynn.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Maslak and approved by the Board (Aye-7/Nay-0/-Abstain-1[Lamping]).

4:47 p.m. The Board recessed until Wednesday, December 4, 1996 at 8:00 a.m.

WEDNESDAY, DECEMBER 4, 1996

8:20 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Studio Three, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

Suzanne L. Neuber, R.Ph. (President); Diane Adelman, R.Ph.; Paul Lamping, R.Ph.; Joseph Maslak, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

The Board continued their review of administrative matters, correspondence, and reports not requiring official action. Staff reported that National Rx's proposed procedure for documenting prescription refills is in compliance with Ohio's laws and rules and all procedural deficiencies noted during the inspection conducted on October 24 will be corrected by December 31, 1996.

8:34 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of considering the matter of Moh'd S.A. Zalmout pursuant to the provisions of Ohio Revised Code Chapters 119. and 4729.

9:05 a.m.

All evidence and testimony having been entered into the record, the record was closed and the hearing was concluded. Mr. Lamping moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received in the matter. The motion was seconded by Mrs. Plant and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Lamping-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

9:15 a.m.

RES. 97-087

The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-960816-008)

In The Matter Of:

**MOH'D S. A. ZALMOUT**  
4126 Terrace View S. #4  
Toledo, Ohio 43607  
(D.O.B. 3/22/70)

## INTRODUCTION

THE MATTER OF MOH'D S. A. ZALMOUT CAME ON FOR CONSIDERATION ON DECEMBER 4, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MOH'D S. A. ZALMOUT WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

## SUMMARY OF EVIDENCE

### (A) Testimony

State's Witnesses:

- (1) William T. Winsley, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

### (B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated August 16, 1996.
- (2) Exhibit 2--Application for Pharmacy Intern Registration of Moh'd S. A. Zalmout signed and notarized on May 10, 1996, with the following attachments: Certificate of Acceptance to the University of Toledo of Moh'd Zalmout dated April 18, 1996; two-page Official Academic Transcript from the University of Toledo of Moh'd S. A. Zalmout dated January 10, 1996; and letter from Mohd Zalmout dated April 20, 1996.
- (3) Exhibit 3--Letter from William T. Winsley dated May 15, 1996.
- (4) Exhibit 4--Letter from Mohd S.A. Zalmout, not dated, received in the Board office on May 30, 1996.
- (5) Exhibit 5--Copy of six-page Memorandum regarding Mohammed Zalmout from Robert W. Kent, Jr. dated February 2, 1996.
- (6) Exhibit 6--Copy of Notice of Filing dated March 6, 1996, and copy of two-page Government's Motion for Downward Departure, not dated, from the United States District Court, Northern District of Illinois, Eastern Division, No. 94 CR 430, of Mohammed S. Zalmout and Jamal A. Azzabi; copy of U.S. Probation Worksheet A, not dated, and copy of four-page U.S. Probation Worksheet D, dated March 18, 1996, for Mohammad Zalmout, Docket No. 94 CR 430-2.
- (7) Exhibit 7--Copy of four-page Judgment in a Criminal Case in the United States District Court, Northern District of Illinois, Case No. 94 CR 430-1 of Mohammed S. Zalmout dated April 8, 1996.

Respondent's Exhibits:

- (1) None

## FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) On August 16, 1996, Moh'd S. A. Zalmout was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.

- (2) As demonstrated by return receipt of August 19, 1996, Moh'd S. A. Zalmout received the letter of August 16, 1996, informing him of the allegations against him, and his rights.
- (3) Moh'd S. A. Zalmout has not responded in any manner to the letter of August 16, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that Moh'd S. A. Zalmout applied to the Board for registration as an intern in the state of Ohio on May 13, 1996.
- (5) Moh'd S. A. Zalmout did, on or about January 6, 1996, in the United States District Court of Northern Illinois, Case No. 94-CR-430, plead guilty to Conspiracy to Commit Credit Card Fraud, in violation of 18 U.S.C. Section 1029(b)(2).

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code and Rule 4729-3-03(C) of the Ohio Administrative Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the Application for Intern Registration submitted by Moh'd S. A. Zalmout.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Maslak and approved by the Board (Aye-5/Nay-0).

**RES. 97-088** The Board then considered the new petition of The Green Pharmacy, Wilsonville, Oregon to except the homeopathic product "SnoreStop" from Schedule V of Ohio's Controlled Substance Schedules pursuant to Ohio Revised Code Section 3719.44 and Ohio Administrative Code Chapter 4729-12. Following a review of the new labeling and information submitted on November 13, 1996, Mrs. Plant moved that the Board propose to amend Ohio Administrative Code Rule 4729-12-09 to include "SnoreStop" as an excepted product. The motion was seconded by Mr. Maslak and approved (Aye-5/Nay-0).

**RES. 97-089** The Board then reviewed a draft of Compliance Bulletin 96-004. Mrs. Plant moved that the Bulletin be approved as drafted and forwarded to all Ohio Registered Pharmacists as well as the Directors of Information Management for the large corporations operating pharmacies in Ohio and Directors of Pharmacy Operations. The motion was seconded by Mr. Maslak and approved (Aye-5/Nay-0).

