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Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio

June 24, 25, 26, 27, 28, 1996

MONDAY, JUNE 24, 1996

10:15 a.m. ROLL CALL

The State Board of Pharmacy convened in Room 1914, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Paul F. Lamping, R.Ph. (President); Suzanne L. Neuber, R.Ph. (Vice-President); Robert Cavendish, R.Ph.; Joseph Maslak, R.Ph.; Wayne Miller, R.Ph.; and Nicholas Repke, Public Member.

Assistant Attorney General Mary Hollern; Tim Benedict, Compliance Administrator; William McMillen, Compliance Specialist; and David Rowland, Legal Affairs Administrator, joined the Board. Mr. Cavendish 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 against licensees and registrants. The motion was seconded by Mr. Miller and a Roll Call vote was conducted by President Lamping as follows: Cavendish-Yes, Maslak-Yes, Miller-Yes, Neuber-Yes, and Repke-Yes.

11:10 a.m.

Board member John Hanna arrived and joined the meeting.

11:50 a.m.

The Board recessed for lunch.

1:05 p.m.

The Board reconvened in Executive Session with Board Members Amonte Littlejohn and Ruth Plant present.

1:25 p.m.

RES. 96-233

The Executive Session was concluded and the meeting opened to the public. Mr. Miller moved that the Board authorize the Assistant Attorney General to present the Board's terms for settling the matters of R.Ph. Robert J. Sloan and The Pharm #918, Sidney, Ohio. The motion was seconded by Mr. Maslak and approved (Aye-4/Nay-1/Abstain-3).

Staff reported that the hearing scheduled for 1:00 p.m. in the matter of Gary A. Polcar, R.Ph. has been continued until a later date.

RES. 96-234

Mrs. Neuber moved that the Board withdraw the Notice of Opportunity for a Hearing in the matter of The Medicine Shoppe (02-622050), 1919 South Alex Road, West Carrollton, Ohio due to the fact that the pharmacy is no longer owned and operated by Peter Pang-Yen Sung. Mr. Sung's license to practice pharmacy in Ohio was revoked by the Board on April 29, 1996. The motion was seconded by Mr. Cavendish and approved (Aye-5/Nay-0/Abstain-3).

Mr. Cavendish moved that the Minutes of the June 11, 1996 meeting be approved. The motion was seconded by Mrs. Neuber and approved (Aye-5/Nay-0/Abstain-3).

RES. 96-235 Mr. Cavendish moved that the Board approve the following Memorandum of Understanding with the federal Drug Enforcement Administration:

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding establishes procedures and guidelines for the exchange of ARCOS/DADS data between the Drug Enforcement Administration (DEA) and the Ohio Board of Pharmacy responsible for curtailing the diversion of controlled substances.

DEA's Automation of Reports and Consolidated Orders System (ARCOS) is a comprehensive drug tracking system which monitors the flow of all Schedule II drugs and Schedule III narcotics from the point of manufacture to the point of sale or other distribution. The Diversion Analysis and Detection System (DADS), a subsystem of ARCOS, monitors direct sales from the wholesale level to retail pharmacies, hospitals/clinics, practitioners and teaching institutions, thereby providing information regarding both actual and potential diversion from licit channels of distribution. A number of recurring reports are generated routinely by the ARCOS/DADS system. In addition, special reports can be prepared at the request of individual states or regions, provided that sufficient DEA resources are available.

The exchange of ARCOS/DADS data between DEA and the Ohio Board of Pharmacy is contingent upon the following conditions:

1. The information provided remains the property of DEA.
2. No information will be released to anyone other than the Ohio Board of Pharmacy, state prosecutors and DEA. Any subsequent disclosure of information to other regulatory or enforcement agencies must be coordinated with DEA.
3. ARCOS/DADS data is an important source of investigative leads for DEA. To preclude duplication of investigative activity and unnecessary allocation of resources, all investigations of individuals or entities targeted through ARCOS/DADS data will be coordinated by the Ohio Board of Pharmacy with the local DEA office.
4. If the Ohio Board of Pharmacy wishes to obtain ARCOS/DADS data in computer tape format, it will provide blank tapes to DEA for this purpose.
5. The publication of ARCOS/DADS data other than that of a general, statistical nature requires prior permission from DEA.

This Memorandum of Understanding will become effective upon approval and signature of the appropriate DEA Special Agent in Charge or his designee, the Deputy Assistant Administrator of the Office of Diversion Control or his designee and the head official of the Ohio Board of Pharmacy or the designee. The signing of this memorandum is voluntary and any party may withdraw from this agreement by giving 30 days notice to all other parties. DEA reserves the right to discontinue the exchange of data to the Ohio Board of Pharmacy if the provisions of this agreement are not adhered to. DEA may reconsider the furnishing of data in such instances, however, upon receipt of satisfactory assurances that the provisions will be adhered to.

The spirit of this Memorandum of Understanding reflects the realization that drug data must be exchanged freely and in a professional manner. All parties recognize the sensitivity of the information exchanged and will take all possible precautions to ensure that the security of the information is not compromised.

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

Board member Joseph Maslak left for personal business reasons. Mr. Benedict discussed possible legislation concerning the Controlled Substance Schedules in regards to "Rohypnol". Following discussion, the Board members agreed to address the scheduling of carisprodol and butorphanol in such legislation.

RES. 96-236 Board member Joseph Maslak returned and joined the meeting. Mrs. Neuber moved that the Board approve Prince Edward Island Board of Pharmacy's petition for membership in the National Association of Boards of Pharmacy. The motion was seconded by Mr. Maslak and approved (Aye-8/Nay-0).

RES. 96-237 Mrs. Plant moved that the Board authorize the Compliance Administrator to attend the Twelfth Annual National Association of State Controlled Substance Authorities Conference October 29 through November 2, 1996 and that he be reimbursed for all expenses pursuant to state law and rules adopted by the Office of Budget and Management. Mr. Miller seconded the motion and it was approved (Aye-8/Nay-0).

2:55 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of creating a record pursuant to Revised Code Chapters 119. and 4729. in the matter of Medicine Shoppe (02-607300), 542 Wilmington Avenue, Dayton, Ohio pursuant to Chapters 119. and 4729. of the Revised Code.

3:00 p.m.

All evidence and testimony having been entered into the record, the record was closed.

3:05 p.m.

The Board then opened a record pursuant to Revised Code Chapters 119. and 4729. in the matter of Nature's Sunshine Products; Columbus, Ohio pursuant to Chapters 119. and 4729. of the Revised Code.

3:10 p.m.

The record was closed following the introduction of exhibits and testimony.

RES. 96-238 Mr. Maslak left for personal reasons. Mrs. Plant moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960424-058)

In The Matter Of:

NATURE'S SUNSHINE PRODUCTS, INC.
c/o Roseanne Alexander
2252 Westbrooke Drive, Building K
Columbus, Ohio 43228

INTRODUCTION

THE MATTER OF NATURE'S SUNSHINE PRODUCTS, INC., CAME ON FOR CONSIDERATION ON JUNE 24, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

REPRESENTATIVES OF NATURE'S SUNSHINE PRODUCTS, INC., WERE NOT PRESENT, NOR WAS NATURE'S SUNSHINE PRODUCTS, INC., 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) Timothy J. Benedict, R.Ph., 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 April 24, 1996.
- (2) Exhibit 2--Application for Registration as a Wholesale Distributor of Dangerous Drugs of Nature's Sunshine Products, Inc., signed by Roseanne Alexander dated February 21, 1996.
- (3) Exhibit 3--Application for a Controlled Substances License of Nature's Sunshine Products, Inc., signed by David K. Shunick on February 15, 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 April 24, 1996, Nature's Sunshine Products, Inc., was notified by letter of its right to a hearing, its rights in such hearing, and its right to submit its contentions in writing.
- (2) As demonstrated by return receipt of April 25, 1996, Nature's Sunshine Products, Inc., received the letter of April 24, 1996, informing it of the allegations against it, and its rights.
- (3) Nature's Sunshine Products, Inc., has not responded in any manner to the letter of April 24, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board of Pharmacy indicate that on or about March 5, 1996, Roseanne Alexander was the responsible person for Nature's Sunshine Products, Inc., and that on that date Nature's Sunshine Products, Inc., applied for registration as a Wholesale Distributor of Dangerous Drugs and licensure as a Wholesaler of Controlled Substances.
- (5) Nature's Sunshine Products, Inc., has not furnished satisfactory proof to the Board of Pharmacy that its facility where dangerous drugs are to be stored, warehoused, handled, held, or marketed has storage areas designed to provide adequate equipment and security conditions for the dangerous drugs. Such is required by Rule 4729-9-16(C)(2) of the Ohio Administrative Code.
- (6) Nature's Sunshine Products, Inc., has not furnished satisfactory proof to the Board of Pharmacy that its facility to be used for wholesale drug distribution is secure from unauthorized entry, to wit: that entry into areas where dangerous drugs are to be held is limited to authorized personnel, as required by Rule 4729-9-16(D)(3) of the Ohio Administrative Code; that the facility is equipped with a Board-approved alarm system to detect unauthorized entry after hours, as required by Rule 4729-9-16(D)(4) of the Ohio Administrative Code; that the facility is equipped with a security system that will provide suitable protection against theft and diversion, as required by Rule 4729-9-16(D)(5) of the Ohio Administrative Code.
- (7) Nature's Sunshine Products, Inc., has not furnished satisfactory proof to the Board of Pharmacy that it will establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of dangerous drugs. Such is required by Rule 4729-9-16(H) of the Ohio Administrative Code.
- (8) Nature's Sunshine Products, Inc., has not furnished satisfactory proof to the Board of Pharmacy that its personnel employed in the wholesale distribution of dangerous drugs have appropriate education and/or experience to assume

responsibility for positions related to compliance with the licensing regulations in the state of Ohio. Such is required by Rule 4729-9-16(K) of the Ohio Administrative Code.

- (9) Nature's Sunshine Products, Inc., has not demonstrated a public need or benefit that would ensue from the wholesale distribution of the drug Ephedrine, a schedule V controlled substance, to wit: the Food and Drug Administration has recently issued warnings regarding Ephedrine use which Nature's Sunshine Products, Inc., has not addressed. Such is required by Section 3719.03(E) 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 (5) through (8) of the Findings of Fact constitute the applicant not being equipped as to land, buildings, equipment, and personnel to properly carry on the business of a wholesale distributor of dangerous drugs, including providing adequate security for and proper storage conditions and handling for dangerous drugs and is not in compliance with the requirements under Chapter 4729. of the Revised Code and the rules adopted pursuant thereto for maintaining and making available records to properly identified Board officials and federal, state, and local law enforcement agencies. Such is provided in Division (A)(3) of Section 4729.53 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (8) of the Findings of Fact constitutes not having personnel employed by the applicant with appropriate education or experience, as determined by the Board, to assume responsibility for positions related to compliance with Chapter 4729. and the rules adopted pursuant thereto. Such is provided in Division (A)(4) of Section 4729.53 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) and (6) of the Findings of Fact constitute adequate safeguards are not assured to prevent the sale of dangerous drugs to any person other than those named in Division (B) of Section 4729.51 of the Revised Code. Such is provided in Division (A)(6) of Section 4729.53 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) and (6) of the Findings of Fact constitute the applicant not being equipped as to land, buildings, and paraphernalia properly to carry on the business described in her application. Such is provided in Division (B) of Section 3719.03 of the Ohio Revised Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (9) of the Findings of Fact constitute the applicant not having satisfactorily shown that the granting of such license is in the public interest. Such is provided in Paragraph (E) of Section 3719.03 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and pursuant to the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby denies the Application for Registration as a Wholesale Distributor of Dangerous Drugs and licensure as a Wholesaler of Controlled Substances.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 96-239 Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960322-054)

In The Matter Of:

MEDICINE SHOPPE
c/o Gregory Fisher, R.Ph.
542 Wilmington Avenue
Dayton, Ohio 45420
(Terminal Distributor No. 02-607300)

INTRODUCTION

THE MATTER OF MEDICINE SHOPPE CAME ON FOR CONSIDERATION ON JUNE 24, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

REPRESENTATIVES FROM MEDICINE SHOPPE WERE NOT PRESENT, NOR WAS MEDICINE SHOPPE 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) Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated March 22, 1996.
- (2) Exhibit 1A--Application for Registration as a Terminal Distributor of Dangerous Drugs of Medicine Shoppe dated December 1, 1989, with attached copy of Certificate of Custody of Record of Incorporation and Miscellaneous Filings dated November 20, 1989, and copy of the Articles of Incorporation of Traucht Enterprises, Inc. dated November 17, 1989; Renewal Applications for DDD License, No. 02-607300, for a Terminal Distributor of Dangerous Drugs License for the years of 1991 and 1992; Application for Registration as a Terminal Distributor of Dangerous Drugs of Medicine Shoppe dated May 14, 1993, with attached copy of Certificate of Custody of Record of Incorporation and Miscellaneous Filings dated November 20, 1989, copy of the Articles of Incorporation of Traucht Enterprises, Inc. dated November 17, 1989, and copy of Original Appointment of Statutory Agent dated November 17, 1989; and Renewal Applications for DDD License, No. 02-607300, for a Terminal Distributor of Dangerous Drugs License for the years of 1993 through 1996.
- (3) Exhibit 2--Order of the State Board of Pharmacy, Docket No. D-941223-029, in the matter of Richard L. Jarvis dated March 15, 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 March 22, 1996, Medicine Shoppe was notified by letter of its right to a hearing, its rights in such hearing, and its right to submit its contentions in writing.
- (2) As demonstrated by return receipt of March 25, 1996, Medicine Shoppe received the letter of March 22, 1996, informing it of the allegations against it, and its rights.
- (3) Medicine Shoppe has not responded in any manner to the letter of March 22, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board of Pharmacy indicate that Gregory Fisher is the Responsible Pharmacist at Medicine Shoppe pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (5) Medicine Shoppe did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Medicine Shoppe owner and Responsible Pharmacist during the relevant time periods, Richard L. Jarvis, forged the following prescriptions to cover for the controlled substances he was giving his wife without prescriptions from a practitioner, and the pharmacy subsequently possessed them in its files:

<u>Date</u>	<u>Rx No.</u>	<u>Refills</u>	<u>Drug</u>	<u>Quantity</u>	<u>Doctor</u>
04/14/92	3209347	5	Fiorinal	30	Scholl
09/03/92	3214033	5	Fiorinal	30	Scholl
06/12/92	4211374	5	Halcion .25mg	30	Scholl
10/02/92	4214983	5	Halcion .25mg	30	Scholl
11/28/92	4216843	5	Restoril 30mg	60	Scholl
12/15/92	4217438	5	Tranxene 3.75mg	50	Thuney
08/20/92	5213590	5	Lomanate	40	Scholl

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (6) Medicine Shoppe did, on or about the following dates, knowingly sell a controlled substance in amounts less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Medicine Shoppe owner and Responsible Pharmacist during the relevant time periods, Richard L. Jarvis, gave the following controlled substances in the following amounts to his wife without legitimate prescriptions issued by practitioners:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Doctor</u>
04/14/92	3209347	Fiorinal	30	Scholl
06/10/92	3209347	Fiorinal	30	Scholl
07/08/92	3209347	Fiorinal	30	Scholl
07/31/92	3209347	Fiorinal	30	Scholl
08/19/92	3209347	Fiorinal	30	Scholl
09/03/92	3214033	Fiorinal	30	Scholl
12/15/92	4217438	Tranxene 3.75mg	50	Thuney
01/19/93	4217438	Tranxene 3.75mg	50	Thuney
08/20/92	5213590	Lomanate	40	Scholl
09/01/92	5213590	Lomanate	40	Scholl
09/08/92	5213590	Lomanate	40	Scholl
10/08/92	5213590	Lomanate	40	Scholl
11/19/92	5213590	Lomanate	40	Scholl
12/01/92	5213590	Lomanate	40	Scholl

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (7) Medicine Shoppe did, on or about the following dates, knowingly sell a controlled substance in amounts 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. and 4729. of the Ohio Revised Code, to wit: Richard L. Jarvis gave the following controlled substances in the following amounts to his wife, Jane Jarvis, when there had been no legitimate prescriptions issued by practitioners:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Doctor</u>
06/12/92	4211374	Halcion .25mg	30	Scholl
07/10/92	4211374	Halcion .25mg	30	Scholl
07/28/92	4211374	Halcion .25mg	30	Scholl
08/10/92	4211374	Halcion .25mg	30	Scholl
09/01/92	4211374	Halcion .25mg	30	Scholl
09/15/92	4211374	Halcion .25mg	30	Scholl
10/02/92	4214983	Halcion .25mg	30	Scholl
11/14/92	4214983	Halcion .25mg	30	Scholl
12/20/92	4214983	Halcion .25mg	30	Scholl
11/28/92	4216843	Restoril 30mg	60	Scholl
01/11/93	4216843	Restoril 30mg	60	Scholl
02/08/93	4216843	Restoril 30mg	60	Scholl
03/03/93	4216843	Restoril 30mg	60	Scholl
03/27/93	4216843	Restoril 30mg	60	Scholl

