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Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
August 11, 12, 13, 1997

MONDAY, AUGUST 11, 1997

8:00 a.m. ROLL CALL

The State Board of Pharmacy convened in Room C-11, Ohio Departments Building, 65 South Front Street, Columbus, Ohio with the following members present:

Joseph J. Maslak, R.Ph. (Vice-President); Diane Adelman, R.Ph.; Robert Cavendish, R.Ph.; Paul Lamping, R.Ph.; Suzanne Neuber, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

Mr. Maslak, Vice-President, presided in the absence of the Board President.

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

8:15 a.m.

The hearing was recessed to allow the Board to review the documentation submitted by Mr. Corpus in support of his reinstatement petition.

8:20 a.m.

Board President Amonte Littlejohn and Board member John Hanna arrived. With the agreement of Mr. Corpus, Mr. Littlejohn assumed the chair and Mr. Hanna began participating in the hearing. Mr. Maslak recused himself from further deliberations in this hearing as Mr. Corpus was a former employee.

8:38 a.m.

RES. 98-016

The hearing resumed after the Board had the opportunity to complete the review of the documentation submitted by Peter Corpus, R.Ph. Mrs. Neuber moved that the hearing be continued to a later date due to the lack of sufficient documentation showing that Mr. Corpus had complied with his Board Order dated June 30, 1994. The hearing is not to be scheduled until Mr. Corpus can produce documentation of at least one year's worth of continuous compliance after the mailing date of the Board's letter notifying him of this continuance. Documentation must include at least the following:

- (1) Copy of a signed contract with a Board-approved treatment provider;
- (2) Attendance at three AA/NA meetings per week; and
- (3) Urine screens as outlined in his Board Order that document the pH of the urine and show the measurement of specific gravity or creatinine as a dilutional test.

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

8:45 a.m.

The Board took a short recess.

9:05 a.m.

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

9:40 a.m.

RES. 98-017

The Executive Session was concluded and the meeting opened to the public. Mrs. Neuber moved that the proposed settlement from Kmart be approved as proposed if the fine was increased to three thousand dollars (\$3,000.00). The motion was seconded by Mr. Cavendish and approved by the Board (Aye-7/Nay-0/Abstain-1[Adelman]).

RES. 98-018

The Board then agreed to accept the letter from Buckeye Health Center withdrawing Buckeye Health Center's request for a hearing in the matter of their application for a Terminal Distributor of Dangerous Drugs license. The Board noted that their approval of this request was contingent upon Buckeye Health Center also submitting a letter withdrawing their application for a Terminal Distributor of Dangerous Drugs license.

RES. 98-019

Mrs. Plant moved that the Board, having reviewed the application materials, approve Board staff to process the application for a Wholesale Distributor of Dangerous Drugs license of Southwest Pharmacal. The motion was seconded by Mr. Lamping and approved by the Board (Aye-8/Nay-0).

RES. 98-020

Mrs. Plant then moved that the Board issue a proposal to deny the issuance of a license to practice pharmacy by reciprocity to Kenneth D. Daniels of Nevada. Mrs. Neuber seconded the motion and it was approved by the Board (Aye-7/Nay-1).

9:51 a.m.

The Board took a short recess.

10:09 a.m.

The Board reconvened. Mrs. Neuber and Mrs. Plant left to represent the Board at a rules hearing conducted by the Ohio Department of Health. The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to Chapters 119. and 4729. of the Revised Code in the matter of Brian Bird of Bolivar, Ohio.

11:30 a.m.

Mr. Cavendish left the meeting for personal reasons. President Littlejohn announced that Mr. Cavendish would not participate in the remainder of the hearing nor would he participate in the deliberations by the Board in this matter.

11:45 a.m.

The Board took a short recess.

12:00 p.m.

The Board reconvened and continued the hearing in the matter of Brian Bird.

12:52 p.m.

The Board recessed for lunch.

2:00 p.m.

The Board reconvened and continued the hearing in the matter of Brian Bird.

2:37 p.m.