Tim Benedict and William Winsley reported on their participation in the National Association of Boards of Pharmacy's Multi-state Jurisprudence Examination workshop sessions that were conducted during the month of November in Chicago, Illinois and Savannah, Georgia.

*RES. 97-090* The Board then reviewed the proposed amended, new, and rescinded rules and written comments received during the public rules hearing held December 3, 1996 at 1:00 p.m. Following discussion, Mrs. Plant moved that the proposals be adopted as published in the notice following clearance by the Joint Committee on Agency Rule Review during their meeting on Tuesday, December 17, 1996. The effective date of the proposals will be set by staff in accordance with the provisions of Ohio Revised Code Chapter 119. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0).

Mrs. Neuber, Mr. Lamping, and Mrs. Adelman reported on the District IV NABP/AACP meeting held in Chicago, Illinois on November 8-10, 1996. Topics covered included Pharmacy Technicians; Specialization; Certification; Non-Traditional Programs; Pharmacist Focus On Patient Care; and National Health Insurance.

Mr. Winsley reported on the National Association of Boards of Pharmacy Health Law Officers Conference held in Savannah, Georgia November 10-13, 1996. Issues addressed at this conference were Inventory Consignment Programs; Automation/Security in the Pharmacy; Importing and Exporting Pharmaceuticals; Dispensing Errors; Impairment Programs; Rohypnol; and the Provision of Pharmacy Services In Crisis Situations.

Staff discussed meetings which have been held and are to be held in the future regarding "Chronic Pain Relief" issues. This topic will be addressed by the Ohio General Assembly next year.

10:11 a.m.

Board Member Amonte Littlejohn arrived and joined the meeting. Mr. Repke moved that the Minutes of the October 21, 22, 23, 24, 25, 1996 meeting be approved as amended. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0/Abstain-1[Plant]).

Mrs. Plant moved that the Board go into Executive Session for the purpose of discussing the investigation of complaints and charges against licensees and registrants of the Board. The motion was seconded by Mr. Repke and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

10:40 a.m.

The Executive Session was concluded and the meeting opened to the public. The meeting was recessed until 1:30 p.m.

1:40 p.m.

The business meeting was reconvened in Studio Three with the following Board members present: Suzanne L. Neuber, R.Ph. (President); Amonte B. Littlejohn, R.Ph.; (Vice-President); Diane Adelman, R.Ph.; John Hanna, R.Ph.; Joseph Maslak, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

1:42 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an Adjudication Hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of R.Ph. David Scott Herrmann, Middletown.

2:50 p.m.

The hearing was concluded. Mr. Maslak moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony presented during the hearing. The motion was seconded by Mrs. Plant and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Hanna-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

3:08 p.m.

*RES. 97-091*

The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-960612-065)

In The Matter Of:

**DAVID SCOTT HERRMANN, R.Ph.**  
2906 Orlando Avenue  
Middletown, Ohio 45042  
(R.Ph. No. 03-2-14021)

INTRODUCTION

THE MATTER OF DAVID SCOTT HERRMANN CAME TO HEARING ON DECEMBER 4, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID SCOTT HERRMANN WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Fred Williams, Ohio State Board of Pharmacy
- (2) David Scott Herrmann, Respondent

Respondent's Witnesses:

- (1) Kenneth W. Herrmann, Cincinnati, Ohio

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 12, 1996.
- (2) Exhibit 1A--Hearing Request letter dated July 9, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated July 16, 1996.
- (4) Exhibit 1C--Two-page letter from Kenneth W. Herrmann dated April 29, 1996.
- (5) Exhibit 1D--Pharmacist File Front Sheet of David Scott Herrmann showing original date of registration as March 2, 1981; and Renewal Application for Pharmacist License, number 03-2-14021, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of David Scott Herrmann dated June 28, 1995.
- (6) Exhibit 2--Copy of two-page handwritten statement of David S. Herrmann dated February 2, 1996.
- (7) Exhibit 3--Three-page handwritten statement of David Herrmann signed and notarized on February 6, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Three-page Opening Statement of David Scott Herrmann dated December 4, 1996.
- (2) Exhibit B--Two-page Statement of K. W. Herrmann, not dated.
- (3) Exhibit C--Two-page letter from Pastor Randall Wheeler dated November 14, 1996; and Certificate of Completion for Living Word's Potter's House of David Herrmann dated October 30, 1996.
- (4) Exhibit D--letter from Jennifer M. Prichard dated November 24, 1996.
- (5) Exhibit E--Two-page letter from Stuart A. Robinson dated November 19, 1996.
- (6) Exhibit F--Letter from Thomas M. Beebe dated November 9, 1996.

- (7) Exhibit G--Letter from William E. Tompkins dated November 25, 1996.
- (8) Exhibit H--Closing Statement of David S. Herrmann dated December 4, 1996.

FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board indicate that David Scott Herrmann was originally licensed to practice pharmacy in the state of Ohio on March 2, 1981; and on June 12, 1996, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board summarily suspended the license of David Scott Herrmann.
- (2) David Scott Herrmann did, on or about February 1, 1996, knowingly use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Scott Herrmann was observed drinking Hydrocodone Syrup, a schedule III controlled substance, from a stock bottle while practicing pharmacy when he did not have a prescription for the drug. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (3) David Scott Herrmann did, on or about February 2, 1996, knowingly use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Scott Herrmann was observed on three different occasions drinking Hydrocodone Syrup, a schedule III controlled substance, from a stock bottle while practicing pharmacy when he did not have a prescription for the drug. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) David Scott Herrmann did, on or about the two years immediately preceding February 5, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Phar-Mor #242, beyond the express or implied consent of the owner, to wit: David Scott Herrmann admitted to stealing and/or consuming the following drugs while practicing pharmacy:

<u>Drug</u>	<u>Quantity</u>
Codclear DH	2 pints
Codclear DH (generic)	3 pints
Promethazine with Codeine	2 pints
Prometh VC with Codeine	2 pints
Novahistine (generic)	1 pint
Tussionex Suspension	1 pint
Vicodin	20 tablets
Vicodin (generic)	100 tablets
Vicodin ES	5 tablets
Vicodin ES (generic)	20 tablets
Lortab (generic)	20 tablets
Ambien 10mg	25 tablets
Histussin HC	1 pint
Histussin HC (generic)	1 pint

Further, David Scott Herrmann admitted to Board agents that he took these drugs because of the "undue pressures" at the pharmacy, such as "filling up to and exceeding 300 prescriptions per day." 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 (4) of the Findings of Fact constitute being

guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) 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 (4) of the Findings of Fact constitute abusing drugs to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) 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 paragraphs (2) and (3) 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 June 12, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby reinstates the pharmacist identification card of David Scott Herrmann to practice pharmacy in the state of Ohio and places him on probation for two years, effective as of the date of the mailing of this Order, with the following conditions:

- (A) David Scott Herrmann must obtain counseling by a licensed psychologist on at least a quarterly basis.
- (B) David Scott Herrmann must enter into a contract with a limited treatment provider acceptable to the Board for a period of not less than two years and submit a copy of the signed contract to the Board office no later than January 10, 1997. The contract must provide that:
  - (1) random, observed urine screens shall be conducted at least once every three months. The urine drug screen report must include testing for the presence of opiates and benzodiazepines, and must report testing for creatinine as the dilutional standard or specific gravity. The treatment provider shall report positive results immediately to the Board;
  - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
  - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
  - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (C) David Scott Herrmann must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
  - (1) evidence of counseling sessions with the psychologist;
  - (2) the written report and documentation provided by the treatment program pursuant to the contract, and
  - (3) a written description of his progress towards recovery and what he has been doing during the previous three months.

- (4) the first report shall be submitted by April 10, 1997, and cover a time period from the effective date of the contract with the limited treatment provider through March 31, 1997.

(D) Other terms of probation are as follows:

- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of David Scott Herrmann is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (2) David Scott Herrmann may not serve as a responsible pharmacist.
- (3) David Scott Herrmann may not destroy, or may not assist in or witness the destruction of, controlled substances.
- (4) David Scott Herrmann must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) David Scott Herrmann must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) David Scott Herrmann must abide by the rules of the Ohio State Board of Pharmacy.
- (7) David Scott Herrmann must comply with the terms of this Order.

David Scott Herrmann 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.

The motion was seconded by Mrs. Adelman and approved by the Board (Aye-6/Nay-0).

3:35 p.m. The Board recessed the business meeting until Thursday, December 5, 1996 at 1:00 p.m. Informational visits to Sylvan Testing Centers will be conducted during Thursday morning.

#### THURSDAY, DECEMBER 5, 1996

9:00 a.m. Board President Suzanne Neuber, Board members Paul Lamping and Diane Adelman, and Executive Director Frank Wickham visited the Sylvan Testing Center, West Henderson Road, Columbus, Ohio. Board Vice-President Amonte Littlejohn and Board members Robert Cavendish, John Hanna, Joseph Maslak, Ruth Plant, and Nicholas Repke visited the Sylvan Testing Center on East Main Street in Reynoldsburg, Ohio. The purpose of the visits were to acquaint the Board members with the facilities, equipment, and procedures that will be used to administer the North American Pharmacist Licensure Examination (NAPLEX), a computerized adaptive test, in March of 1997.

1:00 p.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Studio Three, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

Suzanne L. Neuber, R.Ph. (President); Amonte B. Littlejohn, R.Ph.; (Vice-President); Diane Adelman, R.Ph.; Robert Cavendish, R.Ph.; John Hanna, R.Ph.; Paul Lamping, R.Ph.; Joseph Maslak, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

The Board reviewed administrative reports and correspondence not requiring action by the Board.

1:15 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an Adjudication Hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of R.Ph. Arthur E. Sell, Sylvania. Board President Suzanne Neuber recused herself from participating in the hearing and turned the gavel over to Vice-President Amonte Littlejohn.

4:03 p.m.

The hearing was concluded. Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony presented during the hearing. The motion was seconded by Mr. Maslak and a roll call vote was conducted by Vice-President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

4:35 p.m.