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (8) Medicine Shoppe did, on or about the following dates, knowingly sell a controlled substance in amounts 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. and 4729. of the Ohio Revised Code, to wit: Richard L. Jarvis sold the following controlled substances in the following amounts when there had been no legitimate prescriptions issued by practitioners, totaling 30,950 units of Vicodin ES, 19,750 units of Hydrocodone 5mg/APAP 500mg, 600 units of Percodan, and 450 Percocet (along with an undetermined amount of Soma, a dangerous drug) to the same individual in 1994:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Doctor</u>
01/05/94	3231021	Hydrocodone	150	Brammer
01/05/94	3231022	Hydrocodone	150	Brammer
01/07/94	3231021	Hydrocodone	150	Brammer
01/07/94	3231022	Vicodin ES	150	Brammer
01/11/94	3231021	Hydrocodone	150	Brammer
01/11/94	3231022	Vicodin ES	150	Brammer
01/14/94	3231021	Hydrocodone	150	Brammer
01/14/94	3231022	Vicodin ES	150	Brammer
01/17/94	2231438	Percodan	150	Brammer
01/17/94	3231436	Hydrocodone	150	Brammer
01/22/94	3231022	Vicodin ES	150	Brammer
01/22/94	3231436	Hydrocodone	150	Brammer
01/25/94	3231436	Hydrocodone	150	Brammer
01/25/94	3231695	Vicodin ES	150	Brammer
01/28/94	3231436	Hydrocodone	150	Brammer
01/28/94	3231695	Vicodin ES	150	Brammer
01/31/94	3231695	Vicodin ES	150	Brammer
02/02/94	3231436	Hydrocodone	150	Brammer
02/02/94	3231695	Vicodin ES	150	Brammer
02/04/94	3231436	Hydrocodone	150	Brammer
02/04/94	3232078	Vicodin ES	150	Brammer
02/14/94	3232078	Vicodin ES	150	Brammer
02/14/94	3232370	Hydrocodone	150	Brammer
02/17/94	3232078	Vicodin ES	150	Brammer
02/19/94	3232078	Vicodin ES	150	Brammer
02/19/94	3232370	Hydrocodone	150	Brammer
02/22/94	3232078	Vicodin ES	150	Brammer
02/22/94	3232370	Hydrocodone	150	Brammer
02/24/94	3232078	Vicodin ES	150	Brammer
02/24/94	3232370	Hydrocodone	150	Brammer

02/26/94	3232937	Vicodin ES	150	Brammer
02/26/94	3232939	Hydrocodone	200	Brammer
03/01/94	3233927	Vicodin ES	150	Brammer
03/04/94	3232937	Vicodin ES	150	Brammer
03/04/94	3232939	Hydrocodone	200	Brammer
03/07/94	3232937	Vicodin ES	150	Brammer
03/10/94	3232937	Vicodin ES	150	Brammer
03/10/94	3232939	Hydrocodone	200	Brammer
03/12/94	3233523	Hydrocodone	200	Brammer
03/12/94	3233524	Vicodin ES	150	Brammer
03/15/94	3233524	Vicodin ES	150	Brammer
03/17/94	3233524	Vicodin ES	150	Brammer
03/18/94	3233523	Hydrocodone	200	Brammer
03/18/94	3233524	Vicodin ES	150	Brammer
03/21/94	3233523	Hydrocodone	200	Brammer
03/21/94	3233524	Vicodin ES	150	Brammer
03/24/94	3232937	Vicodin ES	150	Brammer
03/24/94	3233523	Hydrocodone	200	Brammer
03/26/94	3233524	Vicodin ES	150	Brammer
03/28/94	3233523	Hydrocodone	200	Brammer
03/28/94	3234090	Vicodin ES	150	Brammer
03/30/94	3234237	Vicodin ES	200	Brammer
03/30/94	3234238	Hydrocodone	200	Brammer
04/01/94	3234237	Vicodin ES	200	Brammer
04/01/94	3234238	Hydrocodone	200	Brammer
04/02/94	3234237	Vicodin ES	200	Brammer
04/12/94	3234237	Vicodin ES	200	Brammer
04/12/94	3234238	Hydrocodone	200	Brammer
04/14/94	3234237	Vicodin ES	200	Brammer
04/14/94	3234238	Hydrocodone	200	Brammer
04/16/94	3234237	Vicodin ES	200	Brammer
04/16/94	3234238	Hydrocodone	200	Brammer
04/18/94	3234894	Vicodin ES	200	Brammer
04/18/94	3234895	Hydrocodone	200	Brammer
04/20/94	3234894	Vicodin ES	200	Brammer
04/22/94	3234894	Vicodin ES	200	Brammer
04/22/94	3234895	Hydrocodone	200	Brammer
04/25/94	3234894	Vicodin ES	200	Brammer
04/25/94	3234895	Hydrocodone	200	Brammer
04/27/94	3234894	Vicodin ES	200	Brammer
04/27/94	3234895	Hydrocodone	200	Brammer
04/29/94	3234894	Vicodin ES	200	Brammer
04/29/94	3234895	Hydrocodone	200	Brammer
05/02/94	3234895	Hydrocodone	200	Brammer
05/02/94	3235412	Vicodin ES	200	Brammer
05/05/94	3235554	Hydrocodone	200	Brammer
05/05/94	3235555	Vicodin ES	200	Brammer
05/07/94	3235554	Hydrocodone	200	Brammer
05/07/94	3235555	Vicodin ES	200	Brammer
05/09/94	3235554	Hydrocodone	200	Brammer
05/09/94	3235555	Vicodin ES	200	Brammer
05/11/94	3235554	Hydrocodone	200	Brammer
05/11/94	3235555	Vicodin ES	200	Brammer
05/13/94	3235555	Vicodin ES	200	Brammer
05/16/94	3235554	Hydrocodone	200	Brammer
05/16/94	3235555	Vicodin ES	200	Brammer
05/19/94	3236119	Hydrocodone	200	Brammer
05/19/94	3236120	Vicodin ES	250	Brammer
05/21/94	3236119	Hydrocodone	200	Brammer
05/21/94	3236120	Vicodin ES	250	Brammer
05/23/94	3236119	Hydrocodone	200	Brammer
05/23/94	3236120	Vicodin ES	250	Brammer
05/26/94	3236119	Hydrocodone	200	Brammer
05/26/94	3236120	Vicodin ES	250	Brammer
05/28/94	3236119	Hydrocodone	200	Brammer

05/28/94	3236120	Vicodin ES	250	Brammer
05/31/94	3236119	Hydrocodone	200	Brammer
05/31/94	3236120	Vicodin ES	250	Brammer
06/03/94	3236746	Vicodin ES	250	Brammer
06/03/94	3236748	Hydrocodone	200	Brammer
06/06/94	3236746	Vicodin ES	250	Brammer
06/06/94	3236748	Hydrocodone	200	Brammer
06/08/94	2326746	Vicodin ES	250	Brammer
06/10/94	2326748	Hydrocodone	200	Brammer
06/10/94	3236746	Vicodin ES	250	Brammer
06/13/94	3236746	Vicodin ES	250	Brammer
06/13/94	3236748	Hydrocodone	200	Brammer
06/16/94	3236746	Vicodin ES	250	Brammer
06/16/94	3236748	Hydrocodone	200	Brammer
06/18/94	3236748	Hydrocodone	200	Brammer
06/18/94	3237293	Vicodin ES	250	Brammer
06/20/94	3237331	Hydrocodone	200	Brammer
06/20/94	3237332	Vicodin ES	250	Brammer
06/22/94	3237331	Hydrocodone	200	Brammer
06/22/94	3237332	Vicodin ES	250	Brammer
06/27/94	3237331	Hydrocodone	200	Brammer
06/27/94	3237332	Vicodin ES	250	Brammer
06/30/94	3237331	Hydrocodone	200	Brammer
06/30/94	3237332	Vicodin ES	250	Brammer
07/02/94	3237331	Hydrocodone	200	Brammer
07/02/94	3237332	Vicodin ES	250	Brammer
07/05/94	2237855	Percodan	200	Brammer
07/05/94	3237331	Hydrocodone	200	Brammer
07/05/94	3237852	Vicodin ES	250	Brammer
07/07/94	3237852	Vicodin ES	250	Brammer
07/07/94	3237940	Hydrocodone	200	Brammer
07/09/94	3237852	Vicodin ES	250	Brammer
07/11/94	3237852	Vicodin ES	250	Brammer
07/11/94	3237940	Hydrocodone	200	Brammer
07/13/94	3237852	Vicodin ES	250	Brammer
07/15/94	3237852	Vicodin ES	250	Brammer
07/15/94	3237940	Hydrocodone	200	Brammer
07/18/94	3238285	Vicodin ES	300	Brammer
07/18/94	3238286	Hydrocodone	150	Brammer
07/20/94	3238285	Vicodin ES	300	Brammer
07/20/94	3238286	Hydrocodone	150	Brammer
07/22/94	3238285	Vicodin ES	300	Brammer
07/22/94	3238286	Hydrocodone	150	Brammer
07/25/94	3238285	Vicodin ES	300	Brammer
07/25/94	3238286	Hydrocodone	150	Brammer
07/27/94	3238285	Vicodin ES	300	Brammer
07/27/94	3238286	Hydrocodone	150	Brammer
07/29/94	3238285	Vicodin ES	300	Brammer
07/29/94	3238286	Hydrocodone	150	Brammer
08/01/94	3238789	Vicodin ES	300	Brammer
08/01/94	3238790	Hydrocodone	150	Brammer
08/03/94	3238789	Vicodin ES	300	Brammer
08/03/94	3238790	Hydrocodone	150	Brammer
08/04/94	2238945	Percocet	200	Brammer
08/05/94	3238789	Vicodin ES	300	Brammer
08/05/94	3238790	Hydrocodone	150	Brammer
08/08/94	3238789	Vicodin ES	300	Brammer
08/08/94	3238790	Hydrocodone	150	Brammer
08/11/94	3238789	Vicodin ES	300	Brammer
08/11/94	3238790	Hydrocodone	150	Brammer
08/13/94	3238789	Vicodin ES	300	Brammer
08/15/94	3238790	Hydrocodone	150	Brammer
08/15/94	3239281	Vicodin ES	300	Brammer
08/17/94	3239281	Vicodin ES	300	Brammer
08/17/94	3239413	Hydrocodone	150	Brammer

08/19/94	3239281	Vicodin ES	300	Brammer
08/19/94	3239413	Hydrocodone	150	Brammer
08/22/94	3239281	Vicodin ES	300	Brammer
08/22/94	3239413	Hydrocodone	150	Brammer
08/24/94	3239281	Vicodin ES	300	Brammer
08/24/94	3239413	Hydrocodone	150	Brammer
08/26/94	3239281	Vicodin ES	300	Brammer
08/26/94	3239413	Hydrocodone	150	Brammer
08/29/94	3239413	Hydrocodone	150	Brammer
08/29/94	3239915	Vicodin ES	300	Brammer
08/31/94	3239915	Vicodin ES	300	Brammer
08/31/94	3240025	Hydrocodone	150	Gilliotte
09/02/94	3239915	Vicodin ES	300	Brammer
09/02/94	3240025	Hydrocodone	150	Gilliotte
09/06/94	3239915	Vicodin ES	300	Brammer
09/06/94	3240025	Hydrocodone	150	Gilliotte
09/08/94	3239915	Vicodin ES	300	Brammer
09/08/94	3240025	Hydrocodone	150	Gilliotte
09/10/94	3239915	Vicodin ES	300	Brammer
09/10/94	3240025	Hydrocodone	150	Gilliotte
09/12/94	3240417	Hydrocodone	100	Brammer
09/12/94	3240418	Vicodin ES	300	Brammer
09/14/94	3240025	Hydrocodone	150	Gilliotte
09/14/94	3240418	Vicodin ES	300	Brammer
09/16/94	3240642	Vicodin ES	300	Brammer
09/16/94	3240643	Hydrocodone	150	Gilliotte
09/19/94	3240642	Vicodin ES	300	Brammer
09/19/94	3240643	Hydrocodone	150	Gilliotte
09/21/94	3240642	Vicodin ES	300	Brammer
09/21/94	3240643	Hydrocodone	150	Gilliotte
09/23/94	3240642	Vicodin ES	300	Brammer
09/23/94	3240643	Hydrocodone	150	Gilliotte
09/26/94	3240642	Vicodin ES	300	Brammer
09/26/94	3240643	Hydrocodone	150	Gilliotte
09/28/94	3240642	Vicodin ES	300	Brammer
09/28/94	3240643	Hydrocodone	150	Gilliotte
09/30/94	2241215	Percodan	250	Brammer
09/30/94	3241214	Vicodin ES	300	Brammer
10/03/94	3241214	Vicodin ES	300	Brammer
10/03/94	3241284	Hydrocodone	150	Gilliotte
10/05/94	3241214	Vicodin ES	300	Brammer
10/05/94	3241284	Hydrocodone	150	Gilliotte
10/07/94	3241214	Vicodin ES	300	Brammer
10/07/94	3241284	Hydrocodone	150	Gilliotte
10/10/94	3241214	Vicodin ES	300	Brammer
10/10/94	3241284	Hydrocodone	150	Gilliotte
10/11/94	2341761	Vicodin ES	300	Brammer
10/11/94	3241852	Hydrocodone	150	Gilliotte
10/12/94	3241214	Vicodin ES	300	Brammer
10/12/94	3241284	Hydrocodone	150	Gilliotte
10/14/94	3241284	Hydrocodone	150	Gilliotte
10/14/94	3241761	Vicodin ES	300	Brammer
10/17/94	3241761	Vicodin ES	300	Brammer
10/17/94	3241852	Hydrocodone	150	Gilliotte
10/19/94	3241761	Vicodin ES	300	Brammer
10/19/94	3241852	Hydrocodone	150	Gilliotte
10/24/94	3241761	Vicodin ES	300	Brammer
10/24/94	3241852	Hydrocodone	150	Gilliotte
10/26/94	2242255	Percocet	250	Brammer
10/26/94	3241761	Vicodin ES	300	Brammer
10/31/94	3241852	Hydrocodone	150	Gilliotte
10/31/94	3242380	Vicodin ES	300	Brammer
11/02/94	3241852	Hydrocodone	150	Gilliotte
11/02/94	3242380	Vicodin ES	300	Brammer
11/04/94	3242380	Vicodin ES	300	Brammer

11/04/94	3242610	Hydrocodone	150	Gilliotte
11/07/94	3242380	Vicodin ES	300	Brammer
11/07/94	3242610	Hydrocodone	150	Gilliotte
11/09/94	3242380	Vicodin ES	300	Brammer
11/09/94	3242610	Hydrocodone	150	Gilliotte
11/11/94	3242380	Vicodin ES	300	Brammer
11/11/94	3242610	Hydrocodone	150	Gilliotte
11/14/94	3242610	Hydrocodone	150	Gilliotte
11/14/94	3242976	Vicodin ES	300	Brammer
11/18/94	3242610	Hydrocodone	150	Gilliotte
11/18/94	3242976	Vicodin ES	300	Brammer
11/21/94	3242976	Vicodin ES	300	Brammer
11/21/94	3243259	Hydrocodone	150	Gilliotte
11/23/94	3242976	Vicodin ES	300	Brammer
11/23/94	3243259	Hydrocodone	150	Gilliotte
11/25/94	3242976	Vicodin ES	300	Brammer
11/25/94	3243259	Hydrocodone	150	Gilliotte
11/28/94	3242976	Vicodin ES	300	Brammer
11/28/94	3243259	Hydrocodone	150	Gilliotte
12/03/94	3243773	Hydrocodone	200	Brammer
12/03/94	3243774	Vicodin ES	300	Brammer
12/07/94	3243773	Hydrocodone	200	Brammer
12/12/94	3243773	Hydrocodone	200	Brammer

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (9) Medicine Shoppe did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Richard L. Jarvis forged the following prescriptions to cover for the controlled substances he was selling without prescriptions from a practitioner:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Doctor</u>
01/05/94	3231021	Hydrocodone	150	Brammer
01/05/94	3231022	Hydrocodone	150	Brammer
01/07/94	3231021	Hydrocodone	150	Brammer
01/07/94	3231022	Vicodin ES	150	Brammer
01/11/94	3231021	Hydrocodone	150	Brammer
01/11/94	3231022	Vicodin ES	150	Brammer
01/14/94	3231021	Hydrocodone	150	Brammer
01/14/94	3231022	Vicodin ES	150	Brammer
01/17/94	2231438	Percodan	150	Brammer
01/17/94	3231436	Hydrocodone	150	Brammer
01/22/94	3231022	Vicodin ES	150	Brammer
01/22/94	3231436	Hydrocodone	150	Brammer
01/25/94	3231436	Hydrocodone	150	Brammer
01/25/94	3231695	Vicodin ES	150	Brammer
01/28/94	3231436	Hydrocodone	150	Brammer
01/28/94	3231695	Vicodin ES	150	Brammer
01/31/94	3231695	Vicodin ES	150	Brammer
02/02/94	3231436	Hydrocodone	150	Brammer
02/02/94	3231695	Vicodin ES	150	Brammer
02/04/94	3231436	Hydrocodone	150	Brammer
02/04/94	3232078	Vicodin ES	150	Brammer
02/14/94	3232078	Vicodin ES	150	Brammer
02/14/94	3232370	Hydrocodone	150	Brammer
02/17/94	3232078	Vicodin ES	150	Brammer
02/19/94	3232078	Vicodin ES	150	Brammer
02/19/94	3232370	Hydrocodone	150	Brammer
02/22/94	3232078	Vicodin ES	150	Brammer
02/22/94	3232370	Hydrocodone	150	Brammer
02/24/94	3232078	Vicodin ES	150	Brammer
02/24/94	3232370	Hydrocodone	150	Brammer
02/26/94	3232937	Vicodin ES	150	Brammer
02/26/94	3232939	Hydrocodone	200	Brammer
03/01/94	3233927	Vicodin ES	150	Brammer