The hearing in the matter of Brian Bird was concluded and the Board took a short recess.

2:56 p.m.

The Board reconvened and Mr. Lamping moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matter of Brian Bird, Bolivar, Ohio, and for the purpose of conferring with the Assistant Attorney General regarding pending and imminent court matters and the investigation of complaints regarding licensees and registrants. The motion was seconded by Mr. Repke and President Littlejohn conducted a roll call vote as follows: Adelman–Yes, Hanna–Yes, Lamping–Yes, Maslak–Yes, and Repke–Yes.

3:20 p.m.

The Board was joined by Timothy Benedict, Compliance Administrator; Robert Cole, Compliance Supervisor; David Rowland, Legal Affairs Administrator; and Mary Hollern, Assistant Attorney General.

4:00 p.m.

RES. 98-021

The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order to deny the application for licensure by examination submitted by Brian Bird, Bolivar, Ohio, and to specify that Mr. Bird may not re-apply before 12 months from the effective date of this Order. The motion was seconded by Mr. Hanna and approved by the Board (Aye-5/Nay-0).

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-970117-025)

In The Matter Of:

JAMES BRIAN BIRD
1681 Maple Square N.E.
Bolivar, Ohio 44612
(D.O.B. 01/04/57)

INTRODUCTION

THE MATTER OF JAMES BRIAN BIRD CAME TO HEARING ON AUGUST 11, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES BRIAN BIRD WAS REPRESENTED BY WAYNE KEREK, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James Brian Bird, Respondent
- (2) Albert Weinstein, Pharmacists Rehabilitation Organization, Inc.
- (3) Scott Bernhardt, Sponsor, Narcotics Anonymous
- (4) Mimi Bird, Wife of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated January 17, 1997.
- (2) Exhibit 1A--Two-page Hearing Request letter dated February 13, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated February 21, 1997.

- (4) Exhibit 2--Application for Examination as a Pharmacist of James Brian Bird dated November 21, 1996.
- (5) Exhibit 2A--Copy of nineteen-page Indictment for sixty-five counts of Trafficking in Drugs in the State of Ohio, Tuscarawas County, Court of Common Pleas, Case No. 93CR040098, of James Brian Bird dated April 28, 1993.
- (6) Exhibit 2B--Copy of three-page Judgment Entry on Change of Plea in the Court of Common Pleas of Tuscarawas County, Ohio, Case No. 93CR040098, of James Brian Bird dated December 22, 1993.
- (7) Exhibit 2C--Copy of three-page Judgment Entry on Sentencing in the Court of Common Pleas of Tuscarawas County, Ohio, Case No. 93CR040098, of James Brian Bird dated February 25, 1994.
- (8) Exhibit 3--Copy of twelve-page Order of the State Board of Pharmacy, Docket No. D-930429-084, in the matter of James Brian Bird dated March 14, 1994.

Respondent's Exhibits:

- (1) Exhibit A1--Copy of letter from Verna E. Tilton dated May 7, 1996.
- (2) Exhibit A2--Copy of Quest Recovery Services Initial Treatment Plan of Brian Bird dated May 3, 1996.
- (3) Exhibit B--Copy of Quest Recovery Services Treatment Contract of J. Brian Bird dated September 20, 1996.
- (4) Exhibit C--Copy of Quest Recovery Services Summary of Treatment of J. Brian Bird signed September 20, 1996.
- (5) Exhibit D1--Two-page copy of Quest Recovery Services Comprehensive Assessment Summary of Brian J. Bird signed January 22, 1997.
- (6) Exhibit D2--Copy of letter from Verna Tilton dated August 6, 1997.
- (7) Exhibit E1--Copy of letter from Verna Tilton dated June 16, 1997.
- (8) Exhibit E2--Copy of letter from Verna Tilton dated June 16, 1997.
- (9) Exhibit F1--Copy of handwritten summary of J. Brian Bird dated July 28, 1996.
- (10) Exhibit F2--Two-page copy of handwritten summary of J. Brian Bird regarding the Ventilation Trap dated July 28, 1996.
- (11) Exhibit F3--Copy of handwritten summary of J. Brian Bird regarding Stress and Recovery dated August 19, 1996.
- (12) Exhibit F4--Two-page copy of handwritten summary of J. Brian Bird regarding the Effects on the Family dated August 19, 1996.
- (13) Exhibit F5--Copy of page fifteen of "Anxiety Disorders" by David D. Burns, M.D., Copyright 1980, regarding Checklist of Cognitive Distortions.
- (14) Exhibit F6--Copy of page twenty of "Anxiety Disorders" by David D. Burns, M.D., Copyright 1980, regarding Checklist of Self-Defeating Beliefs.
- (15) Exhibit G--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of J. Brian Bird dated September 16, 1996.
- (16) Exhibit H--Copy of list of attendance dates of the North-East Ohio Recovering Pharmacists meetings of J. Brian Bird dated from February 20, 1995, through July 21, 1997.
- (17) Exhibits I1 through I25--Twenty-five copies of pages from weekly calendars dated from February 20, 1995, through July 27, 1997.
- (18) Exhibits J1 through J94--Ninety-four copies of pages from weekly calendars dated from January 2, 1995, through October 20, 1996.
- (19) Exhibits J96 through J136--Forty-one copies of pages from weekly calendars dated from October 21, 1996, through August 3, 1997.
- (20) Exhibits K--Two-page copy of letter from Bruce Hensley dated June 24, 1997.
- (21) Exhibit L1--Copy of Affidavit of Patti Schott dated August 6, 1997.
- (22) Exhibit L2--Copy of four pages of urine drug screen documentation of Brian James Bird dated January 26, 1995, and January 27, 1995.
- (23) Exhibit L3--Copy of four pages of urine drug screen documentation of James Brian Bird dated June 13, 1995, through June 15, 1995.
- (24) Exhibit L4--Copy of three pages of urine drug screen documentation of James Brian Bird dated August 29, 1995, through August 31, 1995.
- (25) Exhibit L5--Copy of four pages of urine drug screen documentation of James Brian Bird dated November 1, 1995, and November 2, 1995.
- (26) Exhibit L6--Copy of four pages of urine drug screen documentation of James Brian Bird dated January 8, 1996, and January 9, 1996.