RES. 97-092

The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-960322-047)

In The Matter Of:

**ARTHUR E. SELL, R.Ph.**  
6033 Elden Drive  
Sylvania, Ohio 43560  
(R.Ph. No. 03-1-06911)

INTRODUCTION

THE MATTER OF ARTHUR E. SELL CAME TO HEARING ON DECEMBER 5, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ARTHUR E. SELL WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dale Fritz, Ohio State Board of Pharmacy
- (2) Joann D. Predina, R.Ph., Ohio State Board of Pharmacy
- (3) Arthur E. Sell, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 22, 1996.
- (2) Exhibit 1A--Fourteen-page handwritten letter from Arthur Sell dated April 19, 1996.
- (3) Exhibit 1B--Pharmacist File Front Sheet of Arthur Eugene Sell, Jr. showing original date of registration as February 2, 1959, and Renewal Application for Pharmacist License, No. 03-1-06911, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Arthur E. Sell dated July 20, 1995.
- (4) Exhibit 1C--Two-page Continuance Request letter dated September 1, 1996.
- (5) Exhibit 1D--Amendment Notice dated September 11, 1996.
- (6) Exhibit 1E--Hearing Schedule letter dated September 11, 1996.
- (7) Exhibit 2--Sealed Record, Record of Sales of Exempt Narcotic Preparations dated from September 4, 1992, to September 7, 1992.
- (8) Exhibit 2A--Sealed Record, Record of Sales of Exempt Narcotic Preparations dated from September 7, 1992, to September 9, 1992.
- (9) Exhibit 2B--Sealed Record, Record of Exempt Narcotics Sold dated from January 13, 1993, to January 17, 1993.
- (10) Exhibit 2C--Sealed Record, Record of Exempt Narcotics Sold dated from January 17, 1993, to January 19, 1993.
- (11) Exhibit 2D--Sealed Record, Record of Exempt Narcotics Sold dated from January 29, 1993, to January 31, 1993.
- (12) Exhibit 2E--Sealed Record, Record of Exempt Narcotics Sold dated from March 26, 1993, to March 28, 1993.
- (13) Exhibit 2F--Sealed Record, Record of Exempt Narcotics Sold dated from March 28, 1993, to March 30, 1993.
- (14) Exhibit 2G--Sealed Record, Record of Exempt Narcotics Sold dated from April 15, 1993, to April 17, 1993.
- (15) Exhibit 2H--Sealed Record, Record of Exempt Narcotics Sold dated from April 17, 1993, to April 18, 1993.
- (16) Exhibit 2J--Sealed Record, Record of Exempt Narcotics Sold dated from April 18, 1993, to April 20, 1993.
- (17) Exhibit 2K--Sealed Record, Record of Exempt Narcotics Sold dated from April 23, 1993, to April 24, 1993.
- (18) Exhibit 2L--Sealed Record, Record of Exempt Narcotics Sold dated from April 25, 1993, to April 26, 1993.
- (19) Exhibit 2M--Sealed Record, Record of Exempt Narcotics Sold dated from May 1, 1993, to May 2, 1993.
- (20) Exhibit 2N--Sealed Record, Record of Exempt Narcotics Sold dated from May 3, 1993, to May 5, 1993.
- (21) Exhibit 2O--Sealed Record, Record of Exempt Narcotics Sold dated from May 5, 1993, to May 8, 1993.
- (22) Exhibit 2P--Sealed Record, Record of Exempt Narcotics Sold dated from May 8, 1993, to May 9, 1993.
- (23) Exhibit 2Q--Sealed Record, Record of Exempt Narcotics Sold dated from May 13, 1993, to May 15, 1993.
- (24) Exhibit 2R--Sealed Record, Record of Exempt Narcotics Sold dated from May 15, 1993, to May 17, 1993.
- (25) Exhibit 2S--Sealed Record, Record of Exempt Narcotics Sold dated from May 21, 1993, to May 22, 1993.
- (26) Exhibit 2T--Sealed Record, Record of Exempt Narcotics Sold dated from May 22, 1993, to May 24, 1993.
- (27) Exhibit 2U--Sealed Record, Record of Exempt Narcotics Sold dated from May 27, 1993, to May 29, 1993.
- (28) Exhibit 2V--Sealed Record, Record of Exempt Narcotics Sold dated from May 29, 1993, to May 30, 1993.
- (29) Exhibit 3--Five-page Ohio State Board of Pharmacy Statement Form completed by Art Sell signed and notarized on March 18, 1994.
- (30) Exhibit 4--Sealed Record, Samuels Products Exempt Narcotics Register of Orchard Drug dated from June 24, 1991, to December 8, 1992.

- (31) Exhibit 4A--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from December 9, 1992, to February 28, 1993.
- (32) Exhibit 4B--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from February 28, 1993, to May 1, 1993.
- (33) Exhibit 4C--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from May 1, 1993, to June 22, 1993.
- (34) Exhibit 4D--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from June 22, 1993, to August 22, 1993.
- (35) Exhibit 4E--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from August 22, 1993, to October 16, 1993.
- (36) Exhibit 4F--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from October 16, 1993, to January 16, 1994.
- (37) Exhibit 4G--Sealed Record, Drug Package, Inc. Narcotic & Poison Register of Orchard Drug dated from January 16, 1994, to March 15, 1994.
- (38) Exhibit 5--Patient Key for Arthur E. Sell's Exempt Narcotic Sales at Orchard Drugs.

Respondent's Exhibits:

- (1) Exhibit A--Letter from R. M. Kendrick, D.O. dated November 27, 1996.

FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board indicate that Arthur E. Sell was originally licensed in the state of Ohio on February 2, 1959, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Arthur E. Sell did, on or about the following dates, sell, under the exemptions of Section 3719.15 of the Ohio Revised Code to the same person (on each occasion) preparations included within Section 3719.15, when he knew or by reasonable diligence could have ascertained that the sale provided the recipient with more than one such preparation within a forty-eight consecutive hour period:

<u>Date</u>	<u>Patient No.</u>	<u>Drug</u>
09/08/92	111	Cheracol
01/17/93	127	Cheracol
01/31/93	127	Cheracol
03/28/93	127	Cheracol
03/29/93	45	Cheracol
04/18/93	80	Guiatuss AC
04/18/93	127	Cheracol
04/19/93	139	Novadyne
04/25/93	80	Guiatuss AC
05/09/93	80	Guiatuss AC
05/16/93	80	Guiatuss AC
05/23/93	80	Guiatuss AC
05/23/93	127	Cheracol
05/30/93	127	Cheracol

Such conduct is in violation of Section 3719.16 of the Ohio Revised Code.

- (3) Arthur E. Sell did, from May 1, 1993, through October 25, 1993, knowingly sell a controlled substance in an amount exceeding the minimum bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 6 preparations of exempt narcotics to patient #13 when the patient received a total of 53 preparations from the pharmacy over a 301-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
05/01/93	Cheracol
05/03/93	Cheracol
06/06/93	Cheracol
07/18/93	Cheracol
08/15/93	Cheracol
10/25/93	Novadyne DH

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (4) Arthur E. Sell did, from January 11, 1993, through November 7, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 14 preparations of exempt narcotics to patient #139 when the patient received a total of 149 preparations from the pharmacy over a 351-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
01/11/93	Novadyne
02/22/93	Novadyne
03/01/93	Novadyne
03/29/93	Novadyne
04/19/93	Novadyne
05/30/93	Novadyne
07/22/93	Novadyne
08/23/93	Novadyne
10/10/93	Novadyne
10/18/93	Novadyne
10/24/93	Novadyne
11/01/93	Novadyne
11/05/93	Novadyne
11/07/93	Novadyne

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (5) Arthur E. Sell did, from March 28, 1993, through August 22, 1993, knowingly sell a controlled substance in an amount equal to or exceeding the minimum bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 6 preparations of exempt narcotics to patient #20 when the patient received a total of 23 preparations from the pharmacy over a 324-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
03/28/93	Guiatussin
04/09/93	Guiatuss AC
04/26/93	Guiatuss AC
05/16/93	Guiatuss AC
07/02/93	Guiatuss AC
08/22/93	Guiatuss AC

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (6) Arthur E. Sell did, from January 17, 1993, through March 29, 1993, knowingly sell a controlled substance in an amount equal to or exceeding the minimum bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 4 preparations of exempt narcotics to patient #45

when the patient received a total of 29 preparations from the pharmacy over a 107-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
01/17/93	Cheracol
03/21/93	Cheracol
03/28/93	Cheracol
03/29/93	Cheracol

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (7) Arthur E. Sell did, from March 28, 1993, through November 14, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 13 preparations of exempt narcotics to patient #61 when the patient received a total of 76 preparations from the pharmacy over a 317-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
03/28/93	Cheracol
04/11/93	Cheracol
05/23/93	Cheracol
06/13/93	Cheracol
06/20/93	Cheracol
07/18/93	Cheracol
07/22/93	Cheracol
08/01/93	Cheracol
08/15/93	Cheracol
10/17/93	Cheracol
10/24/93	Cheracol
11/07/93	Cheracol
11/14/93	Cheracol

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (8) Arthur E. Sell did, from November 7, 1991, through October 31, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 50 preparations of exempt narcotics to patient #66 when the patient received a total of 206 preparations from the pharmacy over a 800-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
11/07/91	Novadyne Expectorant
02/12/92	Novadyne Expectorant
03/12/92	Novadyne Expectorant
03/18/92	Novadyne Expectorant
03/25/92	Novadyne Expectorant
04/30/92	Novadyne Expectorant
05/06/92	Novadyne Expectorant
06/17/92	Novadyne Expectorant
06/26/92	Novadyne Expectorant
07/02/92	Novadyne Expectorant
08/13/92	Novadyne Expectorant
09/17/92	Novadyne Expectorant
10/01/92	Novadyne Expectorant
10/09/92	Novadyne Expectorant
10/20/92	Novadyne Expectorant