03/04/94	3232937	Vicodin ES	150	Brammer
03/04/94	3232939	Hydrocodone	200	Brammer
03/07/94	3232937	Vicodin ES	150	Brammer
03/10/94	3232937	Vicodin ES	150	Brammer
03/10/94	3232939	Hydrocodone	200	Brammer
03/12/94	3233523	Hydrocodone	200	Brammer
03/12/94	3233524	Vicodin ES	150	Brammer
03/15/94	3233524	Vicodin ES	150	Brammer
03/17/94	3233524	Vicodin ES	150	Brammer
03/18/94	3233523	Hydrocodone	200	Brammer
03/18/94	3233524	Vicodin ES	150	Brammer
03/21/94	3233523	Hydrocodone	200	Brammer
03/21/94	3233524	Vicodin ES	150	Brammer
03/24/94	3232937	Vicodin ES	150	Brammer
03/24/94	3233523	Hydrocodone	200	Brammer
03/26/94	3233524	Vicodin ES	150	Brammer
03/28/94	3233523	Hydrocodone	200	Brammer
03/28/94	3234090	Vicodin ES	150	Brammer
03/30/94	3234237	Vicodin ES	200	Brammer
03/30/94	3234238	Hydrocodone	200	Brammer
04/01/94	3234237	Vicodin ES	200	Brammer
04/01/94	3234238	Hydrocodone	200	Brammer
04/02/94	3234237	Vicodin ES	200	Brammer
04/12/94	3234237	Vicodin ES	200	Brammer
04/12/94	3234238	Hydrocodone	200	Brammer
04/14/94	3234237	Vicodin ES	200	Brammer
04/14/94	3234238	Hydrocodone	200	Brammer
04/16/94	3234237	Vicodin ES	200	Brammer
04/16/94	3234238	Hydrocodone	200	Brammer
04/18/94	3234894	Vicodin ES	200	Brammer
04/18/94	3234895	Hydrocodone	200	Brammer
04/20/94	3234894	Vicodin ES	200	Brammer
04/22/94	3234894	Vicodin ES	200	Brammer
04/22/94	3234895	Hydrocodone	200	Brammer
04/25/94	3234894	Vicodin ES	200	Brammer
04/25/94	3234895	Hydrocodone	200	Brammer
04/27/94	3234894	Vicodin ES	200	Brammer
04/27/94	3234895	Hydrocodone	200	Brammer
04/29/94	3234894	Vicodin ES	200	Brammer
04/29/94	3234895	Hydrocodone	200	Brammer
05/02/94	3234895	Hydrocodone	200	Brammer
05/02/94	3235412	Vicodin ES	200	Brammer
05/05/94	3235554	Hydrocodone	200	Brammer
05/05/94	3235555	Vicodin ES	200	Brammer
05/07/94	3235554	Hydrocodone	200	Brammer
05/07/94	3235555	Vicodin ES	200	Brammer
05/09/94	3235554	Hydrocodone	200	Brammer
05/09/94	3235555	Vicodin ES	200	Brammer
05/11/94	3235554	Hydrocodone	200	Brammer
05/11/94	3235555	Vicodin ES	200	Brammer
05/13/94	3235555	Vicodin ES	200	Brammer
05/16/94	3235554	Hydrocodone	200	Brammer
05/16/94	3235555	Vicodin ES	200	Brammer
05/19/94	3236119	Hydrocodone	200	Brammer
05/19/94	3236120	Vicodin ES	250	Brammer
05/21/94	3236119	Hydrocodone	200	Brammer
05/21/94	3236120	Vicodin ES	250	Brammer
05/23/94	3236119	Hydrocodone	200	Brammer
05/23/94	3236120	Vicodin ES	250	Brammer
05/26/94	3236119	Hydrocodone	200	Brammer
05/26/94	3236120	Vicodin ES	250	Brammer
05/28/94	3236119	Hydrocodone	200	Brammer
05/28/94	3236120	Vicodin ES	250	Brammer
05/31/94	3236119	Hydrocodone	200	Brammer
05/31/94	3236120	Vicodin ES	250	Brammer

06/03/94	3236746	Vicodin ES	250	Brammer
06/03/94	3236748	Hydrocodone	200	Brammer
06/06/94	3236746	Vicodin ES	250	Brammer
06/06/94	3236748	Hydrocodone	200	Brammer
06/08/94	2326746	Vicodin ES	250	Brammer
06/10/94	2326748	Hydrocodone	200	Brammer
06/10/94	3236746	Vicodin ES	250	Brammer
06/13/94	3236746	Vicodin ES	250	Brammer
06/13/94	3236748	Hydrocodone	200	Brammer
06/16/94	3236746	Vicodin ES	250	Brammer
06/16/94	3236748	Hydrocodone	200	Brammer
06/18/94	3236748	Hydrocodone	200	Brammer
06/18/94	3237293	Vicodin ES	250	Brammer
06/20/94	3237331	Hydrocodone	200	Brammer
06/20/94	3237332	Vicodin ES	250	Brammer
06/22/94	3237331	Hydrocodone	200	Brammer
06/22/94	3237332	Vicodin ES	250	Brammer
06/27/94	3237331	Hydrocodone	200	Brammer
06/27/94	3237332	Vicodin ES	250	Brammer
06/30/94	3237331	Hydrocodone	200	Brammer
06/30/94	3237332	Vicodin ES	250	Brammer
07/02/94	3237331	Hydrocodone	200	Brammer
07/02/94	3237332	Vicodin ES	250	Brammer
07/05/94	2237855	Percodan	200	Brammer
07/05/94	3237331	Hydrocodone	200	Brammer
07/05/94	3237852	Vicodin ES	250	Brammer
07/07/94	3237852	Vicodin ES	250	Brammer
07/07/94	3237940	Hydrocodone	200	Brammer
07/09/94	3237852	Vicodin ES	250	Brammer
07/11/94	3237852	Vicodin ES	250	Brammer
07/11/94	3237940	Hydrocodone	200	Brammer
07/13/94	3237852	Vicodin ES	250	Brammer
07/15/94	3237852	Vicodin ES	250	Brammer
07/15/94	3237940	Hydrocodone	200	Brammer
07/18/94	3238285	Vicodin ES	300	Brammer
07/18/94	3238286	Hydrocodone	150	Brammer
07/20/94	3238285	Vicodin ES	300	Brammer
07/20/94	3238286	Hydrocodone	150	Brammer
07/22/94	3238285	Vicodin ES	300	Brammer
07/22/94	3238286	Hydrocodone	150	Brammer
07/25/94	3238285	Vicodin ES	300	Brammer
07/25/94	3238286	Hydrocodone	150	Brammer
07/27/94	3238285	Vicodin ES	300	Brammer
07/27/94	3238286	Hydrocodone	150	Brammer
07/29/94	3238285	Vicodin ES	300	Brammer
07/29/94	3238286	Hydrocodone	150	Brammer
08/01/94	3238789	Vicodin ES	300	Brammer
08/01/94	3238790	Hydrocodone	150	Brammer
08/03/94	3238789	Vicodin ES	300	Brammer
08/03/94	3238790	Hydrocodone	150	Brammer
08/04/94	2238945	Percocet	200	Brammer
08/05/94	3238789	Vicodin ES	300	Brammer
08/05/94	3238790	Hydrocodone	150	Brammer
08/08/94	3238789	Vicodin ES	300	Brammer
08/08/94	3238790	Hydrocodone	150	Brammer
08/11/94	3238789	Vicodin ES	300	Brammer
08/11/94	3238790	Hydrocodone	150	Brammer
08/13/94	3238789	Vicodin ES	300	Brammer
08/15/94	3238790	Hydrocodone	150	Brammer
08/15/94	3239281	Vicodin ES	300	Brammer
08/17/94	3239281	Vicodin ES	300	Brammer
08/17/94	3239413	Hydrocodone	150	Brammer
08/19/94	3239281	Vicodin ES	300	Brammer
08/19/94	3239413	Hydrocodone	150	Brammer
08/22/94	3239281	Vicodin ES	300	Brammer

08/22/94	3239413	Hydrocodone	150	Brammer
08/24/94	3239281	Vicodin ES	300	Brammer
08/24/94	3239413	Hydrocodone	150	Brammer
08/26/94	3239281	Vicodin ES	300	Brammer
08/26/94	3239413	Hydrocodone	150	Brammer
08/29/94	3239413	Hydrocodone	150	Brammer
08/29/94	3239915	Vicodin ES	300	Brammer
08/31/94	3239915	Vicodin ES	300	Brammer
08/31/94	3240025	Hydrocodone	150	Gilliotte
09/02/94	3239915	Vicodin ES	300	Brammer
09/02/94	3240025	Hydrocodone	150	Gilliotte
09/06/94	3239915	Vicodin ES	300	Brammer
09/06/94	3240025	Hydrocodone	150	Gilliotte
09/08/94	3239915	Vicodin ES	300	Brammer
09/08/94	3240025	Hydrocodone	150	Gilliotte
09/10/94	3239915	Vicodin ES	300	Brammer
09/10/94	3240025	Hydrocodone	150	Gilliotte
09/12/94	3240417	Hydrocodone	100	Brammer
09/12/94	3240418	Vicodin ES	300	Brammer
09/14/94	3240025	Hydrocodone	150	Gilliotte
09/14/94	3240418	Vicodin ES	300	Brammer
09/16/94	3240642	Vicodin ES	300	Brammer
09/16/94	3240643	Hydrocodone	150	Gilliotte
09/19/94	3240642	Vicodin ES	300	Brammer
09/19/94	3240643	Hydrocodone	150	Gilliotte
09/21/94	3240642	Vicodin ES	300	Brammer
09/21/94	3240643	Hydrocodone	150	Gilliotte
09/23/94	3240642	Vicodin ES	300	Brammer
09/23/94	3240643	Hydrocodone	150	Gilliotte
09/26/94	3240642	Vicodin ES	300	Brammer
09/26/94	3240643	Hydrocodone	150	Gilliotte
09/28/94	3240642	Vicodin ES	300	Brammer
09/28/94	3240643	Hydrocodone	150	Gilliotte
09/30/94	2241215	Percodan	250	Brammer
09/30/94	3241214	Vicodin ES	300	Brammer
10/03/94	3241214	Vicodin ES	300	Brammer
10/03/94	3241284	Hydrocodone	150	Gilliotte
10/05/94	3241214	Vicodin ES	300	Brammer
10/05/94	3241284	Hydrocodone	150	Gilliotte
10/07/94	3241214	Vicodin ES	300	Brammer
10/07/94	3241284	Hydrocodone	150	Gilliotte
10/10/94	3241214	Vicodin ES	300	Brammer
10/10/94	3241284	Hydrocodone	150	Gilliotte
10/11/94	2341761	Vicodin ES	300	Brammer
10/11/94	3241852	Hydrocodone	150	Gilliotte
10/12/94	3241214	Vicodin ES	300	Brammer
10/12/94	3241284	Hydrocodone	150	Gilliotte
10/14/94	3241284	Hydrocodone	150	Gilliotte
10/14/94	3241761	Vicodin ES	300	Brammer
10/17/94	3241761	Vicodin ES	300	Brammer
10/17/94	3241852	Hydrocodone	150	Gilliotte
10/19/94	3241761	Vicodin ES	300	Brammer
10/19/94	3241852	Hydrocodone	150	Gilliotte
10/24/94	3241761	Vicodin ES	300	Brammer
10/24/94	3241852	Hydrocodone	150	Gilliotte
10/26/94	2242255	Percocet	250	Brammer
10/26/94	3241761	Vicodin ES	300	Brammer
10/31/94	3241852	Hydrocodone	150	Gilliotte
10/31/94	3242380	Vicodin ES	300	Brammer
11/02/94	3241852	Hydrocodone	150	Gilliotte
11/02/94	3242380	Vicodin ES	300	Brammer
11/04/94	3242380	Vicodin ES	300	Brammer
11/04/94	3242610	Hydrocodone	150	Gilliotte
11/07/94	3242380	Vicodin ES	300	Brammer
11/07/94	3242610	Hydrocodone	150	Gilliotte

11/09/94	3242380	Vicodin ES	300	Brammer
11/09/94	3242610	Hydrocodone	150	Gilliotte
11/11/94	3242380	Vicodin ES	300	Brammer
11/11/94	3242610	Hydrocodone	150	Gilliotte
11/14/94	3242610	Hydrocodone	150	Gilliotte
11/14/94	3242976	Vicodin ES	300	Brammer
11/18/94	3242610	Hydrocodone	150	Gilliotte
11/18/94	3242976	Vicodin ES	300	Brammer
11/21/94	3242976	Vicodin ES	300	Brammer
11/21/94	3243259	Hydrocodone	150	Gilliotte
11/23/94	3242976	Vicodin ES	300	Brammer
11/23/94	3243259	Hydrocodone	150	Gilliotte
11/25/94	3242976	Vicodin ES	300	Brammer
11/25/94	3243259	Hydrocodone	150	Gilliotte
11/28/94	3242976	Vicodin ES	300	Brammer
11/28/94	3243259	Hydrocodone	150	Gilliotte
12/03/94	3243773	Hydrocodone	200	Brammer
12/03/94	3243774	Vicodin ES	300	Brammer
12/07/94	3243773	Hydrocodone	200	Brammer
12/12/94	3243773	Hydrocodone	200	Brammer

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (10) Medicine Shoppe did, on or about November 28, 1994, knowingly make and/or affix false or forged labels to packages or receptacles containing dangerous drugs when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: without legitimate prescriptions or authorization from the practitioners, Richard L. Jarvis created false labels and placed them on prescription vials and sold 300 Soma tablets in two vials, 300 Vicodin ES tablets in two vials, and 300 Vicodin tablets in two vials. Such conduct is in violation of Section 2925.23(D) of the Ohio Revised Code.
- (11) Medicine Shoppe did, on or about the following dates, make false or forged prescriptions for dangerous drugs, to wit: Richard L. Jarvis created the following prescriptions for Soma, a dangerous drug, without authorization from a practitioner:

<u>Date</u>	<u>Rx No.</u>	<u>Quantity</u>	<u>Doctor</u>
08/05/94	6238971	300	Brammer
09/19/94	6240641	300	Brammer
11/28/94	6243436	300	Brammer

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (12) Medicine Shoppe did, on or about the following dates, make a false or forged prescription for a dangerous drug, to wit: Richard L. Jarvis created the following prescriptions for glaucoma medication when not authorized by the physician indicated thereon:

<u>Rx No.</u>	<u>Date</u>	<u>Refills Dispensed</u>
6185158	05/01/90	at least 1
6185159	05/01/90	at least 3
6198766	06/10/91	0
6198767	06/10/91	0
6200105	07/22/91	5
6200106	07/22/91	0
6201523	09/04/91	6
6201524	09/04/91	8
6212608	07/22/92	5
6214201	09/10/92	4
6214202	09/10/92	4
6226328	08/18/93	3
6226329	08/18/93	5
6226330	08/18/93	3
6241281	10/03/94	1
6241282	10/03/94	1

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (13) Medicine Shoppe did, on or about the following dates, sell at retail dangerous drugs when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Richard L. Jarvis sold the following glaucoma medications without a prescription from a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Refills Dispensed</u>
6185158	05/01/90	at least 1
6185159	05/01/90	at least 3
6198766	06/10/91	0
6198767	06/10/91	0
6200105	07/22/91	5
6200106	07/22/91	0
6201523	09/04/91	6
6201524	09/04/91	8
6212608	07/22/92	5
6214201	09/10/92	4
6214202	09/10/92	4
6226328	08/18/93	3
6226329	08/18/93	5
6226330	08/18/93	3
6241281	10/03/94	1
6241282	10/03/94	1
6241283	10/03/94	1

Such conduct is in violation of Section 4729.51(C)(1) 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 (11) through (13) of the Findings of Fact constitute violating provisions of Chapter 4729. as provided in Division (A)(3) of Section 4729.57 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (10) of the Findings of Fact constitute violating provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.57 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Medicine Shoppe:

- (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 terminal distributor license, No. 02-607300, held by Medicine Shoppe 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 terminal distributor license, No. 02-607300, held by Medicine Shoppe effective as of the date of the mailing of this Order.

Division (B)(1) of Section 4729.57 of the Ohio Revised Code provides: "Upon the suspension or revocation of a license issued to a terminal distributor of dangerous drugs or the refusal by the Board to renew such a license, the distributor shall immediately surrender his license to the Board." The license 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. Cavendish and approved (Aye-7/Nay-0).

The Board continued their review of the Joint Working Group of Health Care Regulatory Boards April 23, 1996 draft response to the PEW Recommendations.

Mr. Hanna reported that the next meeting of the Nursing Board Formulary Committee is scheduled for July 1, 1996. The last meeting was held on April 9, 1996 and official business could not be conducted since a quorum was not present.

The Board then considered a proposed business arrangement dated May 30, 1996 and received by the office on June 7, 1996. Staff reported that the proposed business arrangement was identical to one which staff discussed with representatives of Cardinal Health, Dublin, Ohio on June 19, 1996. Staff reported that Cardinal Health is drafting a contract that will provide a clear understanding by each of the parties as to their responsibilities in such business arrangements. A copy of the final contract that will be used in these proposed business arrangements will be submitted to the Board prior to their use. The Board directed staff to meet with the persons submitting the proposed business arrangement in their letter dated May 30, 1996 and outline the same requirements and solutions as those agreed to by Cardinal Health on June 19, 1996.

RES. 96-240

The Executive Director reported that the following settlement agreement was entered into by the Board on May 14, 1996:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-960117-032)

In The Matter Of:

ROBERT C. FERGUSON, R.Ph.
401 Hamilton Street, Apt. 6
Wapakoneta, Ohio 45895
(R.Ph. No. 03-03-1-13547)

This Settlement Agreement is entered into by and between Robert C. Ferguson and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Robert C. Ferguson enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Robert C. Ferguson is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against Robert C. Ferguson and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Robert C. Ferguson's license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) On or about January 17, 1996, pursuant to Chapter 119. of the Ohio Revised Code, Robert C. Ferguson was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

Further, a hearing was requested and scheduled for March 6, 1996; however, the hearing was continued by the Board.

