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Minutes Of The Meeting
Ohio State Board of Pharmacy
Columbus, Ohio
September 16, 17, 18, 19, 1996

MONDAY, SEPTEMBER 16, 1996

10:00 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:

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

10:15 a.m.

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

10:32 a.m.

RES. 97-019 The Executive Session was concluded and the meeting opened to the public. Mr. Cavendish moved that the Board summarily suspend the license of Keith J. Hochadel, R.Ph. (03-3-15826) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-5/Nay-0).

RES. 97-020 The Board then reviewed a draft of a Compliance Bulletin regarding the recent federal Drug Enforcement Administration regulations concerning OTC products containing pseudoephedrine. Following discussion and suggested changes, the Board directed staff to forward the following Compliance Bulletin to all terminal distributors located in Ohio that will be affected by the new regulations:

COMPLIANCE BULLETIN -- DRAFT

TO: PHARMACISTS

DATE: (Draft)

RE: NEW D.E.A. RESTRICTIONS ON SALE OF CERTAIN PSEUDOEPHEDRINE PRODUCTS

Pseudoephedrine is a List I chemical subject to the chemical regulatory control provisions of the Controlled Substances Act (CSA). Clandestine laboratory operators are purchasing large quantities of over-the-counter (OTC) drug products containing pseudoephedrine for use as precursor material in the clandestine production of methamphetamine.

Effective October 7, 1996, distributors which sell certain OTC pseudoephedrine products in larger than personal use amounts are required to register with the D.E.A. and maintain records of regulated transactions.

SUCH PRODUCTS INCLUDE OTC PSEUDOEPHEDRINE TABLETS, CAPLETS, CAPSULES, AND POWDER PACKETS WHICH DO NOT CONTAIN ACETAMINOPHEN, ASPIRIN, OR IBUPROFEN.

As of October 7, 1996, firms engaging in sales of such products in quantities greater than a threshold of 48.0 grams pseudoephedrine base in a single transaction will be required to obtain a D.E.A. registration as a distributor and maintain records of these transactions. The total of 48.0 grams pseudoephedrine base is equivalent to 1,953 pseudoephedrine 30mg dosage units or 976 pseudoephedrine 60mg dosage units or 488 pseudoephedrine 120mg dosage units. Transactions at or below these levels are sufficient to permit the purchase of up to a 244-day supply of pseudoephedrine drug product without the application of registration or recordkeeping requirements.

As a retail pharmacy, you may sell all pseudoephedrine products packaged in the manufacturer's containers. However, you must be sure that any single sale does not exceed the quantities listed above. If anyone does attempt to purchase quantities greater than stated above, please contact the Board office immediately.

On the back of this sheet is a reference form which may be utilized to determine if a record must be maintained and whether the distributor must register with the D.E.A.

The Executive Director reported on his presentation and attendance at the two-day meeting of the federal Food and Drug Administration's Food Advisory Committee and Special Working Group on Food Products containing ephedrine alkaloids. The meeting was held in Washington D.C. on Tuesday, August 27, and Wednesday, August 28, 1996.

RES. 97-021 Tim Benedict submitted the following request for a waiver pursuant to paragraph (A) of Ohio Administrative Code Rule 4729-5-11:

Harrison Community Hospital (02-0034450)
Health Connection Pharmacy (02-0560300)

Following discussion, Mrs. Plant moved that R.Ph. Richard G. Adams (03-1-17765) be granted the waiver for a period not to exceed one year. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0).

10:56 a.m.

Nicholas Repke, Public Member arrived and joined the meeting.

Tim Benedict then discussed the Health Law Officers Conference that will be held in Savannah, Georgia November 10-13, 1996. The Board requested additional information regarding the costs associated with having each of the seven compliance specialists attend this meeting.

RES. 97-022 Mr. Benedict then presented a request that the Ross County General Health District (02-0274900) be approved as a pick-up station pursuant to O.A.C. Rule 4729-5-10 for tuberculosis medication prescriptions dispensed by Allen's Medical Pharmacy (02-0512850). Mr. Cavendish moved that the request be approved for Tuberculosis drugs only and with the proviso that the nurse delivering the prescription to the patient at the time of their visit to the clinic for their monthly liver profile record their name in full on the record documenting the delivery of the prescription to the patient. Mrs. Plant seconded the motion and it was approved (Aye-6/Nay-0).

The Board then discussed patient confidentiality issues. Discussion centered around the marketing of patient health care information by licensees and registrants. One question resulting from the discussion was whether or not a licensee or registrant could legally hire another business entity to call patients in a refill reminder program. It was suggested that this issue should be addressed by a subcommittee of the 1997 Ad Hoc Advisory Committee on Rule Review.

- 11:48 p.m. The Board recessed for lunch.
- 12:50 p.m. Amonte B. Littlejohn, R.Ph. (Vice-President) arrived and joined the meeting.
- 1:00 p.m. The Board of Pharmacy members reconvened in Room 1914 and was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a disciplinary hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Larry Devonne Shaffer, R.Ph., Urichsville, Ohio.
- 1:10 p.m. The hearing was recessed in order to provide the Board members with the opportunity to review Respondent's Exhibits.
- 1:30 p.m. The hearing was reconvened.
- 2:12 p.m. The hearing was concluded and the meeting recessed for ten minutes.
- 2:26 p.m. Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony presented during the hearing. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.
- 2:49 p.m. **RES. 97-023** The Executive Session was concluded and the meeting opened to the public. Mr. Littlejohn moved that the Board reinstate Mr. Shaffer's license to practice pharmacy in Ohio and adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960126-037)

In The Matter Of:

LARRY DEVONNE SHAFFER, JR., R.Ph.
6366 S. Water St. Ext
Uhrichsville, Ohio 44683
(R.Ph. No. 03-1-17555)

INTRODUCTION

THE MATTER OF LARRY DEVONNE SHAFFER, JR. CAME TO HEARING ON SEPTEMBER 16, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LARRY DEVONNE SHAFFER, JR. WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) None

Respondent's Witnesses:

- (1) Larry Devonne Shaffer, Jr., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Order of the State Board of Pharmacy, Docket No. D-940915-016, in the matter of Larry Devonne Shaffer, Jr. dated June 30, 1995.
- (2) Exhibit 2--Hearing Request letter dated January 17, 1996.
- (3) Exhibit 3--Hearing Schedule letter dated January 26, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Two-page letter from Larry Shaffer dated August 29, 1996; copy of two-page letter from Gregory M. Weber dated August 27, 1996; letter from Larry D. Shaffer, Sr. dated August 27, 1996; copy of two-page letter from Mary Spain dated August 21, 1996; two-page letter from D. Christopher Hart dated August 26, 1996; letter from Gregory M. Weber dated August 29, 1996; letter from Sherie Shaffer dated August 27, 1996; letter from Nancy A. Shaffer, not dated; letter from Terry and Helen Culbertson dated August 24, 1996; Certificate of Appreciation of Larry S. dated November 5, 1995; letter from Larry Shaffer dated August 17, 1996; two-page letter from Fred M. Wagner dated August 18, 1996; two-page letter from Joe Fincher dated August 18, 1996; two-page letter from Larry D. Shaffer dated August 24, 1996; letter from Fred M. Wagner dated August 26, 1996; letter from Jim Martyn dated August 26, 1996; letter from Bjorn dated May 19, 1996; letter from Larry Shaffer dated July 24, 1996; letter from Dr. Tony Komninos dated July 25, 1996; two-page letter from Larry Shaffer dated June 24, 1996; copy of SHH Aftercare Attendance Record Wednesday Evening Group of Larry Shaffer with attendance dated from March 6, 1996, through August 28, 1996; copy of Aftercare Attendance for RMS of Larry Shaffer dated from January 4, 1995, through February 28, 1996; copy of Shepherd Hill Hospital Recovery Monitoring Services Agreement of Larry Shaffer dated January 25, 1995; and Certification of Debbie Znosko, Licking Memorial Hospital, for copies of records and/or photographs of Larry Shaffer dated August 28, 1996.
- (2) Exhibit B--Sixty-nine Meeting Verification Lists of Larry D. Shaffer dated from January 11, 1995, through August 17, 1996.
- (3) Exhibit C--Seventy-nine copies of urine drug screen reports of Larry Shaffer dated as follows: August 27, 1996; August 14, 1996; July 23, 1996; July 15, 1996; June 27, 1996; June 11, 1996; May 26, 1996; May 10, 1996; April 30, 1996; April 16, 1996; two-page report dated April 11, 1996; two-page report dated April 4, 1996; two-page report dated March 30, 1996; two-page report dated March 16, 1996; two-page report dated March 14, 1996; two-page report dated March 9, 1996; two-page report dated March 8, 1996; two-page report dated March 5, 1996; two-page report dated February 16, 1996; two-page report dated February 8, 1996; two-page report dated February 1, 1996; two-page report dated January 25, 1996; two-page report dated January 19, 1996; two-page report dated January 17, 1996; 2 two-page reports dated January 6, 1996; January 24, 1995; February 2, 1995; January 19, 1995; two-page report dated December 29, 1995; two-page report dated December 22, 1995; two-page report dated December 13, 1995; two-page report dated December 8, 1995, and December 11, 1995; two-page report dated November 30, 1995; two-page report dated November 23, 1995; November 22, 1995; two-page report dated November 14, 1995; two-page report dated November 10, 1995; October 30, 1995; October 25, 1995; 2 dated October 18, 1995; October 8, 1995; September 27, 1995; September 21, 1995; September 18, 1995; September 7, 1995; August 31, 1995; August 22, 1995; August 15, 1995; August 9, 1995; July 28, 1995; July 27, 1995; July 17, 1995; July 12, 1995; July 6, 1995; July 4, 1995; June 27, 1995; June 21, 1995; June 13, 1995; June 7, 1995; May 27, 1995; May 24, 1995; May 18, 1995; May 10, 1995; May 1, 1995; April 25, 1995; April 21, 1995; April 8, 1995; March 31, 1995; March 29, 1995; March 24, 1995; 2 dated March 14, 1995; March 1, 1995; February 21, 1995; February 15, 1995; February 7, 1995; January 31, 1995; and one copy of Shepherd Hill Hospital Multidisciplinary Progress Notes of Larry Shaffer dated August 15, 1996.

FINDING OF FACT

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

- (1) Larry Devonne Shaffer, Jr. is in compliance with the Order of the State Board of Pharmacy, Docket No. D-940915-016, dated June 30, 1995.

ACTION OF THE BOARD

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

- (A) Larry Devonne Shaffer, Jr. must enter into a new contract, after 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 submit a copy of the signed contract to the Board office with his renewal application. The contract must provide that:
 - (1) 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 as the dilutional standard or specific gravity;
 - (2) regular **physical** attendance (On-Line meetings excluded), a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Larry Devonne Shaffer, Jr. must submit original continuing pharmacy education certificates documenting 4.5 C.E.U.s in compliance with Chapter 4729-7 of the Ohio Administrative Code for the three-year period prior to the date of submitting the application for renewal. One hour of the 4.5 C.E.U. requirement must be an approved Jurisprudence course in accordance with Rule 4729-7-02 of the Ohio Administrative Code.
- (C) Larry Devonne Shaffer, Jr. must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
 - (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of his progress towards recovery and what he has been doing during the previous three months.
- (D) Other terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of Larry Devonne Shaffer, Jr. is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Larry Devonne Shaffer, Jr. may not serve as a responsible pharmacist.
 - (3) Larry Devonne Shaffer, Jr. may not destroy, or may not assist in or witness the destruction of, controlled substances.
 - (4) Larry Devonne Shaffer, Jr. must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.

- (5) Larry Devonne Shaffer, Jr. must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Larry Devonne Shaffer, Jr. must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Larry Devonne Shaffer, Jr. must comply with the terms of this Order.