- (27) Exhibit L7--Copy of four pages of urine drug screen documentation of James Brian Bird dated March 5, 1996, and March 6, 1996.
- (28) Exhibit L8--Copy of four pages of urine drug screen documentation of James Brian Bird dated May 31, 1996, through June 3, 1996.
- (29) Exhibit L9--Copy of four pages of urine drug screen documentation of James Brian Bird dated June 20, 1996, and June 21, 1996.
- (30) Exhibit L10--Copy of four pages of urine drug screen documentation of James Brian Bird dated August 16, 1996, through August 18, 1996.
- (31) Exhibit L11--Copy of four pages of urine drug screen documentation of James Brian Bird dated September 13, 1996, through September 16, 1996.
- (32) Exhibit L12--Copy of four pages of urine drug screen documentation of James Brian Bird dated November 14, 1996, and November 15, 1996.
- (33) Exhibit L13--Copy of four pages of urine drug screen documentation of James Brian Bird dated December 11, 1996, and December 12, 1996.
- (34) Exhibit L14--Copy of four pages of urine drug screen documentation of James Brian Bird dated January 3, 1997, and January 4, 1997.
- (35) Exhibit L15--Copy of four pages of urine drug screen documentation of James Brian Bird dated February 19, 1997, and February 20, 1997.
- (36) Exhibit L16--Copy of four pages of urine drug screen documentation of James Brian Bird dated March 21, 1997, through March 23, 1997.
- (37) Exhibit L17--Copy of four pages of urine drug screen documentation of James Brian Bird dated April 11, 1997, through April 14, 1997.
- (38) Exhibit L18--Copy of four pages of urine drug screen documentation of James Brian Bird dated May 20, 1997, and May 21, 1997.
- (39) Exhibit L19--Copy of five pages of urine drug screen documentation of James Brian Bird dated July 1, 1997, through July 23, 1997.
- (40) Exhibit L20--Copy of four pages of urine drug screen documentation of James Brian Bird dated July 17, 1997, and July 18, 1997.
- (41) Exhibits M1 through M15--Copies of fifteen continuing education certifications of James Brian Bird dated February 12, 1993, through August 30, 1996.
- (42) Exhibits N1 through N3--Copies of three receipts from the Tuscarawas County Clerk of Courts for payment of fines in the matter of State vs. James Brian Bird, Case No. 93CR040098, dated June 18, 1993; February 23, 1994; and April 12, 1994.
- (43) Exhibit O--Copy of Expiration of Sentence of James Bird, Institution Number 288-243 dated October 28, 1994.
- (44) Exhibit P--Copy of Journal Entry in the (sic Tuscarawas) Court of Common Pleas, Case No. 93CR040098, of James Brian Bird dated December 18, 1996.
- (45) Exhibit Q--Copy of Certificate of Appreciation of James B. Bird dated October 3, 1996.
- (46) Exhibit R1--Copy of letter from Robert Kerek dated July 31, 1997.
- (47) Exhibit R2--Copy of letter from David M. Boyer dated July 31, 1997.
- (48) Exhibit R3--Copy of letter from Albert I. Weinstein dated July 23, 1997.
- (49) Exhibit R4--Copy of letter from Mark Buker dated July 1, 1997.
- (50) Exhibit R5--Copy of letter from Leslie B. Coons, not dated.
- (51) Exhibit R6--Copy of letter from Jim Brearley, not dated.
- (52) Exhibit R7--Copy of letter from Rev. Patrick A. Toner, not dated.
- (53) Exhibit R8--Copy of two-page letter from Jo Dusi dated October 12, 1996.
- (54) Exhibit R9--Copy of letter from Scott Bernhardt, not dated.
- (55) Exhibit R10--Copy of two-page letter from Angela B. DeMatteis, not dated.
- (56) Exhibit R11--Copy of two-page letter from Mimi Bird, not dated.
- (57) Exhibit S--Letter from Greg L. Didonato dated August 7, 1997.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that James Brian Bird submitted an application for Examination as a Pharmacist on or about November 27, 1996.
- (2) Records further indicate that on or about March 14, 1994, the Board found the following to be fact:

- (a) Records of the State Board of Pharmacy indicate that James Brian Bird was originally licensed to practice pharmacy in the state of Ohio by reciprocity on December 2, 1980, and was summarily suspended on April 29, 1993. Further, James Brian Bird admitted in his testimony that he was the responsible pharmacist during all relevant time periods as stated in the paragraphs below.
- (b) James Brian Bird did, on or about December 22, 1992, and dates prior thereto, practice pharmacy at the Medicine Shoppe, 555 W. High Street, New Philadelphia, Ohio, when addicted to drugs. James Brian Bird admitted that he abused Percodan, Percocet, Tylox, and their generic equivalents. Thus, he is addicted to or abusing liquor and/or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (c) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell controlled substances in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold 115 units of Dexedrine 5mg, a schedule II controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (d) James Brian Bird, as the responsible pharmacist did, between August 10, 1991, and December 2, 1992, knowingly sell, under the definition of Sections 3719.01(E) and 4729.02(J) of the Revised Code, a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird and/or a pharmacist under his control sold 172 units of Xanax 0.25mg, a schedule IV controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (e) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold, for his own purposes, 65 units of Percodan and/or generic equivalents, a schedule II controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (f) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold 755 units of Tylox and/or generic equivalents, and 156 units of Dilaudid 4mg, schedule II controlled substances, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (g) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold 300 units of APAP 325mg/Codeine 30mg, and 990ml of Hycodan Syrup, schedule III controlled substances, without prescriptions and/or without a legitimate