(C) Robert C. Ferguson, in the same manner as a plea of no contest in a Court of Law, knowingly and voluntarily does not contest the evidence upon which the Board of Pharmacy bases its decision. Robert C. Ferguson was notified of the following allegations and the Board herein adjudicates the same:

- (1) Records of the Board of Pharmacy indicate that Robert C. Ferguson was originally licensed in the state of Ohio on February 26, 1980, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that during the relevant time period alleged herein, Robert C. Ferguson was the Responsible Pharmacist at The Pharm #918, Sidney, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Robert C. Ferguson as the Responsible Pharmacist did, on or about February 24, 1994; March 1, 1994; March 6, 1994; March 12, 1994; March 17, 1994; and March 28, 1994; misbrand a drug, to wit: upon receiving refill prescriptions for Melphalan (Alkeran®) 2mg to be taken by the patient 5 tablets daily for 5 days each month with 6 refills, Robert C. Ferguson or someone under his control dispensed the medication with directions for use as 5 tablets daily for 5 days refillable but failed to indicate "each month" in the directions for use. The patient followed the directions for use indicated on the bottle, obtained refills immediately upon consumption of the prescription, and thus consumed 5 tablets each day for one month. The patient suffered harm and had an emergency blood transfusion. When questioned about the prescriptions, Robert C. Ferguson indicated to Board of Pharmacy agents that "it would be very tedious to check each drug for which the computer generated a label to see if there were something that [the pharmacist] would need to check on with the patient;" and Robert C. Ferguson stated that the questioning agent "was making the assumption that he [the pharmacist] would know how this drug is normally used." Such conduct is in violation of Section 3715.52(B) of the Ohio Revised Code.
- (3) Robert C. Ferguson as the Responsible Pharmacist did, on or about April 24, 1994, and again on or about May 7, 1994, knowing there was no privilege to do so, falsify or alter computer data, to wit: after incorrect data had been entered into patient records at The Pharm #918, which caused patient harm, and after several refills had been dispensed, Robert C. Ferguson or a pharmacist under his control altered the original prescription data to falsely indicate that the error had not been made. Robert C. Ferguson admitted to Board agents that he lied about the incidents in order to cover for the pharmacist under his control. Such conduct is in violation of Section 2913.42(B) of the Ohio Revised Code.
- (4) Robert C. Ferguson as the Responsible Pharmacist did, from February 17, 1994, to April 12, 1994, continuously fail to perform prospective drug utilization review and patient counseling, to wit: when dispensing medications to a patient pursuant to prescription numbers 6624893 and 6627340, Robert C. Ferguson or a pharmacist under his control failed to review the original prescription and/or refill information for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse; and, Robert C. Ferguson or someone under his control failed to offer patient counseling. Such conduct is in violation of Rules 4729-5-20 and 4729-5-22 of the Ohio Administrative Code.
- (5) Robert C. Ferguson did, on or about June 24, 1994, knowingly make a false statement when made for the purpose to mislead a public official in performing his official function, to wit: Robert C. Ferguson admittedly lied to and/or withheld the truth from a Board agent who

was investigating the matter of misbranded medication. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Robert C. Ferguson knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

Robert C. Ferguson agrees to the imposition of a monetary penalty of nine hundred fifty dollars (\$950.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Robert C. Ferguson appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Robert C. Ferguson acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Robert C. Ferguson waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Robert C. Ferguson agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of Board President's signature below.

<u>/s/ Robert C. Ferguson</u> Robert C. Ferguson, Respondent	<u>4 -29 -96</u> Date of Signature
<u>/s/ J. R. Doute</u> Jerome R. Doute, Attorney for Respondent	<u>4 -29 -96</u> Date of Signature
<u>/s/ Paul F. Lamping</u> Paul F. Lamping, President, Ohio State Board of Pharmacy	<u>5 /14 /96</u> Date of Signature
<u>/s/ Mary L. Hollern</u> Mary L. Hollern, Ohio Assistant Attorney General	<u>5 /3 /96</u> Date of Signature

Staff reported to the Board on the status of proposed legislation. Mr. Benedict reported that Sub. S.B. 154 as enacted by the Legislature extended the pilot programs for Advanced Practice Nurses until 2010.

4:35 p.m. The meeting was recessed until 8:00 a.m., Tuesday, June 25, 1996.

TUESDAY, JUNE 25, 1996

9:43 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room 1914, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

Paul F. Lamping, R.Ph. (President); Suzanne L. Neuber, R.Ph. (Vice-President); Robert Cavendish, R.Ph.; John Hanna, R.Ph.; Amonte Littlejohn, R.Ph.; Joseph Maslak, R.Ph.; Wayne Miller, R.Ph.; and Ruth Plant, R.Ph.

Mr. Hanna reported on the Budget committee meeting held between 8 a.m. and 9 a.m.

Mrs. Plant reported that the new compliance specialist position has been filled with the hiring of Elaine Jones, R.Ph. and that the new receptionist is Mindy Sadler.

Mr. Maslak and Mr. Lamping reported on the meeting held with the Directors of Pharmacy Operations responsible for pharmacies in Ohio on May 9, 1996. The meeting was attended by representatives from 23 different corporations and by Ernie Boyd, Executive Director of the Ohio Pharmacists Association.

9:50 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a hearing in the matter of R.Ph. Patrick J. Shea pursuant to Chapters 119. and 4729. of the Revised Code.

11:47 a.m.

The hearing was concluded and the record in the matter closed. The Board recessed for lunch and Mr. Cavendish left to attend to personal business.

1:05 p.m.

RES. 96-241

The Board members, including Mr. Repke who arrived to join the meeting during the lunch hour, reconvened in Room 1919 for the purpose of meeting with the following candidates for licensure pursuant to Ohio Revised Code Section 4729.09 and Ohio Administrative Code Rule 4729-5-32:

ALBINO, MARY ANN B.	03-2-21946	NEW YORK
BLACKBURN, ROBERT W.	03-2-21951	NEVADA
BOSLEY, SUE MEI	03-2-21963	IOWA
CANADAY, KATHRYN L.	03-2-21705	MISSOURI
CLOSE, SUZANNE E.	03-2-21945	INDIANA
COCUCCI, LINDA S.	03-2-21629	PENNSYLVANIA
COLLINS, LAURA A.	03-2-21966	KENTUCKY
EDGE, ELDON D.	03-2-21588	TEXAS
GILKEY, REBECCA J.	03-2-21954	WEST VIRGINIA
HORNE, JAMES R.	03-2-21941	PENNSYLVANIA
HUBBARD, KENNETH D.	03-2-21955	KENTUCKY
ICKES, SHELLY	03-2-21947	ILLINOIS
MANKOWSKI, KAREN S.	03-2-21746	MICHIGAN
MARSHALL, TERRI L.	03-2-21962	PENNSYLVANIA
MCCOY, LAURA K.	03-2-21944	PENNSYLVANIA
McQUISTON, SHERRY C.	03-2-21952	PENNSYLVANIA
NUTTER, CHRISTINE R.	03-2-21939	WEST VIRGINIA
SEDRA, NIVINE S.	03-2-21601	PENNSYLVANIA
SLAUGHTER, ANGELA R.	03-2-21948	KENTUCKY
VANDERKOOI, AMY M.	03-2-21961	TENNESSEE
VENDRELL, NANCY E.	03-2-21950	PENNSYLVANIA
WARREN, MARY J.	03-2-21949	ILLINOIS
WINKELMAN, DANIEL D.	03-2-21957	KENTUCKY
WONG, LILI A.	03-2-21958	MARYLAND
WU, LINDA R.	03-2-21929	MINNESOTA
YOUNG, JOEL S.	03-2-21956	INDIANA
ZALKA, AMY C.	03-2-21964	MICHIGAN

Mrs. Neuber moved that the successful candidates be issued licenses to practice pharmacy in Ohio. The motion was seconded by Mrs. Plant and approved (Aye-7/Nay-0).

1:25 p.m.

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

1:45 p.m.

RES. 96-242

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

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960126-036)

In The Matter Of:

PATRICK JOSEPH SHEA, R.Ph.
1483 Center Lane Drive
Ashland, Ohio 44805
(R.Ph. No. 03-2-15708)

INTRODUCTION

THE MATTER OF PATRICK JOSEPH SHEA CAME TO HEARING ON JUNE 25, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND RUTH A. PLANT, R.Ph.

PATRICK JOSEPH SHEA WAS REPRESENTED BY R. WILLIAM MEEKS AND SAMUEL H. SHAMANSKY AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Kevin Joseph Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated January 26, 1996.
- (2) Exhibit 1A--Pharmacist File Front Sheet of Patrick Joseph Shea showing original date of registration as August 8, 1984.
- (3) Exhibit 1B--Renewal Application for Pharmacist License, No. 03-2-15708, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Patrick Joseph Shea dated June 17, 1995.
- (4) Exhibit 1C--Hearing Request letter dated March 4, 1996.
- (5) Exhibit 1D--Hearing Schedule letter dated March 5, 1996.
- (6) Exhibit 1E--Notice of Appearance as Counsel letter dated May 22, 1996.
- (7) Exhibit 2--Twenty-eight-page Patient Prescription Summary of Medical Arts Pharmacy for Dennis Stentz dated from January 1, 1993, through February 29, 1996.
- (8) Exhibit 2A--Forty-seven prescriptions numbered as follows: 359253, 361433, 360409, 362045, 363044, 365010, 364223, 365787, 368972, 365718, 366642, 370833, 371606, 369820, 393464, 394400, 393938, 398211, 395086, 390062, 372835, 374118, 376216, 375020, 377391, 379311, 380506, 381451, 379730, 381387, 388769, 387423, 359671, 352571, 353718, 357217, 358563, 357956, 385962, 353430, 372962, 354707, 354087, 354095, 384760, 383327, and 382593.

- (9) Exhibit 3--Six-page Patient Prescription Summary of Medical Arts Pharmacy for John Vance dated from January 1, 1992, through January 24, 1996.
- (10) Exhibit 3A--Five prescriptions numbered as follows: 385720, 387356, 398994, 387039, and 349235.
- (11) Exhibit 4--Two-page Patient Prescription Summary of Medical Arts Pharmacy for Caroline Johnston dated from January 1, 1992, through January 24, 1996.
- (12) Exhibit 4A--Twelve prescriptions numbered as follows: 358359, 352291, 354881, 390905, 404469, 400148, 381658, 373005, 367263, 370183, 362302, and 386560.
- (13) Exhibit 5--Five-page Patient Prescription Summary of Medical Arts Pharmacy for Cora Ashley dated from January 1, 1992, through January 24, 1996.
- (14) Exhibit 5A--Sixteen prescriptions numbered as follows: 401557, 405353, 397838, 399239, 395778, 393788, 388969, 381062, 376421, 373937, 369355, 371255, 366537, 363634, 351631, and 361434.
- (15) Exhibit 6--Prescription number 393937.
- (16) Exhibit 7--Prescription number 387055.
- (17) Exhibit 8--Prescription number 391961.
- (18) Exhibit 9--Patient Prescription Summary of Medical Arts Pharmacy for Dennis Stentz dated from January 1, 1993, through February 29, 1996.
- (19) Exhibit 10--Forty-eight-page voluntary statement of M. R. Viau, M.D. signed and notarized on June 8, 1996.
- (20) Exhibit 11--Two-page voluntary statement of Patrick J. Shea signed and notarized on January 23, 1996.
- (21) Exhibit 12--One hundred-thirteen-page Transcript of Interview of Patrick J. Shea, also present were: Bob Cole, Kevin Kinneer, and Paul Covert (sic Kover), Ohio State Board of Pharmacy; and Dawn Shivinsky (sic Schivinsky), MetRich Drug Enforcement Unit. Interview date January 29, 1996, (sic January 24, 1996).
- (22) Exhibit 12A--Microcassette tape, part 1 of interview of Patrick J. Shea, also present were: Bob Cole, Kevin Kinneer, and Paul Kover, Ohio State Board of Pharmacy; and Dawn Schivinsky, MetRich Drug Enforcement Unit. Interview date January 24, 1996.
- (23) Exhibit 12B--Microcassette tape, part 2 of interview of Patrick J. Shea, also present were: Bob Cole, Kevin Kinneer, and Paul Kover, Ohio State Board of Pharmacy; and Dawn Schivinsky, MetRich Drug Enforcement Unit. Interview date January 24, 1996.
- (24) Exhibit 13--Voluntary Statement of Nora E. Williams signed and notarized on June 18, 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 indicate that Patrick Joseph Shea was originally licensed to practice pharmacy in the state of Ohio on August 8, 1984; and on January 26, 1996, Patrick Joseph Shea's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Patrick Joseph Shea did, from November 5, 1993, through November 27, 1995, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient who he admittedly knew was addicted to the drug, without prescriptions, pursuant to false and/or forged prescriptions, and without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Rx No.</u>
11/05/93	Vicodin	40	354087
11/05/93	Vicodin ES	80	354095
11/07/93	Vicodin ES	20	353718
11/08/93	Vicodin ES	80	354095
11/10/93	Vicodin ES	150	353430
11/10/93	Vicodin ES	80	354095
11/10/93	Vicodin ES	80	354095

11/12/93	Vicodin ES	80	354095
11/15/93	Vicodin ES	80	354707
11/19/93	Vicodin ES	80	354707
11/20/93	Vicodin ES	40	354707
11/24/93	Vicodin ES	80	354707
11/27/93	Vicodin ES	40	354707
11/29/93	Vicodin ES	80	354707
12/01/93	Vicodin ES	40	355739
12/01/93	Vicodin ES	80	355739
12/06/93	Vicodin ES	60	355739
12/06/93	Vicodin ES	40	355739
12/06/93	Vicodin ES	40	355739
12/07/93	Vicodin ES	80	355739
12/09/93	Vicodin ES	40	356399
12/10/93	Vicodin ES	40	356399
12/10/93	Vicodin ES	40	356399
12/14/93	Vicodin ES	80	356399
12/15/93	Vicodin ES	50	356399
12/20/93	Vicodin ES	49	357217
12/21/93	Vicodin ES	71	357217
12/22/93	Vicodin ES	80	357217
12/24/93	Vicodin ES	80	357217
12/28/93	Vicodin ES	40	357217
12/29/93	Vicodin ES	40	357956
12/29/93	Vicodin ES	40	357956
12/31/93	Vicodin ES	80	357956
01/03/94	Vicodin ES	80	357956
01/04/94	Vicodin ES	40	357956
01/06/94	Vicodin ES	40	358563
01/07/94	Vicodin ES	80	358563
01/08/94	Vicodin ES	40	358563
01/10/94	Vicodin ES	40	358563
01/11/94	Vicodin ES	40	358563
01/12/94	Vicodin ES	40	358563
01/14/94	Vicodin ES	80	359253
01/17/94	Vicodin ES	20	359253
01/17/94	Vicodin ES	60	359253
01/18/94	Vicodin ES	40	359253
01/20/94	Vicodin ES	40	359253
01/21/94	Vicodin ES	40	359253
01/22/94	Vicodin ES	80	359671
01/24/94	Vicodin ES	40	359671
01/25/94	Vicodin ES	40	359671
01/26/94	Vicodin	40	354087
01/28/94	Vicodin ES	40	359671
01/29/94	Vicodin ES	40	359671
01/31/94	Vicodin ES	40	359671
02/01/94	Vicodin ES	40	360409
02/03/94	Vicodin ES	40	360409
02/04/94	Vicodin ES	80	360689
02/07/94	Vicodin ES	40	360689
02/08/94	Vicodin ES	40	360689
02/10/94	Vicodin ES	40	360689
02/11/94	Vicodin ES	40	360689
02/13/94	Vicodin ES	40	360689
02/16/94	Vicodin ES	40	361428
02/17/94	Vicodin ES	40	361433
02/19/94	Vicodin ES	40	361433
02/21/94	Vicodin ES	40	361433
02/22/94	Vicodin ES	40	361433
02/23/94	Vicodin ES	40	361433
02/25/94	Vicodin ES	40	362045
02/26/94	Vicodin ES	40	362045
03/02/94	Vicodin ES	40	362045
03/03/94	Vicodin ES	40	362045

03/07/94	Vicodin ES	40	362045
03/08/94	Vicodin ES	40	362045
03/11/94	Vicodin ES	40	363044
03/12/94	Vicodin ES	40	363044
03/14/94	Vicodin ES	40	363044
03/17/94	Vicodin ES	40	363044
03/18/94	Vicodin ES	80	363044
03/22/94	Vicodin ES	40	363044
03/25/94	Vicodin ES	40	364064
03/28/94	Vicodin ES	60	364223
03/30/94	Vicodin ES	60	364223
04/02/94	Vicodin ES	40	364223
04/04/94	Vicodin ES	40	364223
04/04/94	Vicodin ES	20	364223
04/06/94	Vicodin ES	60	364223
04/08/94	Vicodin ES	60	365010
04/11/94	Vicodin ES	60	365010
04/13/94	Vicodin ES	20	365010
04/13/94	Vicodin ES	40	365010
04/14/94	Vicodin ES	40	365010
04/18/94	Vicodin ES	40	365010
04/19/94	Vicodin ES	20	365718
04/20/94	Vicodin ES	40	365787
04/22/94	Vicodin ES	10	365787
04/23/94	Vicodin ES	40	365787
04/24/94	Vicodin ES	40	365787
04/26/94	Vicodin ES	40	365787
04/27/94	Vicodin ES	40	365787
04/29/94	Vicodin ES	40	366455
05/02/94	Vicodin ES	60	366455
05/04/94	Vicodin ES	40	366642
05/06/94	Vicodin ES	50	366642
05/09/94	Vicodin ES	40	366642
05/11/94	Vicodin ES	40	366642
05/13/94	Vicodin ES	40	366642
05/16/94	Vicodin ES	20	366642
05/17/94	Vicodin ES	40	367655
05/20/94	Vicodin ES	60	367655
05/23/94	Vicodin ES	40	367655
05/25/94	Vicodin ES	40	367655
05/27/94	Vicodin ES	60	367655
05/31/94	Vicodin ES	40	367655
06/02/94	Vicodin ES	40	368750
06/04/94	Vicodin ES	40	368750
06/06/94	Vicodin ES	20	368972
06/07/94	Vicodin ES	40	368972
06/10/94	Vicodin ES	60	368972
06/13/94	Vicodin ES	40	368972
06/15/94	Vicodin ES	40	368972
06/17/94	Vicodin ES	80	368972
06/20/94	Vicodin ES	40	369820
06/22/94	Vicodin ES	40	369820
06/24/94	Vicodin ES	40	369820
06/24/94	Vicodin ES	20	369820
06/27/94	Vicodin ES	40	369820
06/30/94	Vicodin ES	40	369820
07/02/94	Vicodin ES	40	370603
07/05/94	Vicodin ES	40	370603
07/07/94	Vicodin ES	40	370603
07/09/94	Vicodin ES	40	370833
07/11/94	Vicodin ES	40	370833
07/13/94	Vicodin ES	40	370833
07/15/94	Vicodin ES	40	370833
07/19/94	Vicodin ES	60	370833
07/21/94	Vicodin ES	40	371606