Larry Devonne Shaffer, Jr. 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.

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

President Suzanne Neuber reported on the NABP International Regulatory Authorities Meeting held September 8-10, 1996. The meeting was well attended and it was obvious that the problems experienced by the different countries are not that different.

3:07 p.m.

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

3:31 p.m.

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

4:08 p.m.

RES. 97-024 The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960607-060)

In The Matter Of:

PATRICIA ANN FLACK, R.Ph.
2231 Beatrice Street
Springfield, Ohio 45503
(R.Ph. No. 03-3-14223)

INTRODUCTION

THE MATTER OF PATRICIA ANN FLACK CAME TO HEARING ON SEPTEMBER 16, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

PATRICIA ANN FLACK WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Timothy J. Benedict, Ohio State Board of Pharmacy
- (2) Patricia Ann Flack, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated June 7, 1996.
- (2) Exhibit 1A--Hearing Schedule letter dated July 17, 1996.
- (3) Exhibit 1B--Ohio State Board of Pharmacy Personal Delivery Record of Patricia A. Flack dated July 23, 1996.
- (4) Exhibit 2--Order of the State Board of Pharmacy, Docket No. D-940329-077, in the matter of Patricia Ann Flack dated July 1, 1994.
- (5) Exhibit 3--Letter from Patricia A. Flack dated October 10, 1994, received by the Board office on October 13, 1994.
- (6) Exhibit 4--Letter from Patricia A. Flack dated February 10, 1995, received by the Board office on February 14, 1995.
- (7) Exhibit 5--Letter from Patricia A. Flack dated May 27, 1995, received by the Board office on May 31, 1995.
- (8) Exhibit 6--Letter from Patricia A. Flack dated August 26, 1995, received by the Board office on August 29, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Copy of three-page letter from Patricia A. Flack dated August 19, 1996.
- (2) Exhibit B--Letter from Patricia A. Flack dated September 15, 1996.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Patricia Ann Flack's license to practice pharmacy in the state of Ohio was placed on probation for a period of five years on July 1, 1994, pursuant to the provisions of Section 4729.16 of the Ohio Revised Code. The terms of probation were as follows: Patricia Ann Flack was to continue psychological counseling throughout the term of probation; Patricia Ann Flack was to submit quarterly reports; and, Patricia Ann Flack was not permitted to be a preceptor during the term of probation.
- (2) Though Patricia Ann Flack submitted quarterly reports on October 13, 1994, February 14, 1995, May 31, 1995, and August 29, 1995, Ms. Flack failed to submit any reports subsequent to August of 1995. The reports received by the Board were not submitted timely; and, Patricia Ann Flack failed to submit reports for the two quarters immediately preceding the issuance of the Notice of Opportunity for Hearing letter dated June 7, 1996. Such conduct constitutes violating the provisions of her probation.

CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute violating the terms of probation as set forth in the Order of the State Board of Pharmacy, Docket No. D-940329-077, dated July 1, 1994.

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 Patricia Ann Flack:

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby revokes probation and suspends the pharmacist identification card, No. 03-3-14223, held by Patricia Ann Flack for thirty days, effective as of the date of the mailing of this Order.
- (B) Further, the license will be reinstated and the identification card will be placed on probation until July 1, 1999, with the following conditions:
 - (1) Patricia Ann Flack must seek counseling by a professional psychiatrist or psychologist and present results of a full psychiatric or psychological evaluation and a professional opinion. Ms. Flack must continue with counseling and follow a treatment plan designed and recommended by this professional. Ms. Flack must submit to the Board's compliance administrator the results of the evaluation prior to reinstatement of her license.
 - (2) Patricia Ann Flack must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include written reports and documentation provided by the counselor regarding treatment and progress, and a written description of what she has been doing during the previous three months to comply with this Order.
 - (3) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Patricia Ann Flack's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns until July 1, 1999.
 - (4) Patricia Ann Flack must not violate the laws of the state of Ohio, any other state, or the federal government.
 - (5) Patricia Ann Flack must abide by the rules of the Ohio State Board of Pharmacy.
 - (6) Patricia Ann Flack must comply with the terms of this Order.

Patricia Ann Flack 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.

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. Repke and approved by the Board (Aye-7/Nay-0).

RES. 97-025 The Board was informed that the attorney for R.Ph. Frederick Weik would like to explore the possibility of a settlement in the matter. Following discussion, the Board directed that the hear-

ing scheduled for Wednesday, September 18, 1996 be continued and authorized the Assistant Attorney General to enter into discussions regarding a proposed settlement agreement for consideration by the Board.

Staff distributed information to the Board members regarding pharmacist workload and dispensing errors in the states of Oregon and California. The information was distributed by the California-based Guild for Professional Pharmacists to all Boards of Pharmacy.

Also distributed to Board members was a copy of the "Ohio Telemedicine Task Force - Report to the General Assembly" for their consideration and review.

4:22 p.m. The meeting was recessed until 8:00 a.m., Tuesday, September 17, 1996.

TUESDAY, SEPTEMBER 17, 1996

8:20 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:

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

Mrs. Plant moved that the Board go into Executive Session for the purpose of considering the results of an investigation of a licensee/registrant. The motion was seconded by Mrs. Adelman and a roll call vote was conducted by President Neuber as follows: Adelman-Yes, Hanna-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

Also present were Assistant Attorney General Mary Hollern; Tim Benedict, Compliance Administrator; Robert Cole, Compliance Supervisor; Dale Fritz, Compliance Agent; and Mark Keeley, Compliance Specialist.

8:33 a.m.

RES. 97-026 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board summarily suspend the license of R.Ph. Thomas J. Hutton (03-1-11067) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-5/Nay-0).

RES. 97-027 Mrs. Plant moved that the Board recognize and approve the following undergraduate entry-level professional degree programs for Fiscal Year 97:

Baccalaureate in Pharmacy

Albany College of Pharmacy
Auburn University School of Pharmacy
Butler University College of Pharmacy
Drake University College of Pharmacy
Duquesne University School of Pharmacy
Ferris State University College of Pharmacy
Florida A & M University College of Pharmacy
Howard University College of Pharmacy
Long Island University College of Pharmacy
Massachusetts College of Pharmacy-Boston Campus
Medical University of South Carolina College of Pharmacy
Midwestern University Chicago College of Pharmacy
Northeast Louisiana University School of Pharmacy
Northeastern University College of Pharmacy

Nova Southeastern University College of Pharmacy
Ohio Northern University College of Pharmacy
Ohio State University College of Pharmacy
Oregon State University College of Pharmacy
Philadelphia College of Pharmacy and Science
Purdue University School of Pharmacy
Rutgers College of Pharmacy
St. John's University College of Pharmacy
St. Louis College of Pharmacy
Samford University School of Pharmacy
Southwestern Oklahoma State University School of Pharmacy
State University of New York at Buffalo School of Pharmacy
Temple University School of Pharmacy
Texas Southern University College of Pharmacy
University of Cincinnati College of Pharmacy
University of Colorado School of Pharmacy
University of Connecticut School of Pharmacy
University of Florida College of Pharmacy
University of Georgia College of Pharmacy
University of Houston College of Pharmacy
University of Iowa College of Pharmacy
University of Kansas School of Pharmacy
University of Kentucky College of Pharmacy
University of Minnesota College of Pharmacy
University of Mississippi School of Pharmacy
University of Missouri-Kansas City School of Pharmacy
University of Montana School of Pharmacy
University of New Mexico College of Pharmacy
University of North Carolina at Chapel Hill School of Pharmacy
University of Oklahoma College of Pharmacy
University of Pittsburgh School of Pharmacy
University of Puerto Rico School of Pharmacy
University of Rhode Island College of Pharmacy
University of South Carolina College of Pharmacy
University of Texas at Austin College of Pharmacy
University of Toledo College of Pharmacy
University of Utah College of Pharmacy
University of Washington School of Pharmacy
University of Wisconsin-Madison School of Pharmacy
University of Wyoming School of Pharmacy
Virginia Commonwealth University School of Pharmacy
Washington State University College of Pharmacy
Wayne State University College of Pharmacy
West Virginia University School of Pharmacy

Doctor of Pharmacy

*Pharm.D. degrees which are post-B.S. in Pharmacy degrees and have been granted by these schools are not recognized and approved by the Ohio Board of Pharmacy. Individuals holding these degrees qualify for licensure in Ohio only if their B.S. in Pharmacy degree has been obtained from a college of pharmacy listed by the Board above.

*Albany College of Pharmacy
*Auburn University School of Pharmacy
*Butler University College of Pharmacy
Campbell University School of Pharmacy
Creighton University School of Pharmacy
*Drake University College of Pharmacy
*Duquesne University School of Pharmacy
*Ferris State University College of Pharmacy
*Florida A & M University College of Pharmacy
*Howard University College of Pharmacy
Idaho State University College of Pharmacy
*Long Island University College of Pharmacy
*Massachusetts College of Pharmacy-Boston Campus

- *Medical University of South Carolina College of Pharmacy
- Mercer University Southern School of Pharmacy
- *Midwestern University Chicago College of Pharmacy
- North Dakota State University College of Pharmacy
- *Northeastern University College of Pharmacy
- *Nova Southeastern University College of Pharmacy
- *Ohio Northern University College of Pharmacy
- *Ohio State University College of Pharmacy
- *Oregon State University College of Pharmacy
- *Philadelphia College of Pharmacy and Science
- *Purdue University School of Pharmacy
- *Rutgers College of Pharmacy
- *St. John's University College of Pharmacy
- *St. Louis College of Pharmacy
- *Samford University School of Pharmacy
- Shenandoah University School of Pharmacy
- South Dakota State University College of Pharmacy
- *State University of New York at Buffalo School of Pharmacy
- *Temple University School of Pharmacy
- *Texas Southern University College of Pharmacy
- Texas Tech University School of Pharmacy
- University of Arizona College of Pharmacy
- University of Arkansas for Medical Sciences College of Pharmacy
- University of California, San Francisco School of Pharmacy
- *University of Cincinnati College of Pharmacy
- *University of Colorado School of Pharmacy
- *University of Florida College of Pharmacy
- *University of Georgia College of Pharmacy
- *University of Houston College of Pharmacy
- University of Illinois at Chicago College of Pharmacy
- *University of Iowa College of Pharmacy
- *University of Kansas School of Pharmacy
- *University of Kentucky College of Pharmacy
- University of Maryland at Baltimore School of Pharmacy
- University of Michigan College of Pharmacy
- *University of Minnesota College of Pharmacy
- *University of Mississippi School of Pharmacy
- *University of Missouri-Kansas City School of Pharmacy
- University of Nebraska Medical Center College of Pharmacy
- *University of New Mexico College of Pharmacy
- *University of North Carolina at Chapel Hill School of Pharmacy
- *University of Oklahoma College of Pharmacy
- University of the Pacific School of Pharmacy
- *University of Pittsburgh School of Pharmacy
- *University of Puerto Rico School of Pharmacy
- *University of Rhode Island College of Pharmacy
- *University of South Carolina College of Pharmacy
- University of Southern California School of Pharmacy
- University of Tennessee, Memphis College of Pharmacy
- *University of Texas at Austin College of Pharmacy
- *University of Toledo College of Pharmacy
- *University of Utah College of Pharmacy
- *University of Washington School of Pharmacy
- *University of Wisconsin-Madison School of Pharmacy
- *University of Wyoming School of Pharmacy
- *Virginia Commonwealth University School of Pharmacy
- *Washington State University College of Pharmacy
- *Wayne State University College of Pharmacy
- *West Virginia University School of Pharmacy
- Western University of Health Sciences College of Pharmacy
- Wilkes University School of Pharmacy
- Xavier University of Louisiana College of Pharmacy

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

RES. 97-028 Rob Amiet, Compliance Specialist, joined the Board for the purpose of reporting on his findings concerning Syncor's request dated March 22, 1996. Following discussion and consideration of the request and information provided by Mr. Amiet, Mr. Hanna moved that Syncor be informed that the proposal does not comply with O.A.C. Rule 4729-5-30. The motion was seconded by Mr. Littlejohn and approved (Aye-5/Nay-0).