10/22/92	Novadyne Expectorant
10/28/92	Novadyne Expectorant
11/01/92	Novadyne Expectorant
11/03/92	Novadyne Expectorant
11/09/92	Novadyne Expectorant
11/11/92	Novadyne Expectorant
11/13/92	Novadyne Expectorant
11/15/92	Novadyne Expectorant
11/19/92	Novadyne Expectorant
11/25/92	Novadyne Expectorant
11/27/92	Novadyne Expectorant
12/01/92	Novadyne Expectorant
01/03/93	Novadyne Expectorant
02/05/93	Novadyne Expectorant
02/19/93	Novadyne Expectorant
02/21/93	Novadyne Expectorant
02/26/93	Novadyne Expectorant
02/28/93	Novadyne Expectorant
03/14/93	Novadyne Expectorant
03/26/93	Novadyne Expectorant
03/28/93	Novadyne Expectorant
04/25/93	Novadyne Expectorant
05/03/93	Novadyne Expectorant
05/21/93	Novadyne Expectorant
05/23/93	Novadyne Expectorant
06/06/93	Novadyne Expectorant
06/20/93	Novadyne Expectorant
07/25/93	Novadyne Expectorant
08/08/93	Novadyne Expectorant
08/22/93	Novadyne Expectorant
09/19/93	Novadyne Expectorant
10/03/93	Novadyne Expectorant
10/11/93	Novadyne Expectorant
10/17/93	Novadyne DH
10/31/93	Novadyne DH

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (9) Arthur E. Sell did, from October 12, 1992, through May 30, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 15 preparations of exempt narcotics to patient #79 when the patient received a total of 71 preparations from the pharmacy over a 259-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
10/12/92	Guiatuss AC
10/28/92	Guiatuss AC
11/06/92	Guiatuss AC
12/01/92	Guiatuss AC
12/07/92	Guiatuss AC
12/20/92	Guiatuss AC
01/17/93	Guiatuss AC
01/24/93	Guiatuss AC
01/31/93	Guiatuss AC
02/28/93	Guiatuss AC
03/14/93	Guiatuss AC
04/11/93	Guiatuss AC
04/30/93	Guiatuss AC
05/28/93	Guiatuss AC

05/30/93

Guiatuss AC

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (10) Arthur E. Sell did, from April 18, 1993, through November 7, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 11 preparations of exempt narcotics to patient #80 when the patient received a total of 108 preparations from the pharmacy over a 429-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
04/18/93	Guiatuss AC
04/25/93	Guiatuss AC
05/08/93	Guiatuss AC
05/09/93	Guiatuss AC
05/16/93	Guiatuss AC
05/23/93	Guiatuss AC
07/22/93	Guiatuss AC
09/19/93	Guiatuss AC
10/03/93	Guiatuss AC
10/24/93	Guiatuss AC
11/07/93	Guiatuss AC

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (11) Arthur E. Sell did, from December 3, 1991, through November 14, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 45 preparations of exempt narcotics to patient #99 when the patient received a total of 170 preparations from the pharmacy over a 856-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
12/03/91	Cheracol
12/10/91	Cheracol
01/02/92	Cheracol
02/18/92	Cheracol
03/03/92	Cheracol
03/19/92	Cheracol
03/31/92	Cheracol
04/07/92	Cheracol
04/14/92	Cheracol
04/22/92	Cheracol
05/05/92	Cheracol
05/19/92	Cheracol
05/26/92	Cheracol
06/02/92	Cheracol
06/09/92	Cheracol
06/16/92	Cheracol
06/24/92	Cheracol
07/01/92	Cheracol
07/27/92	Cheracol
08/16/92	Cheracol
08/18/92	Cheracol
08/26/92	Cheracol
09/03/92	Cheracol
09/08/92	Cheracol

09/10/92	Cheracol
09/15/92	Cheracol
09/24/92	Cheracol
09/30/92	Cheracol
10/06/92	Cheracol
11/06/92	Cheracol
11/12/92	Cheracol
11/19/92	Cheracol
11/24/92	Cheracol
12/02/92	Cheracol
03/21/93	Cheracol
04/12/93	Cheracol
05/09/93	Cheracol
05/23/93	Cheracol
06/20/93	Cheracol
07/04/93	Cheracol
08/01/93	Cheracol
08/15/93	Cheracol
08/22/93	Cheracol
10/17/93	Cheracol
11/14/93	Cheracol

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (12) Arthur E. Sell did, from December 3, 1991, through March 6, 1994, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 38 preparations of exempt narcotics to patient #111 when the patient received a total of 199 preparations from the pharmacy over a 965-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
12/03/91	Cheracol
01/16/92	Cheracol
04/29/92	Cheracol
06/26/92	Cheracol
07/08/92	Cheracol
07/26/92	Cheracol
07/30/92	Cheracol
08/19/92	Cheracol
09/08/92	Cheracol
09/15/92	Cheracol
09/22/92	Cheracol
10/06/92	Cheracol
10/08/92	Cheracol
11/11/92	Cheracol
11/13/92	Cheracol
01/03/93	Cheracol
01/10/93	Cheracol
01/17/93	Cheracol
01/24/93	Cheracol
02/07/93	Cheracol
03/07/93	Cheracol
04/11/93	Cheracol
04/18/93	Cheracol
05/02/93	Cheracol
05/23/93	Cheracol
06/06/93	Cheracol
06/20/93	Cheracol
08/01/93	Cheracol

08/08/93	Cheracol
08/15/93	Cheracol
08/22/93	Cheracol
10/03/93	Cheracol
10/24/93	Cheracol
11/07/93	Cheracol
11/14/93	Cheracol
01/30/94	Cheracol
02/20/94	Cheracol
03/06/94	Cheracol