07/25/94	Vicodin ES	40	371606
07/26/94	Vicodin ES	40	371606
07/29/94	Vicodin ES	80	371606
08/02/94	Vicodin ES	60	371606
08/04/94	Vicodin ES	40	371606
08/08/94	Vicodin ES	20	372835
08/10/94	Vicodin ES	60	372962
08/12/94	Vicodin ES	40	372962
08/16/94	Vicodin ES	40	372962
08/18/94	Vicodin ES	20	372962
08/19/94	Vicodin ES	60	372962
08/22/94	Vicodin ES	40	372962
08/25/94	Vicodin ES	40	373917
08/27/94	Vicodin ES	40	373917
08/29/94	Vicodin ES	40	374118
09/01/94	Vicodin ES	40	374118
09/03/94	Vicodin ES	40	374118
09/06/94	Vicodin ES	40	374118
09/09/94	Vicodin ES	60	374118
09/12/94	Vicodin ES	25	374118
09/13/94	Vicodin ES	40	375020
09/15/94	Vicodin ES	60	375020
09/17/94	Vicodin ES	40	375020
09/19/94	Vicodin ES	40	375020
09/22/94	Vicodin ES	40	375020
09/24/94	Vicodin ES	40	375020
09/27/94	Vicodin ES	40	376113
09/28/94	Vicodin ES	40	376216
09/30/94	Vicodin ES	40	376216
10/05/94	Vicodin ES	40	376216
10/07/94	Vicodin ES	60	376216
10/12/94	Vicodin ES	40	376216
10/13/94	Vicodin ES	40	377272
10/15/94	Vicodin ES	40	377391
10/17/94	Vicodin ES	10	377391
10/18/94	Vicodin ES	50	377391
10/20/94	Vicodin ES	40	377391
10/22/94	Vicodin ES	40	377391
10/25/94	Vicodin ES	40	377391
10/26/94	Vicodin ES	15	378077
10/28/94	Vicodin ES	40	378077
10/31/94	Vicodin ES	40	378077
11/03/94	Vicodin ES	40	378077
11/05/94	Vicodin ES	20	378077
11/11/94	Vicodin ES	5	378077
11/11/94	Vicodin ES	15	379246
11/14/94	Vicodin ES	40	379311
11/16/94	Vicodin ES	40	379311
11/18/94	Vicodin ES	40	379311
11/19/94	Vicodin ES	40	379730
11/21/94	Vicodin ES	40	379730
11/22/94	Vicodin ES	60	379730
11/25/94	Vicodin ES	60	379730
11/28/94	Vicodin ES	20	379730
11/29/94	Vicodin ES	80	379730
12/01/94	Vicodin ES	40	380506
12/02/94	Vicodin ES	80	380506
12/03/94	Vicodin ES	20	380506
12/06/94	Vicodin ES	40	380506
12/08/94	Vicodin ES	80	380506
12/10/94	Vicodin ES	20	380506
12/13/94	Vicodin ES	40	381387
12/15/94	Vicodin ES	80	381451
12/17/94	Vicodin ES	12	381451
12/19/94	Vicodin ES	40	381451

12/22/94	Vicodin ES	40	381451
12/24/94	Vicodin ES	40	381451
12/28/94	Vicodin ES	48	382593
12/30/94	Vicodin ES	40	382593
12/31/94	Vicodin ES	40	382593
01/03/95	Vicodin ES	40	382593
01/05/95	Vicodin ES	40	382593
01/09/95	Vicodin ES	40	382593
01/11/95	Vicodin ES	40	383327
01/13/95	Vicodin ES	40	383327
01/16/95	Vicodin ES	40	383327
01/18/95	Vicodin ES	40	383327
01/21/95	Vicodin ES	40	383327
01/23/95	Vicodin ES	40	383327
01/30/95	Vicodin ES	40	384760
02/01/95	Vicodin ES	40	384760
02/04/95	Vicodin ES	40	384760
02/06/95	Vicodin ES	40	384760
02/08/95	Vicodin ES	40	384760
02/14/95	Vicodin ES	60	384760
02/16/95	Vicodin ES	20	385962
02/16/95	Vicodin ES	20	385962
02/21/95	Vicodin ES	40	385962
02/24/95	Vicodin ES	40	385962
02/27/95	Vicodin ES	20	385962
03/02/95	Vicodin ES	40	385962
03/09/95	Vicodin ES	40	387423
03/11/95	Vicodin ES	20	387423
03/13/95	Vicodin ES	40	387423
03/17/95	Vicodin ES	40	387423
03/21/95	Vicodin ES	40	387423
03/23/95	Vicodin ES	40	387423
03/29/95	Vicodin ES	40	388769
04/04/95	Vicodin ES	40	388769
04/06/95	Vicodin ES	40	388769
04/10/95	Vicodin ES	40	388769
04/12/95	Vicodin ES	40	388769
04/15/95	Vicodin ES	40	388769
04/17/95	Vicodin ES	40	390062
04/19/95	Vicodin ES	40	390062
04/21/95	Vicodin ES	40	390062
04/24/95	Vicodin ES	40	390062
04/26/95	Vicodin ES	40	390062
05/19/95	Vicodin ES	40	390062
06/06/95	Vicodin ES	40	393464
06/08/95	Vicodin ES	40	393464
06/10/95	Vicodin ES	40	393464
06/12/95	Vicodin ES	40	393464
06/12/95	Vicodin ES	20	393938
06/14/95	Vicodin ES	40	393938
06/15/95	Vicodin ES	40	393938
06/17/95	Vicodin ES	40	393938
06/19/95	Vicodin ES	40	393938
06/21/95	Vicodin ES	20	394400
06/23/95	Vicodin ES	40	394400
06/26/95	Vicodin ES	40	394400
06/26/95	Vicodin ES	20	394400
06/28/95	Vicodin ES	40	394400
06/30/95	Vicodin ES	40	395086
07/03/95	Vicodin ES	40	395086
07/05/95	Vicodin ES	40	395086
07/07/95	Vicodin ES	40	395086
07/10/95	Vicodin ES	40	395086
07/12/95	Vicodin ES	40	395086
07/27/95	Vicodin ES	60	396351

07/29/95	Vicodin ES	40	396351
09/02/95	Vicodin ES	40	398211
09/05/95	Vicodin ES	40	398211
09/07/95	Vicodin ES	40	398211
09/09/95	Vicodin ES	40	398211
09/11/95	Vicodin ES	40	398211
09/20/95	Vicodin ES	40	398211
09/30/95	Vicodin ES	40	399609
10/02/95	Vicodin ES	40	399609
10/04/95	Vicodin ES	40	399609
10/07/95	Vicodin ES	40	399609
10/10/95	Vicodin ES	40	399609
10/12/95	Vicodin ES	40	399609
10/16/95	Vicodin ES	40	399609
11/11/95	Vicodin ES	40	401927
11/13/95	Vicodin ES	40	401927
11/15/95	Vicodin ES	40	401927
11/16/95	Vicodin ES	80	401927
11/20/95	Vicodin ES	40	401927
11/22/95	Vicodin ES	40	401927
11/24/95	Vicodin ES	40	401927
11/27/95	Vicodin ES	40	401927

Such conduct is in violation of Section 2925.03(A)(10) of the Ohio Revised Code.

- (3) Patrick Joseph Shea did, from November 11, 1993, through October 9, 1995, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient who he admittedly knew was addicted to the drug, without prescriptions, pursuant to false and/or forged prescriptions, and without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Rx No.</u>
11/11/93	Oxycodone/Acetaminophen	25	349235
01/14/94	Oxycodone/Acetaminophen	15	349235
01/14/94	Oxycodone 5mg/Acetaminophen 500mg	30	359269
03/06/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387039
03/08/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	30	387356
03/10/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387039
03/13/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387658
03/15/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387039
03/17/95	Oxycodone 5mg/Acetaminophen 500mg	30	380057
03/17/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387658
03/20/95	Oxycodone 5mg/Acetaminophen 500mg	30	380057
03/20/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	20	387039
04/17/95	Oxycodone 5mg/Acetaminophen 500mg	30	380057
04/17/95	Oxycodone 5mg/Acetaminophen 500mg	30	380057
06/21/95	Oxycodone/Acetaminophen	10	385720
09/21/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	25	398994
10/09/95	Propoxyphene Napsylate 100mg/ Acetaminophen 650mg	40	400013

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (4) Patrick Joseph Shea did, from October 11, 1993, through December 28, 1995, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient for diet purposes without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Rx No.</u>
10/11/93	Tenuate Dospan 75 mg	30	352291
11/17/93	Tenuate Dospan 75 mg	30	354881
01/03/94	Tenuate Dospan 75 mg	15	358359
01/03/94	Tenuate Dospan 75 mg	30	358359
03/01/94	Tenuate Dospan 75 mg	30	362302
05/10/94	Tenuate Dospan 75 mg	30	367263
06/27/94	Tenuate Dospan 75 mg	30	370183
08/11/94	Tenuate Dospan 75 mg	30	373005
12/17/94	Tenuate Dospan 75 mg	30	381658
02/27/95	Tenuate Dospan 75 mg	30	386560
04/28/95	Tenuate Dospan 75 mg	30	390905
07/14/95	Tenuate Dospan 75 mg	30	395723
10/10/95	Tenuate Dospan 75 mg	30	400148
12/28/95	Tenuate Dospan 75 mg	30	404469

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (5) Patrick Joseph Shea did, from October 1, 1993, through January 13, 1996, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient for diet purposes without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Rx No.</u>
10/01/93	Tenuate Dospan 75 mg	15	351631
10/13/93	Tenuate Dospan 75 mg	15	351631
10/30/93	Tenuate Dospan 75 mg	15	353647
11/16/93	Tenuate Dospan 75 mg	15	353647
12/02/93	Tenuate Dospan 75 mg	15	355826
12/20/93	Tenuate Dospan 75 mg	15	355826
01/08/94	Tenuate Dospan 75 mg	15	358773
01/29/94	Tenuate Dospan 75 mg	15	358773
02/16/94	Tenuate Dospan 75 mg	28	361434
03/19/94	Tenuate Dospan 75 mg	15	363634
04/05/94	Tenuate Dospan 75 mg	15	363634
04/30/94	Tenuate Dospan 75 mg	15	366537
05/28/94	Tenuate Dospan 75 mg	15	366537
06/11/94	Tenuate Dospan 75 mg	15	369355
06/28/94	Tenuate Dospan 75 mg	15	369355
07/14/94	Tenuate Dospan 75 mg	15	371255
07/30/94	Tenuate Dospan 75 mg	15	371255
08/26/94	Tenuate Dospan 75 mg	15	373937
09/10/94	Tenuate Dospan 75 mg	15	373937
10/01/94	Tenuate Dospan 75 mg	15	376421
10/15/94	Tenuate Dospan 75 mg	15	376421
11/05/94	Tenuate Dospan 75 mg	30	378790
12/08/94	Tenuate Dospan 75 mg	30	381062
01/28/95	Tenuate Dospan 75 mg	30	384654
04/01/95	Tenuate Dospan 75 mg	30	388969
06/10/95	Tenuate Dospan 75 mg	30	393788
07/15/95	Tenuate Dospan 75 mg	30	395778
08/26/95	Tenuate Dospan 75 mg	30	397838
09/23/95	Tenuate Dospan 75 mg	30	399239
11/04/95	Tenuate Dospan 75 mg	30	401557
12/09/95	Tenuate Dospan 75 mg	30	403536
01/13/96	Tenuate Dospan 75 mg	30	405353

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (6) Patrick Joseph Shea did, from June 12, 1995, through July 10, 1995, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient who he admittedly knew was addicted to the drug, without prescriptions, pursuant to false and/or forged prescriptions, and without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Rx No.</u>
06/12/95	Flurazepam 30mg	20	393937
06/15/95	Flurazepam 30mg	20	393937
06/21/95	Flurazepam 30mg	20	393937
06/26/95	Flurazepam 30mg	20	393937
06/30/95	Flurazepam 30mg	20	393937
07/07/95	Flurazepam 30mg	20	393937
07/10/95	Flurazepam 30mg	20	393937

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (7) Patrick Joseph Shea did, from February 12, 1994, through May 13, 1995, knowingly sell a controlled substance in an amount 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: Patrick Joseph Shea sold the following controlled substances to a patient who he admittedly knew was addicted to the drug, without prescriptions, pursuant to false and/or forged prescriptions, and without a legitimate medical purpose:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Rx No.</u>
02/12/94	Fastin 30 mg	30	361169
03/04/95	Fastin 30 mg	30	387055
05/13/95	Fastin 30 mg	30	391961

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (8) Patrick Joseph Shea did, on or about various dates from 1993 through 1996, knowing that an official investigation would likely to be instituted, alter, destroy, conceal, or remove records of dispensing with purpose to impair their value or availability as evidence in such investigation, to wit: Patrick Joseph Shea admittedly altered and/or destroyed records of drug sales to patients so as to avoid detection. Such conduct is in violation of Section 2921.12 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 (8) of the Findings of Fact constitute being guilty of a felony or gross immorality 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 (8) 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) 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 January 26, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Patrick Joseph Shea:

- (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. 03-2-15708, held by Patrick Joseph Shea 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. 03-2-15708, held by Patrick Joseph Shea 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. 03-2-15708, held by Patrick Joseph Shea 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. Littlejohn and approved (Aye-6/Nay-0/Abstain-1[Repke]).

Mrs. Plant moved that the Minutes of the April 22, 23, 24, 25, 1996 meeting be approved as amended. Mr. Miller seconded the motion and it was approved (Aye-7/Nay-0).

Mrs. Neuber reported on the activities of the Recruitment Committee and progress to date.

Mr. Lamping and Mr. Repke reported on the Annual Meeting of the National Association of Boards of Pharmacy held in Boston May 18-22, 1996. Mr. Repke reported that twelve public pharmacy board members attended a working luncheon for public board members only.

RES. 96-243 Mr. Miller moved that the Board continue to fund the attendance of a Board member each year at the University of Utah School on Alcoholism and Other Drug Dependencies. Mr. Repke reiterated his experience when attending the school and strongly urged that each Board member have the opportunity to participate in the school. The motion was seconded by Mr. Miller and approved (Aye-7/Nay-0).

RES. 96-244 Staff reported that reciprocity candidate Eric M. Jezierski's application and documents to transfer his Pennsylvania license to Ohio were received by the Board office on May 16, 1996, processed by staff, and his identification card to practice in Ohio issued on May 20, 1996.

Mr. Littlejohn and Mrs. Neuber reported on the activities and progress of the 1996 Ad Hoc Advisory Committee on Rule Review. The last meeting was held on June 4, 1996 and recommendations finalized for consideration by the Board at the August, 1996 meeting.

- 3:53 p.m. Leon Kessel, R.Ph., pursuant to his written request, appeared before the Board with his attorney.
- 4:10 p.m. Mr. Kessel's appearance before the Board was concluded and the Board continued their business session. The Board reviewed correspondence and reports that did not require official action.
- 4:30 p.m. The Board recessed until Wednesday, June 26, 1996 at 9:00 a.m.

WEDNESDAY, JUNE 26, 1996

9:00 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room 1914, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio:

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

The Board reviewed correspondence and reports that did not require official action.

9:20 a.m. The Board was joined by Assistant Attorney General Mary Hollern for the purpose of creating a record pursuant to Revised Code Chapters 119. and 4729. in the matter of Peter Dixon Clouse, R.Ph. Mr. Miller recused himself from the matter.

9:30 a.m. All evidence and testimony having been entered into the record, the record was closed. Mr. Maslak moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearings in the matters of R.Ph. Peter Dixon Clouse (03-1-14696) and to discuss personnel matters. The motion was seconded by Mr. Miller and a Roll Call vote was conducted by President Lamping as follows: Cavendish-Yes, Hanna-Yes, Littlejohn-Yes, Maslak-Yes, Miller-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

Mr. Benedict and Mr. Rowland joined the meeting for the purpose of discussing personnel matters. Following the report and discussion, Mr. Benedict and Mr. Rowland were excused and the Executive Session continued for the purpose of deliberating on the evidence and testimony received in the hearing.

10:15 a.m.

RES. 96-245

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

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960607-061)

In The Matter Of:

PETER DIXON CLOUSE, R.Ph.
1206 Old Ivy Way
Mt. Pleasant, South Carolina 29464
(R.Ph. No. 03-1-14696)

INTRODUCTION

THE MATTER OF PETER DIXON CLOUSE CAME TO HEARING ON JUNE 26, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK,

R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

PETER DIXON CLOUSE 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) Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Probation Revocation Hearing letter dated June 7, 1996.
- (2) Exhibit 2--Order of the State Board of Pharmacy, Docket No. D-940627-088, in the matter of Peter D. Clouse dated October 31, 1994.
- (3) Exhibit 3--Copy of letter from Peter D. Clouse, not dated, received in the Board office on January 9, 1995, with the following attachments: copy of two transcripts from Life College of Peter D. Clouse dated September 20, 1994, and December 13, 1994; copy of urine drug screen report of Peter Clouse dated August 24, 1994; copy of urine drug screen report of Peter Clouse dated September 2, 1994; copy of Progress Report and Information Sheet of Peter D. Clouse, not dated; copy of letter from Alana T. Holmes dated June 7, 1994; copy of Dean's List, Summer 1994; and copies of six pages of meeting attendance verification of Peter Clouse dated from May 25, 1994, through December 26, 1994.
- (4) Exhibit 4--Letter from Peter D. Clouse dated June 30, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Letter from Peter D. Clouse dated June 18, 1996; and attached letter from Carmen A. Catizone dated May 2, 1995.