9:00 a.m.

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

10:00 a.m.

Board Member Robert Cavendish, R.Ph. arrived and joined the meeting.

10:45 a.m.

Mr. Cavendish left to attend to personal business.

10:55 a.m.

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

11:00 a.m.

The meeting was reconvened and the Board was joined by Medicine-On-Time representatives John D. Kalvelage, President and Ian Eric Salditch, Chief Executive Officer. Also joining in the presentation before the Board was Marty Clark, Director of Operations, Resident Care Services, of Karrington Communities.

11:52 a.m.

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

12:00 p.m.

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

12:05 p.m.

RES. 97-029 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960305-057)

In The Matter Of:

KEITH MICHAEL WIRE, R.Ph.
671 W. Broadway, Apt. H
Granville, Ohio 43023
(R.Ph. No. 03-1-17369)

INTRODUCTION

THE MATTER OF KEITH MICHAEL WIRE CAME TO HEARING ON SEPTEMBER 17, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KEITH MICHAEL WIRE WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) Keith Wire, Respondent
- (2) Rick Kryc, Pharmacist Rehabilitation Organization, Inc.
- (3) Nick Kallis, Pharmacist Rehabilitation Organization, Inc.
- (4) John Marshall White, Jr.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Eleven-page Order of the State Board of Pharmacy, Docket No. D-940210-046, in the matter of Keith Michael Wire dated January 31, 1995.
- (2) Exhibit 1A--Hearing Request letter from Keith M. Wire, not dated, received in the Board office on August 24, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated September 8, 1995.
- (4) Exhibit 1C--Two-page Hearing Schedule letter dated March 5, 1996.

Respondent's Exhibits:

- (1) Exhibit A1--Copies of the following: two-page Pharmacists Rehabilitation Organization, Inc., Pharmacist's Recovery Contract of Keith M. Wire showing date of contract as February 22, 1995; Shepherd Hill Hospital RMS Extended Service Agreement of Keith M. Wire dated April 4, 1996; two-page Shepherd Hill Hospital Recovery Monitoring Services Agreement of Keith Wire dated May 5, 1994; letter from Fred N. Karaffa dated August 30, 1996; two-page letter from Fred N. Karaffa dated February 26, 1996; letter from Nick A. Kallis dated February 26, 1996; and letter from Mary Spain dated August 1, 1996.
- (2) Exhibit A2--Copies of urine drug screen reports dated as follows: August 13, 1996; August 17, 1996; two dated August 20, 1996; July 17, 1996; July 24, 1996; August 28, 1996; June 25, 1996; June 29, 1996; June 22, 1996; May 21, 1996; May 24, 1996; May 18, 1996; May 6, 1996; March 28, 1996; April 18, 1996; March 23, 1996; April 17, 1996; March 5, 1996; February 13, 1996; January 24, 1996; January 23, 1996; January 3, 1996; December 27, 1995; December 8, 1995; two-page report dated November 22, 1995; October 27, 1995; October 18, 1995; October 3, 1995; September 22, 1995; August 28, 1995; August 18, 1995; July 24, 1995; July 26, 1995; June 13, 1995; June 3, 1995; May 11, 1995; May 4, 1995; April 28, 1995; April 20, 1995; May 1, 1995; April 7, 1995; April 3, 1995; March 24, 1995; March 17, 1995; March 9, 1995; March 8, 1995; February 7, 1995; February 28, 1995; two dated February 21, 1995; two dated February 13, 1995; two dated January 31, 1995; two dated January 26, 1995; two dated January 17, 1995; January 1, 1995; two dated December 26, 1994; two dated December 15, 1994; December 9, 1994; two-page fax from Fred Karaffa dated April 17, 1996; Activity Report dated March 27, 1996; and two-page fax from Anne Anderson dated March 27, 1996.
- (3) Exhibit A3--Copies of twenty-eight pages of Verification of A.A. Attendance of Keith Wire dated from December 2, 1994, through August 28, 1996.
- (4) Exhibit A4--Copies of three pages of Verification of G.A. Attendance of Keith Wire dated from February 6, 1995, through August 5, 1996.
- (5) Exhibit A5--Copies of the following: letter from J. R. Abrahamsen dated February 28, 1996; letter from Jo Jordan dated January 26, 1996; letter from H. Ray Bower dated January 10, 1996; letter from Lori Ann Wenner dated August 22, 1996; letter from Alexandra R. Cavanaugh, not dated; and letter from Kathryn Hayward dated January 12, 1996.
- (6) Exhibit A6--Copies of the following: letter from John H. and Carole J. Wire dated February 20, 1996; letter from Barbara E. Stacy dated February 20, 1996; letter from Jeffrey Lewis Smith dated February 5, 1996; letter from Henry Lynn Hook dated February 2, 1996; letter from Laurie Wells dated August 20, 1996; and letter from Deborah L. Hnat dated February 20, 1996.
- (7) Exhibit A7--Copies of three pages of continuing pharmacy education course certificates numbered and dated as follows: 679-068-95-023 dated July 18, 1995; 679-406-93-011, 679-406-93-012, 679-406-93-013, 679-406-93-014, and 679-406-93-015 dated January 30, 1996; 679-105-95-13 dated May 6, 1995; and 679-702-92-014 dated December 20, 1995.

- (8) Exhibit B--Copy of Pharmacist Rehabilitation Organization, Inc. Client Reporting Sheet/- Client Monitoring Sheet of Client Case No. 84 - Keith Wire for the period of January 4, 1996, to April 3, 1996; letter from Keith M. Wire dated June 26, 1996; letter from Keith M. Wire dated April 5, 1996; letter from Fred N. Karaffa dated April 4, 1996; and copies of urine drug screen reports dated March 28, 1996; March 5, 1996; February 13, 1996; January 24, 1996; and January 23, 1996.

FINDING OF FACT

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

- (1) Keith Michael Wire is in compliance with the Order of the State Board of Pharmacy, Docket No. D-940210-046, dated January 31, 1995.

ACTION OF THE BOARD

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

- (A) Keith Michael Wire must enter into a new contract, after 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 submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
- (1) random, **observed** urine screens shall be conducted at least every three months. The urine drug screens must report testing for Methylphenidate, alcohol and must also report testing for creatinine as the dilutional standard or specific gravity;
 - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (3) attendance, a minimum of one time per month, at Gamblers Anonymous is required;
 - (4) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (5) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Keith Michael Wire must submit original continuing pharmacy education certificates documenting 4.5 C.E.U.s in compliance with Chapter 4729-7 of the Ohio Administrative Code for the three-year period prior to the date of submitting the application for renewal. One hour of the 4.5 C.E.U. requirement must be an approved Jurisprudence course in accordance with Rule 4729-7-02 of the Ohio Administrative Code.
- (C) Keith Michael Wire must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of his progress towards recovery and what he has been doing during the previous three months.
- (D) Other terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the phar-

macist identification card of Keith Michael Wire is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.

- (2) Keith Michael Wire may not serve as a responsible pharmacist.
- (3) Keith Michael Wire may not destroy, or may not assist in or witness the destruction of, controlled substances.
- (4) Keith Michael Wire must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) Keith Michael Wire must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Keith Michael Wire must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Keith Michael Wire must comply with the terms of this Order.

Keith Michael Wire is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

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

12:10 p.m.

The Board recessed for lunch.

1:00 p.m.

RES. 97-030 The Board convened in Room 1952 for the purpose of meeting with the following reciprocity candidates.

ADELSTEIN, MARY A.	03-3-22059	VIRGINIA
AMAISMEIER, MATTHEW J.	03-3-22066	WEST VIRGINIA
BADMAEV, FRANZ	03-3-22043	WEST VIRGINIA
BASEHEART, JULIE S.	03-3-22052	KENTUCKY
BENNIS, JOHN A.	03-3-22055	WEST VIRGINIA
BOROFF, SHANNON N.	03-3-21987	ARIZONA
BRATCHER, BRIAN C.	03-3-22029	WEST VIRGINIA
CASEY, THOMAS G.	03-3-22060	VIRGINIA
CHANDRA, AMRIT	03-3-22065	NEW JERSEY
DUTA, VIORICA E.	03-3-21965	IOWA
ERIKSON, SHARILYN	03-3-22032	VIRGINIA
GIBBS, II, ROBERT M.	03-3-22068	PENNSYLVANIA
HALIKMAN, JENNIFER L.	03-3-22033	NEW JERSEY
HERRMANN, MELISSA A.	03-3-22031	KENTUCKY
HONEYCUTT, MELANIE	03-3-22067	WEST VIRGINIA
JOHNSON, JR., GARY L.	03-3-21991	WEST VIRGINIA
LALANAS, DENISE L.	03-3-22056	WEST VIRGINIA
MCCAIG, JOLIE	03-3-22047	TEXAS
O'BRIEN, CHERYL C.	03-3-22069	TENNESSEE
OHLINGER, MARTIN J.	03-3-21970	VIRGINIA
ROLLINS, LAURA B.	03-3-22062	WEST VIRGINIA
SCHREIBER, JEANNINE M.	03-3-21974	MARYLAND
TURK, BETSY S.	03-3-22063	SOUTH CAROLINA
WOLFE, MELANIE D.	03-3-21990	WEST VIRGINIA
YOUNG, LINDY G.	03-3-22048	TEXAS

Mr. Littlejohn moved that the candidates be approved and their licenses (identification cards) to practice pharmacy in Ohio be issued. The motion was seconded by Mrs. Adelman and approved (Aye-6/Nay-0).

1:35 p.m.

Board Member Joseph Maslak, R.Ph. arrived and joined the meeting. The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a disciplinary hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Mark S. Zielinski, R.Ph., Ellwood City, Pennsylvania.

2:30 p.m.

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

3:35 p.m.

RES. 97-031 The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board summarily suspend the license of R.Ph. Richard Anthony Holdorf (03-2-12786) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mrs. Plant and approved by the Board (Aye-6/Nay-0).