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (13) Arthur E. Sell did, from March 1, 1993, through July 25, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 9 preparations of exempt narcotics to patient #117 when the patient received a total of 36 preparations from the pharmacy over a 227-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
03/01/93	Novahistine DH
03/22/93	Novahistine DH
04/02/93	Novahistine DH
04/05/93	Novahistine DH
04/19/93	Novahistine DH
04/24/93	Novahistine DH
05/10/93	Novahistine DH
07/19/93	Novahistine DH
07/25/93	Novahistine DH

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

- (14) Arthur E. Sell did, from January 6, 1993, through June 6, 1993, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Arthur E. Sell sold 13 preparations of exempt narcotics to patient #127 when the patient received a total of 79 preparations from the pharmacy over a 177-day time period and not for a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>
01/06/93	Cheracol
01/17/93	Cheracol
01/31/93	Cheracol
02/21/93	Cheracol
03/14/93	Cheracol
03/28/93	Cheracol
04/11/93	Cheracol
04/18/93	Cheracol
05/02/93	Cheracol
05/16/93	Cheracol
05/23/93	Cheracol
05/30/93	Cheracol
06/06/93	Cheracol

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code as was in effect prior to July 1, 1996.

## CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (14) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) 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 (14) 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. or 3719. 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 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 identification card, No. 03-1-06911, of Arthur E. Sell.

Further, the Board stays the suspension and places Arthur E. Sell on probation for five years, effective as of the mailing of this Order. The terms of probation are as follows:

- (A) Arthur E. Sell must take and successfully complete, prior to July 31, 1997, the Jurisprudence Examination offered by the Board. If Arthur E. Sell has not successfully completed the examination prior to July 31, 1997, his license will be suspended until this condition has been achieved. Division (B) of Section 4729.16 of the Ohio Revised Code provides: "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.
- (B) Arthur E. Sell may not sell over-the-counter Schedule V controlled substances.
- (C) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Arthur E. Sell's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (D) Arthur E. Sell may not serve as a responsible pharmacist.
- (E) Arthur E. Sell must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (F) Arthur E. Sell must abide by the rules of the Ohio State Board of Pharmacy.
- (G) Arthur E. Sell must comply with the terms of this Order.

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.

The motion was seconded by Mr. Repke and approved by the Board (Aye-7/Nay-0).

4:40 p.m. The Board recessed until Friday, December 6, 1996 at 8:00 a.m.

FRIDAY, DECEMBER 6, 1996

8:00 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Studio Three, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

Suzanne L. Neuber, R.Ph. (President); Amonte B. Littlejohn, R.Ph.; (Vice-President); Diane Adelman, R.Ph.; Robert Cavendish, R.Ph.; Paul Lamping, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

*RES. 97-093* Mr. Winsley reported that the following candidates for licensure by examination successfully passed the jurisprudence examination on Monday afternoon, December 2, 1996 and have been issued their licenses to practice pharmacy in Ohio:

Michael J. Drexler; Canal Fulton, OH	03-3-22024
Mery Frances Gooden; Cincinnati, OH	03-3-21996
Ronald Lance Miller; Columbus, OH	03-3-22030
Cindy Mary Peh; Bellbrook, OH	03-3-22053
Cassandra Grace Read; Westerville, OH	03-3-22014
Vasavi T. Reddy; West Chester, OH	03-3-21609

*RES. 97-094* Tim Benedict submitted the following request for a waiver pursuant to paragraph (A) of Ohio Administrative Code Rule 4729-5-11:

Daniel M. Scott, R.Ph.  
Riverside Hospital Pharmacy (02-0036900)  
Riverside Home Care Services (02-0713900)

Following discussion, Mr. Lamping moved that R.Ph. Scott be granted the waiver for one year. The motion was seconded by Mr. Cavendish and approved (Aye-6/Nay-0).

8:30 a.m.

Board member Joseph Maslak arrived and joined the meeting. The Board reviewed correspondence and administrative reports.

8:45 a.m.

Board member John Hanna arrived and joined the meeting. Mr. Cavendish moved that the Board go into Executive Session for the purpose of discussing the investigation of complaints and charges against licensees and registrants of the Board. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

9:15 a.m.

The Executive Session was concluded and the meeting opened to the public. The Board recessed for ten minutes.

9:35 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to the provisions of Ohio Revised Code Chapters 119. and 4729. in the matter of R.Ph. Emil Dontenville, Strongsville, Ohio.

10:14 a.m.

The hearing was concluded and Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received in the hearing. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.

10:35 a.m.

RES. 97-095

The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-960911-013)

In The Matter Of:

**EMIL DONTENVILLE, R.Ph.**  
20573 White Bark  
Strongsville, Ohio 44136  
(R.Ph. No. 03-3-14448)

INTRODUCTION

THE MATTER OF EMIL DONTENVILLE CAME TO HEARING ON DECEMBER 6, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

EMIL DONTENVILLE WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

(1) Emil Dontenville, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Eight-page Order of the State Board of Pharmacy, Docket No. D-941213-028, in the matter of Emil Dontenville dated December 8, 1995.
- (2) Exhibit 1A--Hearing Request letter dated September 3, 1996.
- (3) Exhibit 1B--Two-page Hearing Schedule letter dated September 11, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Ten Urine Drug Screen Reports of Emil Dontenville dated as follows: October 12, 1996; October 5, 1996; July 19, 1996; June 12, 1996; May 30, 1996; March 17, 1996; February 26, 1996; February 1, 1995; January 18, 1995; and January 9, 1995; and two copies of urine drug screen reports of Emil Dontenville dated September 24, 1996.
- (2) Exhibit B--Seventeen pages of AA/NA Attendance Verification of Emil Dontenville dated from October 4, 1995, through November 20, 1996.
- (3) Exhibit C--Letter from David F. Merk dated November 19, 1996.