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 June 7, 1996, Peter Dixon Clouse 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, delivery date unknown, Peter Dixon Clouse received the letter of June 7, 1996, informing him of the allegations against him, and his rights.
- (3) Peter Dixon Clouse submitted his contentions in writing and thus, has been entered into the record as Respondent's Exhibit A.
- (4) Records of the Board indicate that Peter Dixon Clouse's license to practice pharmacy in the state of Ohio was suspended on August 21, 1990, but was reinstated and placed on probation for a period of five years on October 31, 1994, pursuant to the provisions of Section 4729.16 of the Ohio Revised Code. The terms of probation were as follows: submission to random urine screens with results to be sent to the Board; attendance at AA meetings twice weekly; a new five-year contract with a treatment provider; and, submission of a report to the

Board twice yearly. Further, Peter Dixon Clouse was not permitted to be a preceptor or responsible pharmacist during the term of probation.

- (5) Since the commencement of his probation, though he submitted reports on January 9, 1995, and July 10, 1995, Peter Dixon Clouse has not submitted any reports thereafter. A report to the Board was due in January of 1996.

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 failure to submit timely reports and thereby violating the provisions of probation.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. 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, the State Board of Pharmacy takes the following action in the matter of Peter Dixon Clouse:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy revokes the probation granted by the Board on October 31, 1994, and hereby suspends the pharmacist identification card, No. 03-1-14696, held by Peter Dixon Clouse indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Peter Dixon Clouse may not be employed by or work in a facility licensed by the Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Three years after the effective date of this Order, the Board will consider any petition filed by Peter Dixon Clouse for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
 - (1) Peter Dixon Clouse must enter into a new contract, from the effective date of this Order, with a limited treatment provider acceptable to the Board, for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least every three months. The urine drug screens must report testing for alcohol and must also report testing for creatinine or specific gravity of the sample as the dilutional standard;
 - (b) regular attendance, at least two times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare;
 - (c) the program sponsor shall provide copies of all urine drug screens to the Ohio Board of Pharmacy in a timely fashion; and

- (d) the program sponsor shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (2) Peter Dixon Clouse must submit progress reports, on January 1, and July 1, of each year, to the Board's Compliance Administrator that include:
 - (a) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (b) a written description of his progress towards recovery and what he has been doing during the previous six months.
- (3) Peter Dixon Clouse must submit to the Board the following documentation upon petitioning for reinstatement:
 - (a) An outline of his presentation to the Board;
 - (b) any testimonials from others;
 - (c) all contract(s) with treatment provider(s) and written documentation from the treatment provider(s) regarding compliance with the program(s);
 - (d) copies of all urine drug screen reports; and
 - (e) evidence of continuing pharmacy education.

The documentation must be submitted to the Board with the request for a reinstatement hearing and will be reviewed by the Compliance Administrator. When all of the required information is received, complete and in proper form, the reinstatement hearing will be scheduled.

Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the 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.

Mr. Maslak seconded the motion and it was approved (Aye-7/Nay-0). Mr. Miller did not vote since he recused himself from the hearing and left the meeting for personal reasons prior to the vote being conducted by Mr. Lamping.

Mr. Miller returned to join the meeting and the Board recessed for the purpose of traveling to the Rhodes Building at the Ohio Expositions Center to meet with the licensure examination candidates and lunch.

1:45 p.m.

RES. 96-246

Board members Paul Lamping, Suzanne Neuber, John Hanna, Amonte Littlejohn, Wayne Miller, Joseph Maslak, and Ruth Plant reconvened in Room 1914 of the Riffe Center for Government and the Arts. The Board was joined by Assistant Attorney General Mary Hollern, Compliance Administrator Tim Benedict, and Legal Affairs Administrator David Rowland for the purpose of considering a request for a continuance of the hearing in the matter scheduled for Thursday, June 27, 1996 at 1:00 p.m. (i.e.-Lynn Marie Borisuk, R.Ph.; Akron). Following consideration of the request and discussion, Mr. Hanna moved that the request be denied and that the hearing be held as scheduled. The motion was seconded by Mrs. Plant and approved (Aye-6/Nay-0).

2:00 p.m. The Board meeting was recessed until Thursday, June 27, 1996 at 8:00 a.m. Mr. Hanna announced that the Budget Committee would remain in Room 1914 and continue discussions regarding the FY 98-99 biennial budget.

THURSDAY, JUNE 27, 1996

8:15 a.m. ROLL CALL

The State Board of Pharmacy reconvened in Room 1914, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Paul F. Lamping, R.Ph. (President); Suzanne L. Neuber, R.Ph. (Vice-President); Robert Cavendish, R.Ph.; John Hanna, R.Ph.; Amonte Littlejohn, R.Ph.; Wayne Miller, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

RES. 96-247 Licensing Administrator Nancy Little joined the Board for the purpose of reviewing her written report on licensing activities and issues. Following discussion of a Board policy regarding when the current year's license must be issued and when next year's license may be issued, Mrs. Neuber moved that the Board adopt the following policy:

Any terminal distributor purchasing and/or possessing dangerous drugs on or before October 31st of each year will be issued the current year's license and a renewal application for the next licensure year. Any new terminal distributor who will be purchasing and/or possessing dangerous drugs for sale at retail for the first time after October 31st will be issued next year's license.

Any wholesale distributor purchasing and/or possessing dangerous drugs on or before April 30th of each year will be issued the current year's license and a renewal application for the next licensure year. Any new wholesale distributor who will be purchasing and/or possessing dangerous drugs for sale at wholesale for the first time after April 30th will be issued next year's license.

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

RES. 96-248 The Board then discussed current policy and fees assessed for lists, labels, and diskettes of Board of Pharmacy licensees or registrants. Following discussion, Mr. Cavendish moved that the fees be revised for FY 97 as follows:

	1 - 1000 records	\$ 75.00
	1001 - 2500 records	\$100.00
	2501 - 5000 records	\$150.00
	5001 - 7500 records	\$200.00
7501 plus		\$250.00

The motion was seconded by Mr. Miller and approved (Aye-6/Nay-1).

9:10 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a hearing in the matter of R.Ph. Dominic J. Bartone (03-1-12108) pursuant to Chapters 119. and 4729. of the Revised Code.

10:02 a.m.

The hearing was recessed and the Board left to conduct a Chapter 119. Public Rules Hearing in Studio Three of the Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio.

10:15 a.m.

The Board reconvened in Studio Three and was joined by Assistant Attorney General Mary Hollern. Evidence regarding the Board's compliance with Ohio Revised Code Chapters 119. and 4729. were introduced into the hearing record along with written comments submitted in

response to the Notice of Public Rules Hearing. Oral testimony was received from the following persons attending the hearing: Dr. Metta Lou Henderson, Ohio Northern University; Mary Ann Wagner, National Association of Chain Drug Stores; and Steven M. Mueller, Ohio Pharmacists Association.

10:45 a.m.

The public rules hearing was concluded and the record closed. The Board left to return to Room 1914 and continue the hearing in the matter of Dominic J. Bartone, R.Ph.

10:53 a.m.

The Board members returned to Room 1914 and reconvened the hearing in the matter of Dominic J. Bartone, R.Ph.

11:43 a.m.

Board member Joseph Maslak arrived and joined the meeting.

2:15 p.m.

The hearing was concluded and the record closed. The Board recessed for ten minutes.

2:35 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a hearing in the matter of R.Ph. Lynn Marie Borisuk (03-1-13070) pursuant to Chapters 119. and 4729. of the Revised Code.

8:35 p.m.

The hearing was concluded and the record closed. Mr. Maslak moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearings in the matters of R.Ph. Dominic J. Bartone and R.Ph. Lynn M. Borisuk. The motion was seconded by Mrs. Plant and a Roll Call vote was conducted by President Lamping as follows: Cavendish-Yes, Hanna-Yes, Littlejohn-Yes, Maslak-Yes, Miller-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

9:33 p.m.

RES. 96-249

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

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-950706-001)

In The Matter Of:

LYNN MARIE BORISUK, R.Ph.
2331 Killian Road
Akron, Ohio 44312
(R.Ph. No. 03-1-13070)

INTRODUCTION

THE MATTER OF LYNN MARIE BORISUK CAME TO HEARING ON JUNE 27, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LYNN MARIE BORISUK WAS REPRESENTED BY EDWIN C. PIERCE, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David Gallagher, Ohio State Board of Pharmacy
- (2) Thomas G. Hinderer, R.Ph., K-Mart
- (3) Timothy J. Kolopus, R.Ph., K-Mart
- (4) Bonnie Yoder, Pharmacy Technician, K-Mart
- (5) Christopher Hart, R.Ph., K-Mart

- (6) Darlene Shanklin, Pharmacy Technician, K-Mart
- (7) Lynn Marie Borisuk, Respondent

Respondent's Witnesses:

- (1) Dr. Fred Karaffa, Shepherd Hill Hospital
- (2) Phyllis Grauer, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated July 6, 1995.
- (2) Exhibit 1A--Hearing Request letter dated July 25, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated July 26, 1995.
- (4) Exhibit 1C--Addendum Notice dated December 22, 1995.
- (5) Exhibit 1D--Continuance Request letter dated January 10, 1996.
- (6) Exhibit 1E--Hearing Schedule letter dated January 17, 1996.
- (7) Exhibit 1F--Continuance Request letter dated March 19, 1996.
- (8) Exhibit 1G--Hearing Schedule letter dated March 21, 1996.
- (9) Exhibit 1H--Pharmacist File Front Sheet of Lynn Marie Snoderly Borisuk showing original date of registration as March 6, 1978.
- (10) Exhibit 1I--Two-page facsimile as follows: Page 1 - cover page dated June 26, 1996; and Page 2 - Continuance Request letter dated June 26, 1996.
- (11) Exhibit 1J--Letter Denying Continuance Request from Franklin Z. Wickham, not dated.
- (12) Exhibit 2--Two-page copy of R.Ph. Christopher Hart's notes of May 5, 1995, through May 23, 1995.
- (13) Exhibit 3--Copy of R.Ph. Christopher Hart's notes of June 6, 1995.
- (14) Exhibit 4--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 19, 1995, at 10:45 p.m. after work.
- (15) Exhibit 4A--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 21, 1995, before work.
- (16) Exhibit 4B--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 21, 1995, at 8:00 p.m. after work.
- (17) Exhibit 4C--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 23, 1995, a.m. before.
- (18) Exhibit 4D--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 23, 1995, after work.
- (19) Exhibit 4E--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 24, 1995, after work.
- (20) Exhibit 4F--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 26, 1995, before work.
- (21) Exhibit 4G--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 27, 1995, before work.
- (22) Exhibit 4H--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 27, 1995, after work.
- (23) Exhibit 4I--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 28, 1995, after work.
- (24) Exhibit 4J--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 30, 1995, at 11:06 a.m.
- (25) Exhibit 5--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (26) Exhibit 5A--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (27) Exhibit 5B--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (28) Exhibit 5C--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (29) Exhibit 5D--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (30) Exhibit 5E--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (31) Exhibit 5F--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (32) Exhibit 5G--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (33) Exhibit 5H--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (34) Exhibit 5I--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (35) Exhibit 5J--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (36) Exhibit 5K--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (37) Exhibit 5L--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (38) Exhibit 5M--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (39) Exhibit 5N--K-Mart VHS Video Cassette security tape of June 24, 1995.

- (40) Exhibit 5O--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (41) Exhibit 5P--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (42) Exhibit 5Q--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (43) Exhibit 5R--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (44) Exhibit 5S--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (45) Exhibit 5T--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (46) Exhibit 5U--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (47) Exhibit 6--Microcassette tape, Part 1, of Interview of Lynn Marie Borisuk by David Gallagher on June 30, 1995.
- (48) Exhibit 6A--Microcassette tape, Part 2, of Interview of Lynn Marie Borisuk by David Gallagher on June 30, 1995.
- (49) Exhibit 7--Copy of R.Ph. Christopher Hart's notes of June 7, 1995, and June 8, 1995.
- (50) Exhibit 8--Stock bottle of Ionamin 30mg capsules, Lot No. 40489, expiration date 8-99, containing 75 Ionamin 30mg capsules.
- (51) Exhibit 9--Stock bottle of Adipex-P 37.5mg tablets, Lot No. 3915, expiration date 6-97, containing 34 Adipex-P 37.5mg tablets.
- (52) Exhibit 10--Receipt from Lynn Borisuk to Agent David Gallagher signed and notarized on June 30, 1995.
- (53) Exhibit 11--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Adipex-P 37.5mg dated July 17, 1995.
- (54) Exhibit 11A--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ionamin 30mg dated July 17, 1995.
- (55) Exhibit 11B--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ionamin 15mg dated July 17, 1995.
- (56) Exhibit 11C--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ambien 10mg dated July 17, 1995.
- (57) Exhibit 11D--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Alprazolam 1mg dated July 17, 1995.
- (58) Exhibit 11E--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Methylphenidate 5mg dated July 17, 1995.
- (59) Exhibit 11F--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zoloft 100mg dated July 19, 1995.
- (60) Exhibit 11G--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Cipro 500mg dated July 19, 1995.
- (61) Exhibit 11H--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zovirax 400mg dated July 19, 1995.
- (62) Exhibit 11I--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Seldane-D dated July 19, 1995.
- (63) Exhibit 11J--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Claritin 10mg dated July 19, 1995.
- (64) Exhibit 11K--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for R-Tannamine tablets dated July 19, 1995.
- (65) Exhibit 11L--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zephrex LA dated July 19, 1995.
- (66) Exhibit 11M--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Prozac 20mg dated July 19, 1995.
- (67) Exhibit 12--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Oxycodone 5mg/ASA tablets dated August 9, 1995.

- (68) Exhibit 12A--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Adipex-P 37.5mg dated August 9, 1995.
- (69) Exhibit 12B--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Phentermine 30mg dated August 9, 1995.
- (70) Exhibit 12C--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ritalin 5mg dated August 9, 1995.
- (71) Exhibit 12D--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 5mg dated August 9, 1995.
- (72) Exhibit 12E--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 10mg dated August 9, 1995.
- (73) Exhibit 12F--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 20mg dated August 9, 1995.
- (74) Exhibit 12G--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 20mg ER dated August 9, 1995.
- (75) Exhibit 12H--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ambien 5mg dated August 9, 1995.
- (76) Exhibit 12I--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ambien 10mg dated August 9, 1995.
- (77) Exhibit 12J--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam .25mg dated August 9, 1995.
- (78) Exhibit 12K--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Xanax .5mg dated August 9, 1995.
- (79) Exhibit 12L--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam .5mg dated August 9, 1995.
- (80) Exhibit 12M--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam 1mg dated August 9, 1995.
- (81) Exhibit 13--Fifty-five pages of wholesale purchase records from Whitmire Dist. Corp. Cleveland of K-Mart Pharmacy #3243 dated from January 1, 1995, through March 30, 1995.
- (82) Exhibit 13A--One hundred-one pages of wholesale purchase records from the Tennessee Wholesale Drug Co. of K-Mart Pharmacy #3243 dated from January 3, 1994, through August 1, 1994.
- (83) Exhibit 13B--Seventy pages of wholesale purchase records of K-Mart Pharmacy #3243 dated from May through December of 1994.
- (84) Exhibit 14--Five-page K-Mart Pharmacy #3243 Number Purchase Accountability Sheet Report dated August 8, 1995.
- (85) Exhibit 14A--Fourteen pages of wholesale purchase records of K-Mart Pharmacy #3243 dated from July 1, 1993, through May 1, 1995.
- (86) Exhibit 14B--Sixteen page List Drug Transactions of Account #67351, K-Mart #3243, dated from May 1, 1993, through July 25, 1995.
- (87) Exhibit 15--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending December 26, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760388 dated December 14, 1992; Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated December 22, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760387 dated November 21, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760386 dated November 21, 1992; Tennessee Wholesale Drug Co. Direct Update Invoice of K-Mart Pharmacy #4169 dated December 2, 1992; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated December 2, 1992.
- (88) Exhibit 15A--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending January 30, 1993; K-Mart Pharmacy #4169 DEA Form

- 222, No. 900760389, dated January 23, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169, dated January 28, 1993.
- (89) Exhibit 15B--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending February 26, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760390, dated January 26, 1993; Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated February 1, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760391, dated February 15, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated February 23, 1993.
- (90) Exhibit 15C--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending March 31, 1993.
- (91) Exhibit 15D--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending April 30, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760393, dated March 30, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated April 6, 1993.
- (92) Exhibit 15E--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending May 29, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760392, dated May 9, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated May 14, 1993.
- (93) Exhibit 15F--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending June 29, 1993.
- (94) Exhibit 16--Two-page handwritten statement of Tom Hinderer signed and notarized on July 10, 1995.
- (95) Exhibit 17--Handwritten statement of Tim Kolopus signed and notarized on July 10, 1995.
- (96) Exhibit 18--Four-page handwritten statement of Gregg Smith signed and notarized on August 7, 1995.
- (97) Exhibit 19--Prescription number 6648259.
- (98) Exhibit 20--One tube of Pramoxone Cream 1%, Lot No. 51294, expiration date 9/93, in stock box.
- (99) Exhibit 21--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 11, 1993.
- (100) Exhibit 22--K-Mart Pharmacy #4169 Medical Expenses report of Patient John F. Nadzam dated from January 1, 1993, through July 10, 1995.
- (101) Exhibit 22A--Description of error made on prescription number 6648259.
- (102) Exhibit 23--Prescription numbered 6602376 on the front; and 6638865 on the back.
- (103) Exhibit 24--Sealed stock bottle of Micro-K 10, labeled as prescription number 6638865.
- (104) Exhibit 25--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 3, 1993.
- (105) Exhibit 25A--Description of error made on prescription number 6638865.
- (106) Exhibit 26--Prescription numbers 6648164, 6648165, and 6648166.
- (107) Exhibit 27--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 2, 1993.
- (108) Exhibit 27A--Description of error made on Prescription number 6648165.
- (109) Exhibit 28--Prescription number 6649587.
- (110) Exhibit 29--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 16, 1993, and K-Mart Pharmacy #4169 Daily Audit Listing report dated February 17, 1993.
- (111) Exhibit 29A--Description of error made on prescription number 6649587.
- (112) Exhibit 30--Prescription for patient Leroy Zimmerman for Klonopin 0.2mg dated July 1, 1993.
- (113) Exhibit 31--K-Mart Pharmacy #4169 Medical Expenses report of Patient Leroy Zimmerman dated from January 1, 1993, to January 1, 1994.
- (114) Exhibit 31A--Description of error made on prescription number 6661795.
- (115) Exhibit 32--Prescription number 4400108.
- (116) Exhibit 33--K-Mart Pharmacy #7383 Comprehensive Audit Listing report dated June 29, 1995.
- (117) Exhibit 33A--Description of error made on prescription number 4400108.
- (118) Exhibit 34--Five-page handwritten statement of Christopher Hart signed and notarized on July 20, 1995.
- (119) Exhibit 35--Prescription number 4400002.
- (120) Exhibit 36--K-Mart Pharmacy #7383 Daily Audit Listing report dated March 28, 1995.
- (121) Exhibit 37--K-Mart Pharmacy #7383 Drug Movement Report for Promethazine VC with Codeine Syrup dated from March 17, 1995, through July 11, 1995.
- (122) Exhibit 37A--K-Mart Pharmacy #7383 Drug Movement Report for Promethazine with Codeine 6.25-10 Syrup dated from March 17, 1995, through July 11, 1995.