RES. 97-032 Mr. Maslak moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960308-043)

In The Matter Of:

MARK S. ZIELINSKI, R.Ph.
RD2, Box 4300
Ellwood City, Pennsylvania 16117
(R.Ph. No. 03-1-20971)

INTRODUCTION

THE MATTER OF MARK S. ZIELINSKI CAME TO HEARING ON SEPTEMBER 17, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARK S. ZIELINSKI, THROUGH COUNSEL, WAIVED HIS RIGHT TO AN ADJUDICATION HEARING, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert L. Cole, Ohio State Board of Pharmacy
- (2) Officer Randy Olenick, Weirton Police Department, Weirton, West Virginia
- (3) Officer Frank Starko, Weirton Police Department, Weirton, West Virginia
- (4) Deputy Michael White, Weirton Police Department, Weirton, West Virginia
- (5) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated March 8, 1996.
- (2) Exhibit 1A--Hearing Request letter dated March 18, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated March 25, 1996.
- (4) Exhibit 1C--Waiver of Hearing letter dated July 5, 1996.
- (5) Exhibit 1D--Pharmacist File Front Sheet of Mark S. Zielinski showing original date of registration as March 7, 1995; and Renewal Application for Pharmacist License, No. 03-1-20971, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Mark S. Zielinski dated July 25, 1995.
- (6) Exhibit 2--Certified copy of four-page Order in the Magistrate Court of Brooke County, West Virginia, Case No. 96-F-06, of Mark Stanley Zielinski dated September 6, 1996.
- (7) Exhibit 3--Copy of three-page West Virginia Uniform Incident/Offense Report Form, ORI No. WV0150200, in the matter of Mark S. Zielinski dated February 22, 1996, and February 23, 1996.
- (8) Exhibit 4--Copy of two-page West Virginia State Police Forensic Laboratory Report, Lab No. D9600650, signed by J. L. Hudson and dated May 29, 1996; and West Virginia State Police, Forensic Section, Case Submission Report, Lab No. D96-650 dated February 29, 1996.
- (9) Exhibit 5--Four-page copy of evidence in the possession of the West Virginia State Police, and prepared by Officer F. Starko, consisting of 38 units of Vicodin, 5 units of Valium, 2 units of Anexsia, 5 units of Lorazepam, and 4 units of Cylert.
- (10) Exhibit 6--Copy of two-page report, Case No. 96-015, of Deputy Michael White, Hancock Brook Weirton Drug Task Force, dated February 22, 1996.
- (11) Exhibit 7A--Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Vicodin 5/500 and Hydrocodone Bitartrate 5/500 dated August 28, 1996; Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Vicodin 5/500 dated August 28, 1996; and Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Hydrocodone Bitartrate 5/500 dated August 28, 1996.
- (12) Exhibit 7B--Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Ativan 2mg and Lorazepam 2mg dated August 28, 1996; Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Ativan 2mg dated August 28, 1996; and Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Lorazepam 2mg dated August 28, 1996.
- (13) Exhibit 7C--Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Cylert 37.5mg dated August 28, 1996.
- (14) Exhibit 7D--Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Anexsia 7.5/650 dated August 28, 1996.
- (15) Exhibit 7E--Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Valium 10mg and Diazepam 10mg dated August 28, 1996; Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Diazepam 10mg dated August 28, 1996; and Ohio State Board of Pharmacy Accountability Statement of Rite Aid #2391 for Valium 10mg dated August 28, 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 8, 1996, Mark S. Zielinski 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) Mark S. Zielinski, by and through counsel, William E. Galloway, requested a hearing and a hearing was scheduled in accordance with Chapter 119. of the Ohio Revised Code.

- (3) On or about July 5, 1996, Mark S. Zielinski, by and through counsel, submitted a waiver of the adjudication hearing scheduled for September 17, 1996.
- (4) Records of the Board indicate that Mark S. Zielinski was originally licensed to practice pharmacy in the state of Ohio on March 7, 1995, and his license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code on March 8, 1996.
- (5) Mark S. Zielinski did, on or about February 22, 1996, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Price Pharmacy in Steubenville, Ohio, beyond the express or implied consent of the owner, to wit: Mark S. Zielinski stole the following controlled substances from his employer: 38 unit doses of Vicodin 5mg, 5 unit doses of Valium 10mg, 5 unit doses of Lorazepam 2mg, 4 unit doses of Cylert, and 2 unit doses of Anexsia 7.5/650. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Mark S. Zielinski did, on or about February 22, 1996, knowingly obtain, possess, or use a controlled substance, to wit: when arrested by the Weirton Police Department, Mark S. Zielinski was dazed, confused, unsteady on his feet, and Mark S. Zielinski failed a field sobriety test. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (7) Mark S. Zielinski is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code, to wit: when arrested by the Weirton Police Department, Mark S. Zielinski informed the officers that he had removed controlled substances from the pharmacy in which he worked, that he was authorized to do so, and that while practicing pharmacy Mark S. Zielinski regularly kept medication returned to him by customers of the pharmacy in which he worked (for purposes of abuse and/or redispensing).

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (6) and (7) of the Findings of Fact constitute being addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) 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 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 March 8, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Mark S. Zielinski:

- (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. 03-1-20971, held by Mark S. Zielinski 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. 03-1-20971, held by Mark S. Zielinski 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. 03-1-20971, held by Mark S. Zielinski 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. Hanna and approved by the Board (Aye-6/Nay-0).

RES. 97-033 Mr. Hanna moved that the Board issue a Notice of Opportunity for a Hearing to R.Ph. Stephen Robert Chikosky and that the matter be scheduled for consideration by the Board as soon as possible. The motion was seconded by Mrs. Plant and approved by the Board (Aye-6/Nay-0).

RES. 97-034 The Board then reviewed MedComm, LLC's format for computer-generated prescriptions. A request that the format be reviewed by the Board was received on September 13, 1996. Following consideration of the information submitted, Mr. Hanna moved that the Board direct staff to inform MedComm, LLC that the proposed computer-generated system is not acceptable pursuant to Ohio drug laws and rules. The motion was seconded by Mr. Littlejohn and approved (Aye-6/Nay-0).

RES. 97-035 The Board then considered the petition of The Green Pharmacy to except SnoreStop® from Schedule V of Ohio's Controlled Substance Schedules pursuant to Ohio Revised Code Section 3719.44 and Ohio Administrative Code Chapter 4729-12. Following discussion of the petition and consideration of the information provided, Mr. Hanna moved that the petition be denied for the following reasons:

- (1) Labeling and the name of the product;
- (2) The potential, duration, scope, and significance of inappropriate use and/or abuse;
- (3) Other facts as may be relevant to and consistent with the public health and safety.

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

Mrs. Plant moved that the Minutes of the August 6, 7, 8, 9, 1996 meeting be approved as amended. The motion was seconded by Mrs. Adelman and approved (Aye-5/Nay-0/Abstain-1[Hanna]).

RES. 97-036 The Board then reviewed material regarding McKesson's CareMax program. Following discussion of patient confidentiality concerns - especially the capture of and/or access to prescription information by someone other than a health care professional providing professional services at the request of and knowledge of the patient paying cash. Pharmacists and pharmacies participating in this program are violating Ohio's laws and rules regarding the confidentiality of patient health information. The Board directed staff to draft correspondence informing

McKesson that the CareMax program may not be utilized by Ohio pharmacies and draft a Compliance Bulletin for mailing to all Ohio Pharmacists and Directors of Pharmacy Operations for all pharmacies licensed with the Board.

Mrs. Plant reported on the meeting of the Recruitment Committee that was held at 7:00 a.m. John Hanna reported that the next meeting of the Ohio Board of Nursing Formulary Committee is scheduled for October 16, 1996.

RES. 97-037 The Executive Director reported that the following Settlement Agreements were finalized yesterday with the signatures of the Board President and Assistant Attorney General:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-960117-033)

In the Matter of:

THE PHARM #918
c/o Robert C. Ferguson, R.Ph.
1560 W. Michigan Street
Sidney, Ohio 45365
(Terminal Distributor No. 02-697800)

This Settlement Agreement is entered into by and between The Pharm #918 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.

The Pharm #918 enters into this Agreement being fully informed of its 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.

The Pharm #918 is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against The Pharm #918, and in order to obviate the need to conduct an administrative hearing to consider disciplinary sanctions against The Pharm's license, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings. The Pharm #918 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

- (1) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew, or impose a monetary penalty on any terminal distributor of dangerous drugs for violation of any of the enumerated grounds.
- (2) Records of the Board of Pharmacy indicate that Robert C. Ferguson is the Responsible Pharmacist at The Pharm #918 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (3) Pharmacists employed by The Pharm #918 did, on or about February 17, 1994, and again on dates subsequent thereto, 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, pharmacists employed by The Pharm #918 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 the pharmacist further stated that the questioning agent "was making the assumption that I [Robert C. Ferguson] would know how this drug is normally used." Such conduct is in violation of Section 3715.52(B) of the Ohio Revised Code.

- (4) Pharmacists employed by The Pharm #918 did, on or about April 24, 1994, and again on or about May 7, 1994, knowing that it had no privilege to do so, falsify or alter computer data, to wit: after entering incorrect data into patient records which caused patient harm, and after several refills had been dispensed, pharmacists employed by The Pharm #918 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 another pharmacist. Such conduct constitutes failing to keep accurate records of drugs dispensed in violation of Rule 4729-5-17 of the Ohio Administrative Code.
- (5) Pharmacists employed by The Pharm #918 did, from February 17, 1994, to April 12, 1994, continuously fail to perform prospective drug utilization review, to wit: when dispensing medications to a patient pursuant to prescription numbers 6624893 and 6627340, pharmacists employed by The Pharm #918 failed to review the original prescription and/or refill information for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (6) Pharmacists employed by The Pharm #918 did, from February 17, 1994, to April 12, 1994, continuously fail to perform patient counseling, to wit: when dispensing medications to a patient pursuant to prescription numbers 6624893 and 6627340, pharmacists employed by The Pharm #918 failed to offer patient counseling. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, The Pharm #918 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

The Pharm #918 agrees to the imposition of a monetary penalty of two thousand five hundred dollars (\$2,500.00) 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, The Pharm #918 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.

The Pharm #918 acknowledges that it 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.

The Pharm #918 waives any and all claims or causes of action it 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. The Pharm #918 agrees that should the Board reject this Agreement and if this case proceeds to hearing, it 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 the Board President's signature below.

/s/ Robert C. Ferguson RPh
Robert C. Ferguson on behalf of The Pharm #918
Responsible Pharmacist

/d/ 7 /26 /96
Date of Signature

RES. 97-038 Mr. Hanna moved that the following resolution be adopted by the Board and memorialized in the Minutes of this meeting:

RESOLUTION OF THE BOARD

WHEREAS, Wayne Miller has served his profession and the citizens of Ohio with distinction as a Member of the Board of Pharmacy for four years following his appointment by Governor George Voinovich in 1992; and

WHEREAS, during his commendable term in this appointment, Mr. Miller maintained the highest standards of his respected profession and demonstrated the admirable traits of integrity, intelligence, and impartiality in matters concerning the profession of pharmacy; therefore

BE IT RESOLVED that we, the undersigned Members of the Ohio State Board of Pharmacy, in its one hundred twelfth year, do hereby express our profound appreciation to Wayne Miller for his services and recognize him as one of Ohio's most distinguished pharmacist-citizens; and

BE IT FURTHER RESOLVED that this resolution be spread upon the permanent Minutes of the Ohio State Board of Pharmacy and a copy presented to:

WAYNE C. MILLER, R.Ph.

Mrs. Plant seconded the motion and it was approved (Aye-6/Nay-0).

4:45 p.m. The Board recessed until Wednesday, September 18, 1996 at 8:00 a.m.

WEDNESDAY, SEPTEMBER 18, 1996

8:10 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:

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

8:20 a.m.

Mr. Littlejohn left for personal reasons.

The Board viewed material and a forty minute video titled "Responsible Hazardous Materials Management in the Pharmacy".

8:30 a.m.

Board Members John Hanna and Paul Lamping arrived and joined the Board.

9:10 a.m.