- (4) Exhibit D--Letter from Richard D. Armstrong dated November 21, 1996.
- (5) Exhibit E--Letter from Richard D. Sweet, not dated.
- (6) Exhibit F--Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Emil Dontenville dated January 23, 1996.
- (7) Exhibit G--Letter from Dan Finan dated November 20, 1996, and attached Clinical Science Preceptor Groups Guest Assignments for November 19, 1996, Correlation Conference.
- (8) Exhibit H--Compliance Report in the Cuyahoga County Court of Common Pleas, Probation Department regarding Emil Dontenville dated May 8, 1995; and letter from Joseph E. Feighan dated September 25, 1996.
- (9) Exhibit I--Five Certificates of Continuing Education Participation of Emil Dontenville numbered and dated as follows: 680-032-93-034 dated August 8, 1996; 679702-94-020 dated September 30, 1996; 680-202-94-031 dated October 7, 1996, 680-057-93-030 dated September 30, 1996; and 190-768-94-002 dated October 6, 1996.
- (10) Exhibit J--Copy of Urine Drug Screen Report of Emil Dontenville dated December 4, 1996.
- (11) Exhibit K--Letter from Richard D. Armstrong dated December 3, 1996.
- (12) Exhibit L--Letter from Steven B. Smith dated November 26, 1996.
- (13) Exhibit M--Letter from Angela K. Fortkamp dated December 2, 1996.
- (14) Exhibit N--Letter from Craig F. Lopatka dated November 30, 1996.
- (15) Exhibit O--Letter from Kathy Cole-Kelly and Ted Parran, Jr. dated November 26, 1996.
- (16) Exhibit P--Letter from Stefan N. Ourlian dated November 16, 1996.

#### FINDING OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Emil Dontenville is in compliance with the Order of the State Board of Pharmacy, Docket No. D-941213-028, dated December 8, 1995.

#### ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of Emil Dontenville to practice pharmacy in the state of Ohio and places him on probation for five years from the date his identification card is issued, with the following conditions:

- (A) Emil Dontenville must enter into a new contract with a limited treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Order and, upon signing, submit a copy of the contract to the Board office. The contract must provide:
  - (1) random, observed urine screens shall be conducted at least once every three months. The urine drug screens must include testing for benzodiazepines, opiates, methylphenidate, and alcohol, and must also report testing for creatinine as the dilutional standard or specific gravity;
  - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
  - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
  - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Emil Dontenville must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:

- (1) the written report and documentation provided by the treatment program pursuant to the contract, and
  - (2) a written description of his progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) Emil Dontenville must inform any and all employers of his history of addiction.
  - (2) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of Emil Dontenville is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
  - (3) Emil Dontenville may not serve as a responsible pharmacist.
  - (4) Emil Dontenville may not destroy, or may not assist in or witness the destruction of, controlled substances.
  - (5) Emil Dontenville must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
  - (6) Emil Dontenville must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (7) Emil Dontenville must abide by the rules of the Ohio State Board of Pharmacy.
  - (8) Emil Dontenville must comply with the terms of this Order.

Emil Dontenville 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.

The motion was seconded by Mr. Cavendish and approved by the Board (Aye-8/Nay-0).

**RES. 97-096** The Board then considered the requests for approval as in-state providers of continuing pharmacy education. Following consideration of the applications, Mr. Hanna, Board member responsible for continuing pharmacy education, moved that the following individuals and organizations be approved:

James H. Granecki; Toledo  
Lake Hospital System; Willoughby  
Fairview Hospital; Cleveland  
Mercy Medical Center; Springfield  
Community Hospital; Springfield

The motion was seconded by Mr. Cavendish and approved by the Board (Aye-8/Nay-0).

Mr. Cavendish moved that the Board receive Per Diem as follows:

PER DIEM	<u>10/29</u>	<u>12/2</u>	<u>12/3</u>	<u>12/4</u>	<u>12/5</u>	<u>12/6</u>	<u>Total</u>
Adelman	-	1	1	1	1	1	5
Cavendish	-	-	1	-	1	1	3
Hanna	-	1	1	1	1	1	5
Lamping	-	1	1	1	1	1	5
Littlejohn	-	1	1	1	1	1	5
Maslak	-	1	1	1	1	1	5
Neuber	-	1	1	1	1	1	5
Plant	1	1	1	1	1	1	6
Repke	-	1	1	1	1	1	5

The motion was seconded by Mrs. Plant and approved by the Board (Aye-8/Nay-0).

10:45 a.m. Mr. Repke moved that the business meeting be adjourned. The motion was seconded by Mr. Maslak and approved (Aye-8/Nay-0).

/s/ Suzanne L. Neuber  
Suzanne L. Neuber, President

/d/ 01 - 30 - 97  
Date

/s/ Franklin Z. Wickham  
Franklin Z. Wickham, Executive Director