- (123) Exhibit 37B--Description of error made on prescription number 4400002.
- (124) Exhibit 38--Three-page handwritten statement of Cynthia Weller signed and notarized on August 17, 1995.
- (125) Exhibit 39--Two-page handwritten statement of Jill Theresa Mozingo signed and notarized on August 17, 1995.
- (126) Exhibit 40--Handwritten statement of Bonnie K. Yoder signed and notarized on October 5, 1995.
- (127) Exhibit 41--Handwritten statement of Dianna S. Loeckel signed and notarized on October 5, 1995.
- (128) Exhibit 42--Certified Journal Entry in the Summit County Common Pleas Court, Case No. CR 95 08 2067, of Lynn Marie Borisuk dated December 1, 1995.
- (129) Exhibit 43--Certified Journal Entry in the Summit County Common Pleas Court, Case No. CR 95 08 2067, of Lynn Marie Borisuk dated December 6, 1995.
- (130) Exhibit 44--Whitmire Dist. Corp. Cleveland CSA Sales History by Customer Report of, K-Mart Pharmacy #7383, dated from March 1, 1995, to June 30, 1995.
- (131) Exhibit 45--Four-page handwritten statement of Darlene Shanklin signed and witnessed on June 5, 1996.

Respondent's Exhibits:

- (1) Exhibit A1--Copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Lynn Borisuk dated February 28, 1996; and copy of Shepherd Hill Hospital Recovery Monitoring Services Agreement of Lynn Borisuk dated November 17, 1995.
- (2) Exhibit A2--Copies of urine drug screens of Lynn Borisuk dated as follows: two-page report dated November 15, 1995; two-page report dated December 13, 1995; page one of report dated January 17, 1996; two-page report dated January 18, 1996; two-page report dated January 25, 1996; two-page report dated February 1, 1996; two-page report dated February 13, 1996; two-page report dated February 14, 1996; two-page report dated February 21, 1996; two-page report dated March 5, 1996; two-page report dated March 6, 1996; two-page report dated March 9, 1996; report dated March 19, 1996; report dated March 27, 1996; two-page report dated April 4, 1996; report dated April 9, 1996; report dated April 16, 1996; report dated April 23, 1996; two-page report dated May 3, 1996; report dated May 9, 1996; report dated May 16, 1996; report dated May 19, 1996; report dated May 30, 1996; report dated June 4, 1996; report dated June 8, 1996; and report dated June 15, 1996.
- (3) Exhibit A3--Verification of AA Attendance of Lynn B. dated from November 19, 1995, through December 17, 1995; meeting attendance verification of Lynn B. dated from December 20, through January 10, 1996; copy of Verification of AA Attendance of Lynn B. dated from January 11, 1996, through February 1, 1996; Verification of AA Attendance of Lynn B dated from February 8, 1996, through March 4, 1996; Verification of AA Attendance of Lynn dated from March 6, 1996, through March 27, 1996; Verification of AA Attendance of Lynn B. dated from April 18, 1996, through May 16, 1996; Verification of AA Attendance of Lynn B. dated May 19, 1996, through June 13, 1996; and copy of Verification of AA Attendance of Lynn B dated from June 18, 1996, through June 23, 1996.
- (4) Exhibit A4--Affidavit of Donna Snoderly signed and notarized on June 24, 1996; letter from Mary Spain dated June 10, 1996; two-page letter from Robert A. Woods dated June 14, 1996; letter from Sarah and Susan Borisuk, not dated; letter from Cathy Snoderly dated June 17, 1996; letter from Elizabeth Snoderly dated June 24, 1996; letter from David J. Allen dated June 19, 1996; letter from John M. Stang dated March 27, 1996; letter from Henry Lynn Hook dated May 30, 1996; letter from Keith M. Wire dated June 7, 1996; letter from John M. Davis dated June 17, 1996; and letter from Carla Becroft and Daphne K. DeFreest dated June 21, 1995.
- (5) Exhibit A5--Copy of Continuing Pharmacy Education Report Form of Lynn Marie Borisuk dated June 10, 1995; Renewal Application for Pharmacist License, No. 03-1-13070, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Lynn Marie Borisuk dated June 10, 1995; and test score for Allergic Rhinitis: Pathophysiology and Diagnosis of Lynn Borisuk, not dated.
- (6) Exhibit A6--Ohio Department of Administrative Services Employee Performance Evaluation of Lynn M. Borisuk dated May 10, 1988; five-page copy of Pharmacist/Pharmacy Manager Performance Appraisal Form of Lynn Borisuk dated May 18, 1993; copy of letter from Scott F. Horsfield dated October 11, 1994; K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk dated September 1, 1994; ; K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk

dated August 5, 1994; and K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk dated November 4, 1994.

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) Lynn Marie Borisuk did, on or about June 20, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 77 unit doses of Ionamin 30mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (2) Lynn Marie Borisuk did, on or about June 23, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 2 unit doses of Ionamin 15mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) You did, on or about June 24, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: you stole 3 unit doses of Ionamin 15mg from your employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Lynn Marie Borisuk did, on or about June 25, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 1 unit dose of Ionamin 15mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Lynn Marie Borisuk did, on or about June 30, 1995, knowingly possess a controlled substance in an amount 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: Lynn Marie Borisuk stole and possessed outside the pharmacy, 75 units of Ionamin 30mg, a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(4) of the Ohio Revised Code.
- (6) Lynn Marie Borisuk did, on or about May 18, 1995, knowingly possess a controlled substance in an amount 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: Lynn Marie Borisuk stole and possessed outside the pharmacy, an entire stock bottle containing 100 unit doses of Adipex-P 37.5mg, a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(6) of the Ohio Revised Code.
- (7) Lynn Marie Borisuk did, on or about June, 1995, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lynn Marie Borisuk stole and sold, without prescription, 19 unit doses of Alprazolam 1mg, a schedule III controlled substance. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (8) Lynn Marie Borisuk did, on or about May 18, 1995, knowing that an official investigation was likely to be instituted, destroy, conceal, or remove records of drug purchases with purpose to impair its value or availability as evidence in such investigation, to wit: after ordering a bottle of 100 unit doses of Adipex-P 37.5mg,

and stealing it, Lynn Marie Borisuk destroyed the record of purchase. Such conduct is in violation of Section 2921.12 of the Ohio Revised Code.

- (9) Lynn Marie Borisuk is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Lynn Marie Borisuk has committed numerous errors when dispensing drugs; and, Lynn Marie Borisuk has admitted to abusing Adipex-P 37.5mg, Ionamin 15mg and 30mg, and Ambien 10mg, without a prescription and while practicing pharmacy. Such conduct indicates that Lynn Marie Borisuk falls within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (10) Records of the Board of Pharmacy indicate that Lynn Marie Borisuk was originally licensed in the state of Ohio on March 6, 1978, pursuant to examination, and her license was summarily suspended on July 6, 1995. Records further indicate that Lynn Marie Borisuk was the Responsible Pharmacist at K-Mart Pharmacy #3243, 1447 North Main Street, North Canton, Ohio from December 7, 1994, through April 3, 1995, and Lynn Marie Borisuk was the Responsible Pharmacist at K-Mart Pharmacy #7383, 241 Wooster Road North, Barberton, Ohio from April 1, 1995, through July 16, 1995, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (11) Lynn Marie Borisuk did, on or about November 29, 1995, in the Summit County Common Pleas Court, plead guilty to three counts of Aggravated Trafficking in violation of Section 2925.03(A)(1) of the Ohio Revised Code and six counts of Theft in violation of Section 2913.02 of the Ohio Revised Code, all being felonies of the 4th degree.
- (12) Lynn Marie Borisuk did on several occasions from April 22, 1994, through June 30, 1995, knowing that an official investigation was likely to be instituted, alter, destroy, conceal, or remove documents with purpose to impair their value or availability as evidence in such proceeding or investigation, to wit: on or about June 30, 1995, Lynn Marie Borisuk admitted to an agent of the Ohio State Board of Pharmacy that she destroyed pharmacy invoices so as to avoid detection for thefts at K-Mart Pharmacy #3243, North Canton, Ohio. During the audit, the following invoices could not be located:

<u>Wholesaler</u>	<u>Invoice Date</u>	<u>Invoice No.</u>
Tennessee Wholesale	4-22-94	369033
Tennessee Wholesale	6-22-94	462734
Whitmire Wholesale	8-18-94	582286
Whitmire Wholesale	9-1-94	590185
Whitmire Wholesale	10-10-94	616057
Whitmire Wholesale	2-26-95	750175
Whitmire Wholesale	3-12-95	764418

Such conduct is in violation of Section 2921.12 of the Ohio Revised Code.

- (13) Lynn Marie Borisuk as the Responsible Pharmacist did, from on or about March 19, 1995, through July 2, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy, Barberton, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk or someone under her control stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Adipex-P 37.5mg	100	100 %
Ionamin 30mg	100	100 %
Ionamin 15mg	6	6 %
Ambien 10mg	92	23 %
Alprazolam 1mg	19	3.8 %
Methylphenidate 5mg	1	.13 %
Zoloft 100mg	45	7.5 %
Cipro 500mg	36	18 %
Zovirax 400mg	30	30 %
Seldane-D	20	5 %

Claritin 10mg	18	6 %
R-Tannamine	10	10 %
Zephrex LA	7	7 %
Prozac 20mg	3	.6 %

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (14) Lynn Marie Borisuk did, from on or about May 1, 1993, through April 4, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #3243, North Canton, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Adipex-P 37.5mg	886	98.44%
Phentermine 30mg	44	44%
Ritalin 5mg	14	6.01%
Methylphenidate 5mg	6	.19 %
Methylphenidate 10mg	52	1.33%
Methylphenidate 20mg	1,135	51.%
Methylphenidate 20mg ER	757	41.75%
Ambien 5mg	32	4%
Ambien 10mg	293	18.31%
Alprazolam .25mg	768	13.02%
Xanax .5mg	54	.82%
Alprazolam .5mg	102	1.62%
Alprazolam 1mg	129	5.86%
Oxycodone 5mg/ASA	62	46.97%

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (15) Lynn Marie Borisuk did, from on or about November 30, 1992, through June 29, 1993, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #4169, Massillon, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Ritalin 5mg	115	24.79%
Methylphenidate 5mg	27	.67%
Methylphenidate 10mg	29	1.24%
Methylphenidate 20mg	110	2.88%

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 paragraph (11) 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 (1) through (9) and (11) through (15) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (9) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5), (6), (7), (9), and (11) 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 4729. 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 July 6, 1995.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Lynn Marie Borisuk:

- (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. 03-1-13070, held by Lynn M. Borisuk 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. 03-1-13070, held by Lynn M. Borisuk 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. 03-1-13070, held by Lynn M. Borisuk effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-13070, held by Lynn M. Borisuk 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.

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

RES. 96-250 Mr. Cavendish moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY (Docket No. D-960214-039)

In The Matter Of:

DOMINIC J. BARTONE, R.Ph.
1130 Birchton Place
Vandalia, Ohio 45377
(R.Ph. No. 03-1-12108)

INTRODUCTION

THE MATTER OF DOMINIC J. BARTONE CAME TO HEARING ON JUNE 27, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER,

R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DOMINIC J. BARTONE WAS REPRESENTED BY BRADLEY HUMMEL AND MARK D. SENFF, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dominic J. Bartone, Respondent
- (2) Sergeant Carl E. Plummer, Butler Township Police Department
- (3) Officer Robert Winkle, City of Vandalia Police Department
- (4) Frederick Williams, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Robert William Birch, Ph.D.
- (2) James M. Crowley, New Creations Counseling Center
- (3) Debra A. Bartone, Wife of Respondent
- (4) Daniel E. Callahan, D.P.M.
- (5) Dominic J. Bartone, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated February 14, 1996.
- (2) Exhibit 1A--Hearing Request letter dated February 21, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated February 23, 1996.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Dominic J. Bartone showing original date of registration as August 10, 1977.
- (5) Exhibit 1D--Renewal Application for Pharmacist License, No. 03-1-12108, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Dominic J. Bartone dated July 3, 1995.
- (6) Exhibit 1E--Amendment Notice dated June 20, 1996.
- (7) Exhibit 2--Two-page certified copy of Butler Township Police Department Offense Report Form, Master No. 95326053, regarding Dominic J. Bartone dated November 22, 1995.
- (8) Exhibit 2A--Certified copy of Vandalia Municipal Court Complaint of Dominic J. Bartone dated November 22, 1995.
- (9) Exhibit 2B--Certified copy of Butler Township Police Department Pre-Interview Form of Dominic Bartone dated November 22, 1995.
- (10) Exhibit 2C--Certified copy of Butler Township Police Department Statement, Master No. 95-326-053, of Dom Bartone dated September (sic November) 22, 1995.
- (11) Exhibit 2D--Certified copy of Anna Local Schools Fax Transmission Sheet typewritten to Sgt. Plumber (sic Plummer) from Charlie Rhayn dated November 21, 1995.
- (12) Exhibit 2E--Certified copy of Anna Local Schools Fax Transmission Sheet handwritten to Sgt. Plumber (sic Plummer) from Charlie Rhayn dated November 21, 1995.
- (13) Exhibit 2F--Certified copy of page 2 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Bonnie Knasel regarding incident of November 21, 1995.
- (14) Exhibit 2G--Certified copy of page 3 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Austin Drewes regarding incident of November 21, 1995.
- (15) Exhibit 2H--Certified copy of page 4 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Renee Larger regarding incident of November 21, 1995.
- (16) Exhibit 2I--Certified copy of page 5 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Kelly Buehler regarding incident of November 21, 1995.

- (17) Exhibit 2J--Certified copy of page 6 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Cara Homan regarding incident of November 21, 1995.
- (18) Exhibit 2K--Certified copy of page 7 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Heather Buehler regarding incident of November 21, 1995.
- (19) Exhibit 2L--Certified copy of page 2 of Anna Local Schools Fax to Sgt. Plumber (sic Plummer) from Charlie Rhayn consisting of handwritten statement of Chelsea Rhyan regarding incident of November 21, 1995.
- (20) Exhibit 2M--Certified copy of Entry in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated June 16, 1986.
- (21) Exhibit 2N--Certified copy of Entry in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated from May 28, 1986, through June 16, 1986.
- (22) Exhibit 2O--Certified copy of Entry of Termination of Probation in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic Bartone dated February 13, 1987.
- (23) Exhibit 2P--Certified copy of Notice of Representation, Plea of Not Guilty, and Request for Pre-Trial in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated May 28, 1986.
- (24) Exhibit 2Q--Certified copy of Complaint in the Vandalia Municipal Court, Case No. 86CRB7199, of Dominic J. Bartone dated May 27, 1986.
- (25) Exhibit 2R--Three-page certified copy of City of Vandalia Incident Report, Master File No. 86-0839, regarding Dominic J. Bartone dated May 25, 1986.
- (26) Exhibit 2S--Two-page certified copy of LEADS/NCIC Dissemination report regarding Dominic J. Bartone dated November 21, 1995.
- (27) Exhibit 2T--Certified copy of letter from Charlie Rhyan dated November 27, 1995.
- (28) Exhibit 3--Certified copy of Vandalia Municipal Court Traffic/Criminal Docket, Case No. 95CRB03894, of Dominic J. Bartone.
- (29) Exhibit 4--Forty-six page transcript of interview of Dominic J. Bartone by Fred Williams and Bob Cole of the Ohio State Board of Pharmacy on January 23, 1996.
- (30) Exhibit 4A--Microcassette tape of Interview of Dominic J. Bartone by Fred Williams and Bob Cole of the Ohio State Board of Pharmacy on January 23, 1996.
- (31) Exhibit 5--Certified copy of Vandalia Municipal Court Traffic/Criminal Docket, Case No. 86CRB07199, of Dominic J. Bartone.