The Board was joined by Assistant Attorney General Mary Hollern and Pharmacy Board Compliance Supervisor Robert Cole for the purpose of creating a record for appeal purposes pursuant to Ohio Revised Code Chapter 119. in the matters of David Ansell, R.Ph.; William Crane, R.Ph.; Frank Szep, applicant for licensure as pharmacy intern; and E & C Catering, Marietta, Ohio, applicant for licensure as terminal distributor of dangerous drugs. The records having been created and all evidence and testimony entered into the record and considered by the Board, motions were made, seconded, and approved as follows:

RES. 97-039 Mrs. Plant moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960612-062)

In The Matter Of:

DAVID ALLEN ANSELL, R.Ph.
1360 Rolling Meadows
Vermilion, Ohio 44089
(R.Ph. No. 03-3-16760)

INTRODUCTION

THE MATTER OF DAVID ALLEN ANSELL CAME ON FOR CONSIDERATION ON SEPTEMBER 18, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID ALLEN ANSELL 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) Robert Cole, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 12, 1996.
- (2) Exhibit 1A--Pharmacist File Front Sheet of David Allen Ansell showing original date of registration as August 3, 1987, and Renewal Application for Pharmacist License, No. 03-3-16760, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of David Allen Ansell signed June 10, 1995.
- (3) Exhibit 2--Copy of handwritten statement of David Ansell signed and dated June 7, 1996.
- (4) Exhibit 3--Handwritten statement of Dave (David) Ansell signed and notarized on June 10, 1996.
- (5) Exhibit 4--Sealed evidence bag containing a microcassette tape recording of interview of David Allen Ansell by Agent Lynn Mudra at Bob's Big Boy in Amherst, Ohio on June 10, 1996.
- (6) Exhibit 5--Copy of handwritten statement of Michelle Sinclair, not dated.
- (7) Exhibit 6--Copy of handwritten statement of Becky Eppley, not dated.
- (8) Exhibit 7--Copy of handwritten statement of Scott Frye, not dated.
- (9) Exhibit 8--Three-page handwritten statement of Rebecca Lynn Eppley signed and notarized on June 19, 1996.
- (10) Exhibit 9--Handwritten statement of Michelle Sinclair signed and notarized on June 19, 1996.
- (11) Exhibit 10--Copy of three-page Vermilion Police Complaint Report, No. 960839, regarding David A. Ansell dated June 12, 1996; and attached copy of North Central Laboratories Toxicology Report of David Ansell dated June 12, 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 June 12, 1996, David Allen Ansell was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of June 14, 1996, David Allen Ansell received the letter of June 12, 1996, informing him of the allegations against him, and his rights.
- (3) David Allen Ansell has not responded in any manner to the letter of June 12, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that David Allen Ansell was originally licensed to practice pharmacy in the state of Ohio on August 3, 1987. On June 12, 1996, David Allen Ansell's license was suspended in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (5) David Allen Ansell has admitted to abusing and being addicted to the use of Valium, a schedule III controlled substance, to wit: David Allen Ansell admitted consuming sixteen Valium 5mg between 6:00 a.m. and 9:00 a.m. on June 7, 1996; David Allen Ansell admitted purchasing Valium 10mg and Xanax 1mg from persons known to him to be drug dealers; David Allen Ansell admitted to consuming Valium before and during practicing pharmacy; David Allen Ansell admitted that the amount of Valium that he abuses per day increases proportionally to the volume of business in the pharmacy in which he was employed; and, patients have complained to the management of his employer about David Allen Ansell being either "drunk or taking pills" while practicing pharmacy. Such conduct indicates that David Allen Ansell is addicted to or abusing drugs to such a degree as to render him unfit to practice pharmacy within the meaning of Sections 3719.121(A), 3719.121(B), and 4729.16 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 (5) of the Findings of Fact constitutes 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) 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 him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued June 12, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of David Allen Ansell:

- (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. 03-3-16760, held by David Allen Ansell 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. 03-3-16760, held by David Allen Ansell effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 97-040 Mr. Littlejohn returned and Mrs. Adelman left to have her security pass photograph taken. Mrs. Plant moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960612-064)

In The Matter Of:

WILLIAM JAMES CRANE, R.Ph.
9598 E. Kemper Road
Loveland, Ohio 45140
(R.Ph. No. 03-3-16017)

INTRODUCTION

THE MATTER OF WILLIAM JAMES CRANE CAME ON FOR CONSIDERATION ON SEPTEMBER 18, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

WILLIAM JAMES CRANE 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) Robert Cole, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 12, 1996.
- (2) Exhibit 1A--Pharmacist File Front Sheet of William Crane showing original date of registration as August 2, 1985; and Renewal Application for Pharmacist License, No. 03-3-16017, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of William James Crane dated July 20, 1995.
- (3) Exhibit 2--Photo copy of five still-shot pictures dated May 7, 1996.
- (4) Exhibit 3--Copy of handwritten statement of Bill Crane dated May 9, 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 June 12, 1996, William James Crane was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of June 18, 1996, William James Crane received the letter of June 12, 1996, informing him of the allegations against him, and his rights.
- (3) William James Crane has not responded in any manner to the letter of June 12, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that William James Crane was originally licensed to practice pharmacy in the state of Ohio on August 2, 1985. On June 12, 1996, William James Crane's license was summarily suspended in accordance with Section 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (5) William James Crane is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: William James Crane admitted that from February, 1996, through May 8, 1996, while employed at Kroger Company #385, 8800 Beechmont Avenue, Cincinnati, Ohio 45230, he stole approximately four dosage units of Tenuate Dospan per day for personal consumption, two in the morning and two in the afternoon, while practicing pharmacy. Such conduct indicates that William James Crane falls within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.
- (6) William James Crane did, on May 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, beyond the express or implied consent of the owner, Kroger Company #385, to wit: William James Crane was observed stealing 15 dosage units of Tenuate Dospan. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) William James Crane did, from February 19, 1996, through April 30, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, beyond the express or implied consent of the owner, Kroger Company #385, to wit: William James Crane stole 334 dosage units of Tenuate Dospan. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) William James Crane did, in late 1995, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, beyond the express or implied consent of the owner, Kroger Company #385, to wit: William James Crane admitted stealing approximately 30 to 50 dosage units of Fioricet over a three-week period. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) 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.
- (2) 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 being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued June 12, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of William James Crane:

- (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. 03-3-16017, held by William James Crane 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. 03-3-16017, held by William James Crane 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. Cavendish and approved by the Board (Aye-5/Nay-0/Abstain-1[Lamping]).

RES. 97-041 Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-950601-063)

In The Matter Of:

FRANK JAMES SZEP
2914 Fuller Avenue
Wickliffe, Ohio 44092
(D.O.B. 9/5/66)

INTRODUCTION

THE MATTER OF FRANK JAMES SZEP CAME ON FOR CONSIDERATION ON SEPTEMBER 18, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

FRANK JAMES SZEP 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) Robert Cole, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None
- (B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated June 1, 1995.
- (2) Exhibit 2--Application for Pharmacy Intern Registration of Frank James Szep signed and notarized on May 5, 1995, with the following attachments: Certificate of Acceptance from the University of Toledo regarding Frank J. Szep dated May 4, 1995; and three-page University of Toledo Academic Transcript of Frank James Szep dated May 8, 1995.
- (3) Exhibit 3--Three-page Order of the State Board of Pharmacy, Docket No. D-890511-114, in the matter of Frank James Szep dated November 9, 1989.
- (4) Exhibit 4--Four-page Order of the State Board of Pharmacy, Docket No. D-910910-043, in the matter of Frank James Szep dated April 30, 1992.
- (5) Exhibit 5--Four-page Order of the State Board of Pharmacy, Docket No. D-931022-021, in the matter of Frank James Szep dated August 15, 1994.

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 June 1, 1995, Frank James Szep was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of June 3, 1995, Frank James Szep received the letter of June 1, 1995, informing him of the allegations against him, and his rights.
- (3) Frank James Szep has not responded in any manner to the letter of June 1, 1995, and has not requested a hearing in this matter.
- (4) Records of the Board of Pharmacy indicate that Frank James Szep applied to the Board for registration as an intern in the state of Ohio on May 12, 1995.
- (5) Records further indicate that on April 12, 1988, Frank James Szep was convicted of a felony. Such conduct is not in accordance with Section 4729.08(B) of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code.
- (6) Frank James Szep was, on or about November 9, 1989, April 30, 1992, and again on August 14, 1994, denied registration as an intern in the state of Ohio due to the aforementioned felony conviction.
- (7) Frank James Szep did, on or about May 5, 1995, knowingly make a false statement when the statement was made with purpose to secure the issuance by a governmental agency of a license or registration, to wit: on his application for a pharmacy intern registration, Frank James Szep stated "There are no misdemeanor or felony charges involving violation of pharmacy, liquor, drug, or criminal laws pending against me, nor have I been convicted of any such charges," when he knew that, even though expunged, he had been convicted of a felony. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) and (7) of the Findings of Fact constitute being guilty of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (7) of the Findings of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code and Rule 4729-3-03(C) of the Ohio Administrative Code, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the Application for Intern Registration submitted by Frank James Szep.

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).

RES. 97-042 Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960725-070)

In The Matter Of:

E & C CATERING CO.
c/o Christopher S. Scarbro
100 Stonecrest Drive
Marietta, Ohio 45750

INTRODUCTION

THE MATTER OF E & C CATERING CO. CAME ON FOR CONSIDERATION ON SEPTEMBER 18, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

REPRESENTATIVES FOR E & C CATERING CO. WERE NOT PRESENT, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert Cole, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Proposal To Deny/Notice of Opportunity for Hearing letter dated July 25, 1996.
(2) Exhibit 2--Two-page Application for Registration as a Terminal Distributor of Dangerous Drugs of E & C Catering Co. signed by Chris Scarbro dated June 28, 1996.

- (3) Exhibit 3--Copy of response to section E of the Application for Registration as a Terminal Distributor of Dangerous Drugs of Christopher S. Scarbro, not dated.
- (4) Exhibit 4--Three-page State of Ohio, Office of the Attorney General, Bureau of Criminal Identification & Investigation, Validated Criminal History Record of Christopher Shane Scarbro dated July 16, 1996.
- (5) Exhibit 5--Four-page certified copy of Journal Entry in the Washington County Common Pleas Court, Case No. 94 CR 114, of Christopher Scarbro dated October 18, 1994.
- (6) Exhibit 6--Microcassette tape of recorded telephone conversation between Christopher Scarbro and Chris Reed on July 13, 1996.
- (7) Exhibit 7--State of Ohio, Office of the Attorney General, Bureau of Criminal Identification & Investigation, Validated Criminal History Record of Edward Albert Minke dated July 16, 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 July 25, 1996, E & C Catering Co. 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 July 26, 1996, E & C Catering Co. received the letter of July 25, 1996, informing it of the allegations against it, and its rights.
- (3) E & C Catering Co. has not responded in any manner to the letter of July 25, 1996, and has not requested a hearing in this matter.
- (4) Christopher Scarbro, the owner and proposed responsible person, was convicted in the Common Pleas Court of Washington County, Ohio, on or about October 18, 1994, of Trafficking in Marijuana in violation of Section 2925.03 of the Ohio Revised Code, a felony of the fourth degree.
- (5) E & C Catering Co. is not equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure requested, to wit: the location of the business as listed in the application is a house located in the middle of a residential area, but there is nothing in the application to indicate compliance with local zoning ordinances or other compliance with security regulations of the Board.
- (6) E & C Catering Co. has not shown adequate safeguards have been assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or practitioner, to wit: an employee of E & C Catering Co., Edward A. Minke, was arrested and charged with Cultivating Marijuana and Trafficking in Marijuana on or about August of 1995, and entered into an official diversion program in lieu of criminal prosecution. Further, the owner and proposed responsible person was convicted in the Common Pleas Court of Washington County, Ohio, on or about October 18, 1994, of Trafficking in Marijuana in violation of Section 2925.03 of the Ohio Revised Code, a felony of the fourth degree.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) and (6) of the Findings of Fact constitute the applicant having been found guilty of violating Chapter 2925. of the Revised Code as provided in Division (B)(4) of Section 4729.55 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes the applicant not being equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure for

approval by the Board as provided in Division (B)(1) of Section 4729.55 of the Ohio Revised Code.

- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes adequate safeguards are not assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist, dentist, optometrist, physician, or veterinarian as provided in Division (B)(3) of Section 4729.55 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) and (6) of the Findings of Fact constitute the applicant having been convicted of a felony as provided in paragraph (A)(1) of Rule 4729-9-19 of the Ohio Administrative Code.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) and (6) of the Findings of Fact constitute the applicants not being of good moral character and habits provided in paragraph (A)(3) of Rule 4729-9-19 of the Ohio Administrative Code.

ACTION OF THE BOARD

Pursuant to Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.55 of the Ohio Revised Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby denies the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by E & C Catering Co.

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

MOTION CARRIED.

SO ORDERED.

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

10:30 a.m.

The Board recessed for the purpose of traveling to and participating in the 32nd Annual License Ceremony at the Villa Milano, Schrock Road, Columbus, Ohio.

3:00 p.m.

The Board members, including Mrs. Adelman, reconvened the meeting without Mr. Hanna. Mr. Hanna did not participate in the licensure ceremony but left for home for personal reasons following the 10:30 recess. Mr. Maslak arrived and joined the meeting.

RES. 97-043 Mr. Lamping moved that the Board authorize the seven Compliance Specialists to attend the National Association of Boards of Pharmacy Health Law Officers Conference in Savannah, Georgia, November 10-13, 1996 and that each person be reimbursed no more than \$550.00 for their expenses. The motion was seconded by Mr. Maslak and approved (Aye-7/Nay-0).

RES. 97-044 Mr. Lamping moved that the Board authorize the President and Executive Director to attend the National Association of Boards of Pharmacy/American Association of Colleges of Pharmacy District IV meeting in Chicago, Illinois on November 8-10, 1996 and that they be reimbursed for their expenses in accordance with Ohio laws and rules. The motion was seconded by Mr. Cavendish and approved (Aye-7/Nay-0).

The Board continued their review of administrative matters, correspondence, and reports not requiring official action.

3:40 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to the provisions of Ohio Revised Code Chapters 119. and 4729. in the matter of Lisa Katherine Ramirez, Port Clinton, Ohio.

4:58 p.m.

The hearing was concluded and Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received in the hearing. The motion

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

5:30 p.m.

RES. 97-045 The Executive Session was concluded and the meeting opened to the public. Mr. Cavendish moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960315-044)

In The Matter Of:

LISA KATHERINE RAMIREZ
1653 North Windward Drive
Port Clinton, Ohio 43452
(D.O.B. 11/22/58)

INTRODUCTION

THE MATTER OF LISA KATHERINE RAMIREZ CAME TO HEARING ON SEPTEMBER 18, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LISA KATHERINE RAMIREZ WAS REPRESENTED BY WILLIAM G. MEYER, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Jim Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Lisa Katherine Ramirez, Respondent
- (2) Michael Quigley, Pharmacists Rehabilitation Organization

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 15, 1996.
- (2) Exhibit 1A--Hearing Request letter dated March 22, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated March 25, 1996.
- (4) Exhibit 1C--Hearing Schedule letter dated August 29, 1996.
- (5) Exhibit 2--Application for Examination as a Pharmacist of Lisa Katherine Ramirez signed and notarized on December 11, 1995, with attached continuation page answering question number four of the application.
- (6) Exhibit 3--Six-page Order of the State Board of Pharmacy, Docket No. D-930629-098, in the matter of Lisa Katherine Ramirez, R.Ph. dated December 9, 1993.
- (7) Exhibit 4--Copy of six-page Judgment Entry of Conviction and Sentence in the Lorain County Common Pleas Court, Case No. 92CR042677, of Lisa Ramirez dated March 14, 1994; and attached copy of Journal Entry in the Lorain County Common Pleas Court, Case No. 92CR042677, of Lisa Ramirez dated March 16, 1994.

Respondent's Exhibits:

- (1) Three-page Hearing Summary and Exhibit List submitted by William G. Meyer.
- (2) Exhibit A--Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Lisa Ramirez dated August 18, 1996.

- (3) Exhibit B--Letter from Mike Kolhoff dated August 27, 1996.
- (4) Exhibit C--Letter from Mark May dated July 29, 1996.
- (5) Exhibit D--AA Meeting Verification Lists of Lisa Ramirez dated from July 20, 1995, through September 15, 1996.
- (6) Exhibit E--Two-page letter from Douglas L. Linker and David C. Knepper dated September 3, 1996; copy of Adult Parole Authority, Columbus, Ohio, Final Release from Parole Supervision of Lisa Ramirez dated August 15, 1996; copy of letter from Jessica Daniels dated August 26, 1996; letter from David Lewandowski dated October 24, 1995; copy of letter from Paul T. Romond dated May 8, 1995; copy of letter from Christine Weatherly, date illegible; copy of letter from Miguel A. Ramirez, not dated; copy of interoffice communication from Valerie E. Aden dated April 21, 1995; copy of Certificate of Award for recognition of outstanding dedication in tutoring dated March 20, 1995; copy of Certificate of Completion of Lisa Ramirez for a Literacy workshop dated May 11, 1995; copy of Certificate for Stress Management, not dated; and, copy of Ohio Department of Rehabilitation and Correction, Inmate Evaluation Report dated April 25, 1995.
- (7) Exhibit F--Letter from David Lewandowski, not dated.
- (8) Exhibit G--Letter from David N. Gragg dated May 31, 1996.
- (9) Exhibit H--Letter from Nan H. Davis dated April 25, 1996;
- (10) Exhibit I--Letter from Dean M. dated July 23, 1996.
- (11) Exhibit J--Copy of letter from Terri P. Radecki dated July 23, 1996.
- (12) Exhibit K--Letter from Mark Johnson dated September 4, 1996.
- (13) Exhibit L--Letter from Rosalynn A. Brubaker, not dated.
- (14) Exhibit M--Letter from Gregory S. Masimore, not dated.
- (15) Exhibit N--Letter from Jeffrey L. Wilson dated July 27, 1996.
- (16) Exhibit O--Copies of Continuing Education Participation Certificates of Lisa K. Ramirez numbered and dated as follows: 129-000-96-006-H01 dated June 28, 1996; 129-000-96-005-H01 dated May 31, 1996; 129-000-96-004-H01 dated April 29, 1996; 073-000-96-001-H01 dated April 9, 1996; 129-000-96-003-H01 dated March 21, 1996; 129-000-96-001-H01 and 129-000-96-002-H01 dated March 5, 1996; 129-000-95-012-H01 dated December 21, 1995; 129-000-95-011-H01 dated December 6, 1995; 129-000-95-010-H01 dated October 25, 1996; 129-000-95-009-H01 dated October 3, 1995; 129-000-95-008-H01 dated August 22, 1995; 129-000-95-007-H01 dated July 24, 1995; 129-000-95-006-H01 dated June 15, 1995; 129-000-95-005-H01 dated May 19, 1995; 183-129-95-003 and 183-129-95-004 dated May 15, 1995; 183-129-95-001 and 183-129-95-002 dated March 9, 1995; 183-129-94-012 dated December 29, 1994; 183-129-94-010 and 183-129-94-011 dated November 23, 1994; 183-129-94-009 dated September 29, 1994; 183-129-94-008 dated August 22, 1994; 183-129-94-007 dated August 1, 1994; 183-129-9406 dated June 20, 1994; 183-129-9403 and 183-129-9404 dated June 13, 1994; 183-129-9405 dated June 7, 1994; 183-129-9312, 183-129-9401, and 183-129-9402 dated March 11, 1994; 183-129-9309, 183-129-9310, and 183-129-9311 dated December 13, 1993; 183-129-9308 dated August 31, 1993; 183-129-9307 dated July 26, 1993; 680-073-92-69 dated July 9, 1992; 183-129-9306 dated July 6, 1993; and copy of Invoice from the Ohio Pharmacists Association of Lisa Ramirez dated September 27, 1993.
- (17) Exhibit P--Letter from Cheryl A. Cooper dated September 1, 1996.
- (18) Exhibit Q--Letter from Marcie C. and Robert E. Hundsrucker dated September 13, 1996.
- (19) Exhibit R--Letter from Dana Stahl dated September 18, 1996.
- (20) Exhibit S--Copy of two-page Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Lisa K. Ramirez dated September 3, 1992.

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 on December 20, 1995, Lisa Katherine Ramirez submitted an Application for Examination as a Pharmacist.
- (2) Records of the Board of Pharmacy further indicate that Lisa Katherine Ramirez was originally licensed to practice pharmacy in the state of Ohio on April 16, 1981, pursuant to examination, and her license was summarily suspended on June 29, 1993. After an Ohio Revised Code Chapter 119. hearing was held on October 28, 1993, the Board determined the following Findings of Fact:

- (a) Lisa Katherine Ramirez was addicted to or abusing liquor and drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Lisa Katherine Ramirez admitted her abuse and dependence to alcohol and drugs; Lisa Katherine Ramirez stole and traded drugs for alcohol; Lisa Katherine Ramirez admitted to self-medicating with drugs such as Tranxene, Valium, Xanax, and Phenobarbital; Lisa Katherine Ramirez dispensed drugs pursuant to false or forged prescriptions due in part to impaired judgment from dependence on alcohol and/or drugs; and Lisa Katherine Ramirez resigned from employment at Elyria Memorial Hospital and Rini-Rego Pharmacy due to her excessive alcohol and drug abuse.
- (b) Lisa Katherine Ramirez did, on or about March 26, 1992, knowingly possess a false or forged prescription, to wit: Lisa Katherine Ramirez watched another individual, Carol Gasper AKA Carol Randall, alter prescription number 4001425 from 5 tablets of Valium 5mg to 50 tablets of Valium 5mg, and then Lisa Katherine Ramirez dispensed 50 tablets and maintained the prescription in the pharmacy records of Rini-Rego Pharmacy. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (c) Lisa Katherine Ramirez did, on or about April 23, 1992, knowingly possess a false or forged prescription, to wit: Lisa Katherine Ramirez possessed prescription number 4001465, forged by Carol Gasper AKA Carol Randall for 50 tablets of Valium 10mg, and then she dispensed 50 tablets and maintained the prescription in the pharmacy records of Rini-Rego Pharmacy. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (d) Lisa Katherine Ramirez did, between February, 1992, and July, 1992, knowingly sell a controlled substance in an amount greater than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lisa Katherine Ramirez traded Acetaminophen with Codeine #3 tablets for bottles of Bailey's Irish Cream, an intoxicating liquor. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (e) Lisa Katherine Ramirez did, between January, 1991, and July, 1992, with the purpose to deprive, knowingly obtain and exert control over the property of another beyond the express or implied consent of the owner, Rini-Rego Pharmacy, the property being dangerous drugs, to wit: Lisa Katherine Ramirez stole the following controlled substances from her employer:

<u>Drug</u>	<u>Amount</u>
Xanax 0.25mg	554 tablets
Xanax 0.5mg	997 tablets
Xanax 1.0mg	27 tablets
Serax 15mg	38 capsules
Valium 5mg	39 tablets
Valium 10mg	223 tablets
Diazepam 10mg	85 tablets
Phenobarbital 30mg	282 tablets
Centrax 5mg	15 tablets
Centrax 10mg	32 tablets
Tranxene 15mg	90 tablets
Tranxene 7.5mg	40 tablets
Chlorazepate 3.75mg	110 tablets
APAP with Codeine #3	1,437 tablets

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

- (f) Lisa Katherine Ramirez did, between January, 1991, and July, 1992, give away or deliver at retail without a prescription from a practitioner which

under federal and Ohio law can be sold only on prescription, to wit: Lisa Katherine Ramirez gave the following drugs to employees of the Rini-Rego Store without prescriptions being issued:

<u>Drug</u>	<u>Amount</u>
Zorpin 800mg	100 units
Motrin 800mg	120 units
Cephalexin 500mg	40 units
Ceclor 250mg	80 units
Dilantin 100mg	20 units
Penicillin 500mg	100 units
Motrin 400 mg	10 units
Theo Dur 300mg	3 units

Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (g) Lisa Katherine Ramirez did, between January, 1991, and July, 1992, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lisa Katherine Ramirez gave 50 tablets of Darvocet N-100, a schedule IV controlled substance, to employees of Rini-Rego store without prescriptions having been issued. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

The Board concluded that Lisa Katherine Ramirez was guilty of dishonesty and unprofessional conduct in the practice of pharmacy, addicted to or abusing liquor and drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code; and, on December 9, 1993, the Board revoked Lisa Katherine Ramirez's identification card.