Respondent's Exhibits:

- (1) Exhibit A1--Letter from Christie E. Barron dated June 15, 1996.
- (2) Exhibit A2--Letter from Herbert A. Betts, not dated.
- (3) Exhibit A3--Letter from Ernest E. Boyd dated June 18, 1996.
- (4) Exhibit A4--Letter from Michael G. Comer dated June 17, 1996.
- (5) Exhibit A5--Letter from Mark A. Couch dated June 19, 1996.
- (6) Exhibit A6--Letter from James F. Courtright dated June 12, 1996.
- (7) Exhibit A7--Letter from Joseph A. and Jennie L. Dranschak dated June 17, 1996.
- (8) Exhibit A8--Letter from Susan K. Dunlop dated June 12, 1996.
- (9) Exhibit A9--Letter from Michael T. Gale dated June 11, 1996.
- (10) Exhibit A10--Letter from Marv and Peggy Goldschmidt dated June 8, 1996.
- (11) Exhibit A11--Letter from Robert H. Gridley dated June 17, 1996.
- (12) Exhibit A12--Letter from Ilse R. and Vincent E. Higgins, Jr. dated June 13, 1996.
- (13) Exhibit A13--Letter from Patricia A. Kaplan dated June 7, 1996.
- (14) Exhibit A14--Letter from George B. Kenworthy dated June 7, 1996.
- (15) Exhibit A15--Letter from Douglas L. Knight dated June 5, 1996.
- (16) Exhibit A16--Letter from Ann and Arthur Lobo, not dated.
- (17) Exhibit A17--Letter from Mrs. Sharon Lytle dated June 18, 1996.
- (18) Exhibit A18--Letter from Linda D. Manos dated June 8, 1996.
- (19) Exhibit A19--Letter from Robert D. Neef dated June 18, 1996.
- (20) Exhibit A20--Letter from Judy Parks dated June 4, 1996.
- (21) Exhibit A21--Letter from Don Riddle dated June 20, 1996.
- (22) Exhibit A22--Letter from Richard E. Schott dated June 12, 1996.
- (23) Exhibit A23--Letter from Eugene T. Shanahan dated June 5, 1996.
- (24) Exhibit A24--Letter from Carolyn Slaughter dated June 19, 1996.
- (25) Exhibit A25--Letter from Glen A. Snyder dated June 24, 1996.
- (26) Exhibit A26--Letter from Kenneth L. Smith dated June 5, 1996.
- (27) Exhibit A27--Two-page letter from Margo A. Steinbaugh dated June 15, 1996.
- (28) Exhibit A28--Letter from Pamela S. Sunderland dated June 20, 1996.
- (29) Exhibit A29--Letter from Leonard M. Tinney, not dated.

- (30) Exhibit A30--Letter from Glenn J. Unse dated June 6, 1996.
- (31) Exhibit A31--Letter from Thomas C. Volck dated June 17, 1996.
- (32) Exhibit A32--Letter from Andrew Wargo and Family, not dated.
- (33) Exhibit A33--Letter from Wayne K. Wright dated June 6, 1996.
- (34) Exhibit B1--Three-page Professional Resume of Robert W. Birch, Ph.D.
- (35) Exhibit B2--Copy of letter from Robert W. Birch dated April 8, 1996.
- (36) Exhibit B3--Copy of letter from Robert W. Birch dated December 21, 1995.
- (37) Exhibit C--Copy of letter from Stephen R. Guy, not dated.

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 Dominic J. Bartone was originally licensed in the state of Ohio on August 10, 1977, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Dominic J. Bartone was, on or about December 29, 1995, convicted in the Vandalia Municipal Court, Vandalia, Ohio, of one count of Public Indecency in violation of Section 2907.09 of the Ohio Revised Code, a misdemeanor of the third degree; to wit: Dominic J. Bartone was convicted after a plea of "no contest" to the following criminal charge:

. . . recklessly and under circumstances in which his conduct was likely to be viewed by and affront others not members of his household, expose his private parts or engage in masturbation, to wit: did follow a school bus with children on board, and proceeded to expose his private parts while driving, in full view of the children in the bus . . .

Dominic J. Bartone committed the above-described act while driving an automobile having the license plates reading "DOM RPH". Dominic J. Bartone was sentenced to pay a fine of \$250 plus court costs and 30 days incarceration (20 days of which were suspended upon conditions).

- (3) Dominic J. Bartone was, on or about June 16, 1986, convicted in the Vandalia Municipal Court, Vandalia, Ohio, of one count of Disorderly Conduct in violation of Section 509.03(A) of the Codified Ordinance of Vandalia, a misdemeanor of the fourth degree as amended from Public Indecency. Dominic J. Bartone was sentenced to pay a fine of \$100 plus court costs.

CONCLUSION OF LAW

- (1) 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 gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Dominic J. Bartone:

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-1-12108, held by Dominic J. Bartone on probation for five years effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Dominic J. Bartone must continue rehabilitative counseling through August, 1997, and thereafter, abide by the treatment plan as recommended by the professional(s).

- (2) Dominic J. Bartone must submit quarterly progress reports to the Board; due August 10; November 10; February 10; and May 10; of each year of probation, that include:
 - (a) Written reports and documentation provided by the counseling professional(s) including history of compliance and/or lack of compliance with the program, and the professional's opinion regarding Mr. Bartone's rehabilitation and recommended treatment plan; and
 - (b) Dominic J. Bartone must provide a written description of his progress towards recovery and what he has been doing during the previous three months.
- (3) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Dominic J. Bartone's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (4) Dominic J. Bartone must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (5) Dominic J. Bartone must abide by the rules of the Ohio State Board of Pharmacy.
- (6) Dominic J. Bartone must comply with the terms of this Order.
- (B) Dominic J. Bartone 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.

Mrs. Plant seconded the motion and it was approved (Aye-7/Nay-0).

RES. 96-251 The Board then reviewed the testimony and comments received during the public rules hearing. Following discussion, Mrs. Plant moved that the Board refile two of the proposed amended rules with the Joint Committee on Agency Rule Review as follows:

4729-5-01 Definitions.

(Amplifies: 4729.02, 4729.26, 4729.27, 4729.28, 4729.54, 4729.66)

[Prior Effective Date(s): 10/01/71, 09/10/76, 05/15/87, 07/01/92, 07/01/93]

As used in Chapter 4729. of the Revised Code:

- (A) To "practice pharmacy" is as defined in division (B) of section 4729.02 of the Revised Code.
- (B) The term "dispense" means the final association of a drug with a particular patient pursuant to the prescription, drug order, or other lawful order of a practitioner and the professional judgment of and the responsibility for: interpreting, preparing, compounding, labeling, and packaging a specific drug.
- (C) "Compound" means the professional judgment of a pharmacist associated with the measuring and mixing of one or more drugs, and also includes the reconstitution of a drug by the measuring and mixing of a diluent, pursuant to a prescription.

- (D) "Interpret prescriptions" means the professional judgment of a pharmacist when reviewing a prescription order of a practitioner for a patient.
- (E) "To participate in drug selection" means selecting and dispensing a drug product pursuant to sections 4729.38 and 4729.381 of the Revised Code.
- (F) "To participate with practitioners in reviews of drug utilization" means monitoring the appropriate use of drugs through communication with the practitioner(s) involved.
- (G) "Pharmacist" means an individual who holds a current pharmacist identification card pursuant to section 4729.08 or 4729.09 of the Revised Code; or, pursuant to section 4729.12 of the Revised Code and, where applicable, has met the continuing pharmacy education requirements in accordance with Chapter 4729-7 of the Administrative Code.
- (H) "Original prescription" means the prescription issued by the practitioner in writing, or an oral prescription recorded in writing by the pharmacist, or a prescription transmitted by use of a facsimile machine, each of which is pursuant to rule 4729-5-30 of the Administrative Code.
- (I) "Personal supervision" means a pharmacist shall be physically present in the pharmacy and provide personal review and approval of all professional pharmaceutical activities.
- (J) "Preprinted order" is defined as a patient-specific, definitive set of drug treatment directives to be administered to an individual patient who has been examined by a practitioner and for whom the practitioner has determined that the drug therapy is appropriate and safe when used pursuant to the conditions set forth in the preprinted order. Preprinted orders may be used only for inpatients in an institutional or health care facility as defined in Chapter 4729-17 of the Administrative Code.
- (K) "Standing order" will mean the same as the term "protocol".
- (L) "Protocol" is defined as:
 - (1) A definitive set of treatment guidelines that include definitive orders for drugs and their specified dosages which have been authorized by a practitioner as defined in rule 4729-5-15 of the Administrative Code and have been approved by the board of pharmacy to be used by certified or licensed health care professionals when providing limited medical services to individuals in an emergency situation when the services of a practitioner are not immediately available; or
 - (2) A definitive set of treatment guidelines that include definitive orders for drugs and their specified dosages which have been authorized by a practitioner as defined in rule 4729-5-15 of the Administrative Code and have been approved by the board of pharmacy to be used by certified or licensed health care professionals when administering biologicals or vaccines to individuals for the purpose of preventing diseases.

A protocol may be used only by licensed or certified individuals acting within the scope of their license or certification who have been adequately trained in the safe administration and use of the drugs and other procedures included in the protocol.

Protocols submitted for approval by the board of pharmacy may be reviewed with the medical and/or nursing board, as appropriate, prior to any approval by the board of pharmacy.

- (M) "PRESCRIBER" MEANS ANY PERSON AUTHORIZED BY THE REVISED CODE TO PRESCRIBE DANGEROUS DRUGS AS PART OF THEIR PROFESSIONAL PRACTICE.
- (N) "POSITIVE IDENTIFICATION" MEANS A METHOD OF IDENTIFYING AN INDIVIDUAL WHO PRESCRIBES, ADMINISTERS, OR DISPENSES A DANGEROUS DRUG. SUCH METHOD MAY INCLUDE A PASSWORD ACCESS TO A MECHANICAL OR AUTOMATED SYSTEM, BUT

MUST ALSO INCLUDE A PHYSICAL MEANS OF IDENTIFICATION SUCH AS, BUT NOT LIMITED TO, THE FOLLOWING:

- (1) A MANUAL SIGNATURE ON A HARD-COPY RECORD;
- (2) A MAGNETIC CARD READER;
- (3) A BAR CODE READER;
- (4) A THUMBPRINT READER OR OTHER BIOMETRIC METHOD; OR
- (5) A DAILY PRINTOUT OF EVERY TRANSACTION THAT IS VERIFIED AND MANUALLY SIGNED WITHIN TWENTY-FOUR HOURS BY THE INDIVIDUAL WHO PRESCRIBED, ADMINISTERED, OR DISPENSED THE DANGEROUS DRUG. THE PRINTOUT MUST BE MAINTAINED FOR THREE YEARS AND MADE AVAILABLE ON REQUEST TO THOSE INDIVIDUALS AUTHORIZED BY LAW TO REVIEW SUCH RECORDS.

4729-5-30 Manner of issuance of prescription.

(Amplifies: 3719.06, 3719.28, 4729.02, 4729.37, 4729.66)

[Prior Effective Date(s): 04/01/78, 01/01/81, 02/15/82, 07/01/90, 07/01/94, 11/25/94]

- (A) A prescription, to be effective, must be issued for a legitimate medical purpose by an individual practitioner or advanced practice nurse approved pursuant to section 4723.56 of the Revised Code acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription and the person knowingly dispensing such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law.
- (B) All prescriptions shall be dated as of and signed on the day when issued, and shall bear the full name and address of the patient.
- (C) All written prescriptions issued by a practitioner or advanced practice nurse approved pursuant to section 4723.56 of the Revised Code shall bear the full name and address of the prescriber and shall be manually signed by the prescriber in the same manner as he/she would sign a check or legal document.
- (D) An original signed prescription (for other than a schedule II controlled substance except as noted in rules 4729-17-09 and 4729-19-02 of the Administrative Code) may be transmitted as an "other means of communication" to a pharmacist by the use of a facsimile machine only by a practitioner, the practitioner's agent, or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code. Such a facsimile shall only be valid as a prescription if a system is in place that will allow the pharmacist to maintain the facsimile as a part of the prescription record including the positive identification of the practitioner and his/her agent or of the advanced practice nurse, as well as positive identification of the origin of the facsimile. The pharmacist must record the prescription in writing pursuant to section 4729.37 of the Revised Code or store the facsimile copy in such a manner that will allow retention of the prescription record for three years from the date of the last transaction. The original signed prescription from which the facsimile is produced shall not be issued to the patient. The original signed prescription must remain with the patient's records at the prescriber's office or the institutional facility where it was issued. A facsimile of a prescription received by a pharmacist in any manner other than transmission directly from the practitioner, the practitioner's agent, or the advanced practice nurse approved pursuant to section 4723.56 of the Revised Code shall not be considered a valid prescription, except as a copy of a prescription pursuant to rule 4729-5-24 of the Administrative Code.
- (E) All prescriptions shall specify the number of times or the period of time for which the prescription may be refilled. A prescription marked "Refill P.R.N." or some similar designation is not considered a valid refill authorization.

- (F) Prescriptions for dangerous drugs may not be dispensed for the first time beyond six months from the date of issuance by a practitioner or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code.
- (G) Prescriptions for dangerous drugs and controlled substances in schedule V may not be authorized for refill beyond one year from the date of issuance. Prescriptions for controlled substances in schedules III and IV shall be authorized for refill only as permitted by section 3719.05 of the Revised Code. Prescriptions for controlled substances in schedule II may not be refilled.
- (H) A prescription may be refilled only as expressly authorized by the practitioner or the advanced practice nurse approved pursuant to section 4723.56 of the Revised Code, either in writing or orally. If no such authorization is given, the prescription may not be refilled.
- (I) The drug(s) in a compounded prescription or drug product shall be identified by the product trade name or generic name.
- (J) No prescription shall be coded in such a manner that it cannot be dispensed by any pharmacy of the patient's choice. A "coded prescription" is one which bears letters, numbers, words or symbols, or any other device used in lieu of the name, quantity, strength and directions for its use, other than those normal letters, numbers, words, symbols, or other media recognized by the profession of pharmacy as a means of conveying information by prescription. No symbol, word, or any other device shall be used in lieu of the name of said preparation.
- (K) The agent of a practitioner who transfers a facsimile of an original prescription or transmits an oral prescription or authorization of a refill for a dangerous drug must identify themselves by full name and the pharmacist shall make a record of the practitioner's agent on the original prescription and, if used, on the alternate system of recordkeeping.
- (L) When forms are used that create multiple copies of a prescription issued to a patient by a practitioner or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code, the original ~~copy~~ PRESCRIPTION which ALSO bears the actual signature of the prescriber must be issued to the patient for dispensing by a pharmacist.
- (M) A PHARMACIST MAY ACCEPT, WITHOUT FURTHER VERIFICATION OF THE PRESCRIBER'S IDENTITY REQUIRED, A PRESCRIPTION THAT HAS BEEN TRANSMITTED BY MEANS OF A BOARD APPROVED AUTOMATED PAPERLESS SYSTEM. THE SYSTEM SHALL REQUIRE POSITIVE IDENTIFICATION OF THE PRESCRIBER AS DEFINED IN RULE 4729-5-01 OF THE ADMINISTRATIVE CODE AS WELL AS THE FULL NAME OF ANY AUTHORIZED AGENT OF THE PRESCRIBER WHO TRANSMITS THE PRESCRIPTION.

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

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

PER DIEM	<u>5/1</u>	<u>5/2</u>	<u>5/9</u>	<u>5/14</u>	<u>5/16</u>	<u>6/4</u>	<u>6/11</u>	<u>6/24</u>	<u>6/25</u>	<u>6/26</u>	<u>6/27</u>	<u>6/28</u>	<u>Total</u>
Cavendish	-	-	-	-	-	-	1	1	1	1	1	1	6
Hanna	-	-	-	-	-	-	-	1	1	1	1	1	5
Lamping	-	-	1	1	-	-	-	1	1	1	1	1	7
Littlejohn	1	-	-	-	-	1	1	1	1	1	1	1	8
Maslak	-	-	1	-	-	-	1	1	1	1	1	1	7
Miller	-	1	-	-	1	-	1	1	1	1	1	1	8
Neuber	-	-	-	1	-	1	1	1	1	1	1	1	8
Plant	-	-	-	-	-	-	-	1	1	1	1	1	5
Repke	-	-	-	-	-	-	-	1	1	1	1	1	5

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

9:40 p.m. Mr. Maslak moved that the business meeting be adjourned. The motion was seconded by Mr. Repke and approved (Aye-8/Nay-0).

FRIDAY, JUNE 28, 1996

9:00 a.m. ROLL CALL

The following members of the State Board of Pharmacy met at National Rx Services, 255 Phillipi Road, Columbus, Ohio to tour the pharmacy in the morning and the 700 West Third Avenue call center pharmacy in the afternoon:

Paul F. Lamping, R.Ph. (President); John Hanna, R.Ph.; Amonte Littlejohn, R.Ph.; Joseph Maslak, R.Ph.; and Wayne Miller, R.Ph.

The following members of the State Board of Pharmacy met at National Rx Services, 700 West Third Avenue, Columbus, Ohio to tour the call center pharmacy:

Suzanne L. Neuber, R.Ph. (Vice-President); Robert Cavendish, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

Also touring the facility at this time were Frank Wickham, Executive Director, and Tim Benedict, Compliance Administrator.

<u>/s/ Paul F. Lamping</u> Date	<u>/d/ 09/16/96</u> Paul F. Lamping, President
<u>Wickham</u> Director	<u>/s/ Franklin Z.</u> Franklin Z. Wickham, Executive