- (3) Lisa Katherine Ramirez was, on or about March 14, 1994, sentenced in the Lorain County Common Pleas Court, Case No. 92CR042677, to a period of incarceration of a minimum of two years up to fifteen years after having pled guilty to eight counts of Trafficking in Drugs in violation of Divisions (A)(1), (A)(4), (A)(6), and (A)(7) of Section 2925.03 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Sections 4729.07, 4729.08, and 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby approves the Application for Examination as a Pharmacist submitted by Lisa Katherine Ramirez. However, Lisa Katherine Ramirez must submit a new application form and, if she successfully completes the examinations and becomes licensed to practice pharmacy in Ohio, her identification card will be placed on probation for five years, effective as of the date of registration. The terms of probation are as follows:

- (A) Lisa Katherine Ramirez must enter into a new contract, prior to registration, with a limited treatment provider acceptable to the Board, for the duration of the probation period and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
- (1) random, **observed** urine drug screens shall be conducted at least twice a month for the first contract year and at least once a month for the remaining four contract years. The specimen must be obtained within eight hours from the time the urine drug screen is requested. 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;
 - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;

- (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Lisa Katherine Ramirez must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of her progress towards recovery and what she has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Lisa Katherine Ramirez's pharmacist identification card will not be in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns throughout the probation period.
 - (2) The Board further stipulates that Lisa Katherine Ramirez may not serve as a responsible pharmacist while on probation.
 - (3) Lisa Katherine Ramirez may not destroy, or may not assist in or witness the destruction of, controlled substances while on probation.
 - (4) Lisa Katherine Ramirez must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Lisa Katherine Ramirez must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Lisa Katherine Ramirez must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) Lisa Katherine Ramirez must comply with the terms of this Order.

Lisa Katherine Ramirez 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 the period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Adelman and approved by the Board (Aye-5/Nay-2).

5:36 p.m. The Board recessed until Thursday, September 19, 1996 at 8:00 a.m.

THURSDAY, SEPTEMBER 19, 1996

8:12 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:

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

The Board was joined by William Winsley, Assistant Executive Director, for the purpose of discussing the drafting of rules to implement recent legislation adopted by the 121st General Assembly - Expired Drugs and Peritoneal Dialysis Solutions.

The Board then finalized the following tentative meeting schedule for FY 98:

July 14, 15, 16, 1997	January 12, 13, 14, 1998
August 11, 12, 13, 1997	February 9, 10, 11, 1998
September 8, 9, 10, 1997	March 9, 10, 11, 1998
October 6, 7, 8, 1997	April 6, 7, 8, 1998
November 17, 18, 19, 1997	May 4, 5, 6, 1998
December 8, 9, 10, 1997	June 8, 9, 10, 1998

The Board also directed staff to start the new three day schedule in April of this fiscal year and reserve hotel rooms for Sunday, Monday, Tuesday, and Wednesday of each week of a three day Board meeting.

9:12 a.m.

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

11:02 a.m.

Board Member Joseph Maslak, R.Ph. arrived and joined the meeting but will not participate in the hearing.

11:18 a.m.

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

12:05 p.m.

RES. 97-046 The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960322-051)

In The Matter Of:

BRYAN C. FLOURNOY, R.Ph.
3029 Powhattan Parkway (Lower)
Toledo, Ohio 43606
(R.Ph. No. 03-3-18737)

INTRODUCTION

THE MATTER OF BRYAN C. FLOURNOY CAME TO HEARING ON SEPTEMBER 19, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C.

ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

BRYAN C. FLOURNOY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dale Fritz, Ohio State Board of Pharmacy
- (2) Bryan C. Flournoy, Respondent

Respondent's Witnesses:

- (1) Marcella Jimmerson Flournoy

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated March 22, 1996.
- (2) Exhibit 1A--Hearing Request letter dated April 15, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated April 22, 1996.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Bryan C. Flournoy showing original date of registration as February 15, 1991; and Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Bryan C. Flournoy dated June 24, 1995.
- (5) Exhibit 1D--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1991, to September 15, 1992, of Bryan C. Flournoy dated August 12, 1991.
- (6) Exhibit 1E--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Bryan C. Flournoy dated August 9, 1992.
- (7) Exhibit 1F--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Bryan C. Flournoy dated August 10, 1993.
- (8) Exhibit 1G--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Bryan C. Flournoy dated July 22, 1994.
- (9) Exhibit 1H--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Bryan C. Flournoy dated August 15, 1996 and attachments as follows: letter from Bryan C. Flournoy, not dated, and copy of the Notice of Opportunity letter of Bryan C. Flournoy dated March 22, 1996.
- (10) Exhibit 2E--(Sealed) Exempt Narcotic Register of Hutton's Pharmacy dated from April 21, 1992, to November 3, 1992.
- (11) Exhibit 2G--(Sealed) Exempt Narcotic Register of Hutton's Pharmacy dated from July 7, 1993, to March 2, 1994.
- (12) Exhibit 3--(Sealed) Patient Key.
- (13) Exhibit 4--Handwritten notes on yellow letter-size paper dated March 15, 1993, (sic 1994).
- (14) Exhibit 5--Copies of five pages of Hutton's Pharmacy Exempt Narcotic Register dated May 28, 1992; May 29, 1992; May 30, 1992; August 25, 1993; and August 26, 1992 (sic 1993).

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Bryan C. Flournoy was originally licensed in the state of Ohio on February 15, 1991, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Bryan C. Flournoy did, on or about the following dates, sell, under the exemptions of Section 3719.15 of the Ohio Revised Code, to the same person (on each occasion) preparations included within Section 3719.15, when he knew or by reasonable diligence could have ascertained that the sale provided the recipient with more than one such preparation within a forty-eight consecutive hour period:

<u>Date</u>	<u>Drug</u>	<u>Patient Identifier</u>
5/30/92	Novahistine	5
5/30/92	Terpin Hydrate with Codeine	62
5/30/92	Tussar-2	77
8/26/93	Novahistine	106

Such conduct is in violation of Section 3719.16 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 (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) 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 3719. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Bryan C. Flournoy:

- (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 places the pharmacist identification card, No. 03-3-18737, of Bryan C. Flournoy on probation for three years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Bryan C. Flournoy must take and successfully complete the law examination offered by the Board prior to June 1, 1997. If Bryan C. Flournoy has not successfully completed the examination prior to June 1, 1997, his license will be suspended until this condition has been achieved.

Note: Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is ..., suspended, ... shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after [the effective date] of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

- (2) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Bryan C. Flournoy's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.

- (3) Bryan C. Flournoy may not serve as a responsible pharmacist.
- (4) Bryan C. Flournoy must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (5) Bryan C. Flournoy must abide by the rules of the Ohio State Board of Pharmacy.
- (6) Bryan C. Flournoy must comply with the terms of this Order.

The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

- (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 imposes a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days of the issuance of this Order. 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 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

MOTION CARRIED.

SO ORDERED.

- 12:10 p.m. The motion was seconded by Mrs. Plant and approved by the Board (Aye-6/Nay-1).
- The Board recessed for lunch.
- 1:02 p.m. The Board reconvened with the exception of Mrs. Adelman and was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to the provisions of Ohio Revised Code Chapters 119. and 4729. in the matter of Zarinah Hargrove; Cincinnati, Ohio.
- 1:13 p.m. Mrs. Adelman arrived and joined the Board but will not participate in the hearing.
- 1:22 p.m. **RES. 97-047** The hearing was concluded and Mrs. Plant moved that the Board immediately notify Ms. Hargrove of the Board's decision following deliberations. The motion was seconded by Mr. Maslak and approved (Aye-7/Nay-0).
- Mrs. Plant then moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received in the hearing. The motion was seconded by Mr. Maslak and a roll call vote was conducted by President Neuber as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Maslak-Yes, Plant-Yes, and Repke-Yes.
- 2:45 p.m. **RES. 97-048** The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960814-006)

In The Matter Of:

ZARINAH NUHA HARGROVE
2661 West North Bend Road, Apt. 908
Cincinnati, Ohio 45239
(D.O.B. 3/29/76)

INTRODUCTION

THE MATTER OF ZARINAH NUHA HARGROVE CAME TO HEARING ON SEPTEMBER 19, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ZARINAH NUHA HARGROVE WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) William T. Winsley, R.Ph., Ohio State Board of Pharmacy
- (2) Zarinah Nuha Hargrove, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated August 14, 1996.
- (2) Exhibit 1A--Hearing Request letter dated August 16, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated August 20, 1996.
- (4) Exhibit 2--Application for Pharmacy Intern Registration of Zarinah Nuha Hargrove signed and notarized on June 23, 1996.
- (5) Exhibit 3
- (6) Exhibit 4

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Zarinah Nuha Hargrove applied to the Board for registration as an intern in the state of Ohio on June 25, 1996.
- (2)

CONCLUSION OF LAW

- (1)

ACTION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, the State Board of Pharmacy the State Board of hereby approves the Application for Pharmacy Intern Registration submitted by Zarinah Nuha Hargrove.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 97-049 Mr. Winsley then reported on the Kroger/Pharmacy 2000 System. The Board agreed with the recommendations of staff and approved the use of the system.

RES. 97-050 The Board then discussed Ohio Administrative Code (OAC) Rules 4729-5-17, 4729-9-15, and 4729-5-01. Mr. Hanna moved that OAC Rule 4729-5-17 be corrected to read as follows:

4729-5-17 Recordkeeping.

The following recordkeeping requirements do not apply to drugs dispensed pursuant to an in-patient prescription as defined in rule 4729-17-01 of the Administrative Code.

- (A) When a pharmacist dispenses a drug pursuant to an original prescription, he/she must record the date of such dispensing and EITHER manually record his/her name or initials on the original prescription OR, IF APPROVED BY THE BOARD, ENTER HIS/HER POSITIVE IDENTIFICATION INTO THE COMPUTERIZED RECORDKEEPING SYSTEM AS REQUIRED IN RULE 4729-5-26 OF THE ADMINISTRATIVE CODE. If an alternate recordkeeping system is being used pursuant to this rule, the record of dispensing the original prescription must also be recorded in the recordkeeping system.
- (B) When a pharmacist dispenses a drug pursuant to an authorized refill of a prescription, he/she must record the date of such dispensing and manually record his/her name or initials on the original prescription or enter such information on an alternate record meeting the requirements of this rule. If an alternate recordkeeping system is being used pursuant to this rule, this alternate record must be used to record the dispensing of all prescriptions.
- (C) Where a prescription is written using a generic name, or where the pharmacist dispenses an equivalent drug product pursuant to the provisions of sections 4729.38 and 4729.381 of the Revised Code, the brand name or drug name and name of the manufacturer or distributor of the drug or the national drug code (NDC) number of the drug dispensed must be recorded on the record of dispensing by the pharmacist.
- (D) Records of dispensing drugs must provide accountability and ensure that patients do not receive more drugs than intended by the ~~practitioner~~ PRESCRIBER. All recordkeeping systems shall provide records which are readily retrievable and uniformly maintained for a period of three years from the date of the last dispensing.
- (E) If an alternate recordkeeping system is being used pursuant to this rule, such record shall include at a minimum the following data:
 - (1) The serial number assigned to and recorded on the original prescription preserved on file at the pharmacy in accordance with section 4729.37 of the Revised Code.
 - (2) Name, STRENGTH, and dosage form of the drug dispensed.
 - (3) Date of dispensing (filling or refilling).

- (4) Quantity dispensed. If the quantity dispensed is greater than that prescribed by the practitioner, the pharmacist must record the date and time that he/she contacted the prescriber and obtained approval.
- (5) The ~~name or initials~~ POSITIVE IDENTIFICATION of the dispensing pharmacist. If the pharmacist merely initials and dates the record of dispensing, he/she shall be deemed to have dispensed the quantity prescribed by the practitioner ON THE ORIGINAL PRESCRIPTION. Only the pharmacist responsible for filling or refilling the prescription or medication order shall make this record.
- (6) ~~If the alternate system of recordkeeping utilizes an automated data processing system, it is subject to the following requirements:~~
 - (a) ~~It must be capable of providing retrieval (via CRT display or hard-copy printout), within three working days, excluding holidays and weekends, of original prescription order information for all prescriptions filled within the previous three years. This shall include, but is not limited to, data such as the original prescription number; date of issuance of the original prescription order by the practitioner; full name and address of the patient; full name and address of the practitioner; directions for use; the name, strength, dosage form, quantity of the drug prescribed (and quantity dispensed if different from the quantity prescribed); and the total number of refills authorized by the prescribing practitioner.~~
 - (b) ~~It must be capable of providing retrieval (via CRT display or hard-copy printout), within three working days, excluding holidays and weekends, of the current refill history of each prescription serially. This refill history must include, but is not limited to, the name of the drug dispensed, the date of refill, the quantity dispensed, the name or initials of the dispensing pharmacist for each refill, the total number of refills dispensed to date for that prescription order, and the location where the refill was dispensed if different.~~
 - (c) ~~Documentation of the fact that the prescription refill information entered into the automated data processing system is correct must be provided by the individual pharmacist who makes use of such system. A hard-copy printout of each prescription refill data must be made and shall include, at a minimum, the following data: date of dispensing; prescription number; patient name; name, strength (if applicable), and quantity of drugs; identification of pharmacy and pharmacist; and identification of controlled substances. This printout must be verified, dated, and signed by each individual pharmacist who dispensed a prescription that day. The pharmacist must verify that the data on the printout is complete and correct and sign a statement to that effect on the document as he/she would sign a check or legal document (e.g., J. H. Smith or Jane H. Smith). These documents must be maintained in chronological order in a separate file at the licensed location where the drug was dispensed for a period of three years from the date of dispensing. If the printout is prepared at a location other than that where the drug was dispensed, the printout must be provided to the licensed location within three working days, excluding holidays and weekends, of the date on which the drugs were dispensed. Such printouts must be verified and signed by each pharmacist who dispensed drugs within twenty-four hours of the date the printout is received. In lieu of such a printout, the pharmacy must maintain a tamper-evident log book in which shall be entered, at a minimum, the following data: date of dispensing and prescription number. The dis-~~

dispensing pharmacist must manually record his/her name or initials on each data entry at the time of dispensing; or, as an alternative to the recommended procedure of manually initialing every data entry, each individual pharmacist involved in dispensing drugs must enter into a tamper evident log book, at a minimum, the following data for each prescription filled: date of dispensing; prescription number; patient name; name, strength (if applicable), and quantity of drug; identification of pharmacy and pharmacist; and identification of controlled substances. Each individual pharmacist involved in dispensing drugs must review this information at the end of each day and then must sign a statement in the log book attesting to the fact that the prescription information entered into the computer that day and recorded in the log book has been reviewed by him/her and is correct as shown. Any such log book must be maintained at the licensed location employing such a system for a period of three years from the date of dispensing.

- (d) Any such automated data processing system must have the capability of producing a printout of any prescription data which the user pharmacy is responsible for maintaining pursuant to federal and state laws and their implementing regulations and rules. For example, this would include a refill-by-refill audit trail for any specified strength and dosage form of any drug (by either brand or generic name or both). Such printout must indicate the name of the prescriber, name and address of the patient, quantity dispensed, date of dispensing, name or initials of the dispensing pharmacist, and the prescription number. In any automated data processing system employed by a pharmacy, the central recordkeeping location must be capable of sending the printout to the pharmacy within three working days, excluding holidays and weekends, and verify the printout transmittal capability of the system by documentation (e.g., postmark).
- (e) In the event that the automated data processing system experiences down-time, a record of all refills dispensed during such time must be recorded on the back of the original prescription, and such data entered into the automated data processing system as soon as it is available for use again. Prescriptions may be refilled only if, in the professional judgment of the pharmacist, the number of refills authorized by the prescriber has not been exceeded.
- (f) A pharmacy purging an automated data processing system of prescription records must develop a method of record-keeping capable of providing retrieval (via CRT display or hard-copy printout), within three working days, excluding holidays and weekends, of prescription order information for all prescriptions filled or refilled within the previous three years. This shall include, at a minimum, the following data: pharmacy name and address; original prescription number; date of issuance of the original prescription order by the practitioner; full name and address of the patient; full name and address of the practitioner; directions for use; name, strength, dosage form, quantity of the drug prescribed (and quantity dispensed if different from the quantity prescribed); total number of refills authorized by the prescribing practitioner; total number of refills dispensed to date for that prescription order; date of refill; location where the refill was dispensed if different; and name or initials of the dispensing pharmacist. Such data must be accessible by patient profile; alphabetically or serially by prescription number.

- (g) Any pharmacy intending to maintain records of dispensing at a location other than the place licensed with the board of pharmacy must first send notification to the board; if not contested within sixty days, it will stand as approved.
 - (h) The automated data processing system must satisfy all information requirements of rule 4729-5-24 of the Administrative Code, including invalidation of the original prescription record, when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. However, if those systems accessing the same prescription records have the capability of canceling the original prescription record, then all of the requirements of this rule are deemed to have been met.
- (F) All records of dispensing drugs shall be readily available, and promptly produced, upon request for inspection by a board of pharmacy officer, agent, and/or inspector during regular business hours.
- (G) Records of dispensing or administration of drugs are not a public record. A person having custody of, or access to, such records shall not divulge the contents thereof, or provide a copy thereof, to anyone except:
- (1) The patient for whom the prescription or medication order was issued.
 - (2) The practitioner who issued the prescription or medication order.
 - (3) Certified/licensed health care personnel who are responsible for the care of the patient.
 - (4) A member, inspector, agent, or investigator of the board of pharmacy or any federal, state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug.
 - (5) An agent of the state medical board when enforcing Chapter 4731. of the Revised Code.
 - (6) An agency of government charged with the responsibility of providing medical care for the patient upon a written request by an authorized representative of the agency requesting such information.
 - (7) Any person, other than those listed in paragraphs (G)(1) to (G)(6) of this rule, only when the patient has given consent for such disclosure in writing, except where a patient requiring medication is unable to deliver a written consent to the necessary disclosure. Any consent must be signed by the patient and dated. Any consent for disclosure is valid for only one year from the date of the consent. In an emergency, the pharmacist may disclose the prescription information when, in the professional judgment of the pharmacist, it is deemed to be in the best interest of the patient. A pharmacist making an oral disclosure in an emergency situation must prepare a written memorandum showing the patient's name, the date and time the disclosure was made, the nature of the emergency, and the names of the individuals by whom and to whom the information was disclosed.
- (H) Records of dispensing or administering drugs which may be required as evidence of a violation shall be released to a member, inspector, agent, or investigator of the board of pharmacy or any state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug upon his request. Such person shall furnish a receipt to the person having legal custody of

~~the records. The receipt shall list the records removed and shall include the following information:~~

- ~~(1) Prescription identification number; or, if an order for medication, the name of the patient.~~
 - ~~(2) The drugs prescribed.~~
 - ~~(3) Quantity of drugs prescribed and dispensed.~~
 - ~~(4) Name of the prescribing practitioner.~~
 - ~~(5) Date, name of agency, and signature of person removing the records.~~
- (+) (G) All prescriptions or other records of dispensing, which are required to be kept for three years according to section 4729.37 of the Revised Code, may be microfilmed or placed on electronic, magnetic media. The microfilm or electronic, magnetic media used for this purpose must comply with the "International Standards Organization" standards of quality approved for permanent records. Such records are subject to all other paragraphs of this rule.
- (+) ~~All such records, including consents, memoranda of emergency disclosures, and written requests pursuant to paragraph (G)(7) of this rule, shall be kept on file at the pharmacy for a period of three years in a readily retrievable manner.~~
- (H) ANY PHARMACY INTENDING TO MAINTAIN RECORDS OF DISPENSING AT A LOCATION OTHER THAN THE PLACE LICENSED WITH THE BOARD OF PHARMACY MUST FIRST SEND WRITTEN NOTIFICATION TO THE BOARD BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. IF NOT CONTESTED WITHIN SIXTY DAYS OF RECEIPT BY THE BOARD OFFICE, SUCH REQUEST WILL STAND AS APPROVED.

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

RES. 97-051 Mrs. Plant moved that OAC Rule 4729-9-15 be amended to read as follows:

4729-9-15 Report of theft or loss of dangerous drugs, controlled substances, and drug documents.

- (A) ~~To be in compliance with federal and state requirements, each~~ EACH practitioner; AND terminal or wholesale distributor of dangerous drugs shall notify the following upon discovery of the theft or significant loss of any dangerous drug or controlled substance:
- (1) The board of pharmacy, by telephone immediately upon discovery of the theft or significant loss;
 - (2) If a controlled substance, the drug enforcement administration (DEA) pursuant to section 1301.76(b), Code of Federal Regulations;
 - (3) Law enforcement authorities pursuant to section 2921.22 of the Revised Code.
- (B) Controlled substance thefts must also be reported by using the federal DEA report form whether or not the controlled substances are subsequently recovered and/or the responsible parties are identified and action taken against them. A copy of the federal form regarding such theft or loss shall be filed with the board of pharmacy within thirty days following the discovery of such theft or loss.
- (1) An exemption may be obtained upon sufficient cause if the federal form cannot be filed within thirty days.
 - (2) A request for a waiver of the thirty-day limit must be requested in writing.

- (C) Each practitioner, AND terminal or wholesale distributor of dangerous drugs immediately upon discovery of any theft or loss of:
 - (1) Uncompleted prescription blank(s) used for writing a prescription, written prescription order(s) not yet dispensed, and original prescription order(s) that have been dispensed, shall notify the board of pharmacy and law enforcement authorities.
 - (2) Official written order form(s) as defined in division (U) of section 3719.01 of the Revised Code shall notify the board of pharmacy and law enforcement authorities, and the drug enforcement administration (DEA) pursuant to section 1305.12(b), Code of Federal Regulations.

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

RES. 97-052 Mrs. Plant moved that OAC Rule 4729-5-01 be amended to read as follows:

4729-5-01 Definitions.

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 OR ELECTRONICALLY TRANSMITTED 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 pre-printed 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.

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

RES. 97-053 The Board then reviewed the application of the following applicant for approval as an in-state provider of continuing pharmacy education:

Ohio State Homeopathic Medical Society

Following a review of the application and the recommendations of the members of the Ad Hoc Advisory Committee on Continuing Pharmacy Education, Mr. Lamping moved that the application be denied by the Board due to the failure of the applicant to meet the Board's criteria for continuing education providers. The motion was seconded by Mrs. Plant and approved by the Board (Aye-8/Nay-0).

The Board directed staff to change the April and June meetings of this fiscal year as follows:

April 21, 22, 23, 1997

June 16, 17, 18, 1997

Material obtained by the Executive Director at the FDA hearings on ephedrine was distributed to the Board members.

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

PER DIEM	<u>8/29</u>	<u>9/9</u>	<u>9/16</u>	<u>9/17</u>	<u>9/18</u>	<u>9/19</u>	<u>Total</u>
Adelman	-	-	1	1	1	1	4
Cavendish	-	-	1	1	1	1	4
Hanna	-	-	1	1	1	1	4
Lamping	-	-	1	-	1	1	3
Littlejohn	-	-	1	1	1	1	4
Maslak	-	-	-	1	1	1	3
Neuber	1	-	1	1	1	1	5
Plant	-	-	1	1	1	1	4
Repke	-	1	1	1	1	1	5

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

2:52 p.m. Mr. Maslak moved that the business meeting be adjourned. The motion was seconded by Mrs. Adelman and approved (Aye-8/Nay-0).

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

/d/ 10/24/96
Date

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