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

- (h) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold 3,600 units of Diazepam 5mg, a schedule IV controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (i) James Brian Bird did, between August 10, 1991, and December 2, 1992, sell controlled substances in an amount equal to or exceeding one hundred times the bulk amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold 5,645 units of Percocet and/or generic equivalents, a schedule II controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(10) of the Ohio Revised Code.
- (j) James Brian Bird did, between April 30, 1990, and April 30, 1993, sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird sold the following schedule IV controlled substances without prescriptions and/or without a legitimate medical purpose:

<u>Drug</u>	<u>Quantity</u>
Adipex-P 3.75mg	292
Phentermine 37.5mg	1150
Phentermine 30mg	357

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

- (k) James Brian Bird did, between April 30, 1990, and April 30, 1993, sell, under the definition of Sections 3719.01(E) and 4729.02(J) of the Revised Code, a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: James Brian Bird or a pharmacist under his control sold 42 units of Ionimin 30mg, a schedule IV controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (l) James Brian Bird did, on or about the following dates, make or utter false or forged prescriptions for dangerous drugs, to wit: James Brian Bird created false or forged prescriptions in the name of patient Linda Hanner, not authorized by a practitioner for the following dangerous drugs:

<u>Rx No.</u>	<u>Type</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
694394	original	03/05/92	Ceclor 250mg	21
694394	refill	08/07/92	Ceclor 250mg	21
701111	original	06/23/92	Seldane 60mg	20
701111	refill	07/11/92	Seldane 60mg	20
701111	refill	07/27/92	Seldane 60mg	20
701111	refill	08/25/92	Seldane 60mg	15
701111	refill	08/31/92	Seldane 60mg	15
701111	refill	09/11/92	Seldane 60mg	15
701111	refill	10/05/92	Seldane 60mg	15

701111	refill	11/19/92	Seldane 60mg	10
707033	original	10/05/92	Seldane-D	15
707033	refill	10/09/92	Seldane-D	15

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

- (m) James Brian Bird did, on or about the following dates, make or utter false or forged prescriptions for dangerous drugs, to wit: James Brian Bird created false or forged telephone prescriptions in the name of patient Willard Hanner, not authorized by a practitioner for the following dangerous drugs:

<u>Rx No.</u>	<u>Type</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
667874	original	01/21/91	Colfed A	12
671672	original	03/08/91	Doxycycline 100mg	11
671672	refill	06/27/91	Doxycycline 100mg	11
680953	original	08/08/91	Cipro 500mg	14
680953	refill	08/15/91	Cipro 500mg	14
680953	refill	11/07/91	Cipro 500mg	14
681938	original	08/29/91	Tetracycline-250	40
681938	refill	04/08/92	Tetracycline-250	56
695035	original	03/16/92	Erythromycin-250	40
695035	refill	03/26/92	Erythromycin-250	40
695035	refill	04/02/92	Erythromycin-250	40
701284	original	06/26/92	Cephalexin 250mg	28
701284	refill	10/15/92	Cephalexin 250mg	28
706417	original	09/25/92	Cipro 500mg	14
707660	original	10/15/92	Beconase AQ Nasal Spray	25mg

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

- (n) James Brian Bird did, from on or about April, 1990, through February, 1993, furnish to another controlled substances when the conduct was not in accordance with Chapters 3719., 4715., 4729., 4731., and/or 4741. of the Ohio Revised Code, to wit: due to illegal sales of Diazepam 5mg, a schedule IV controlled substance, to Jean Lahmers, James Brian Bird caused her to become drug dependent. Such conduct is in violation of Section 2925.02(B) of the Ohio Revised Code.
- (o) James Brian Bird, as the responsible pharmacist did, between August 10, 1991, and December 2, 1992, sell, under the definition of Sections 3719.01(E) and 4729.02(J) of the Revised Code, a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird or a pharmacist under his control sold 480ml of Methadone oral solution 5mg/5ml, a schedule II controlled substance, without prescriptions and/or without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (p) James Brian Bird, as the responsible pharmacist did, between August 10, 1991, and December 2, 1992, sell, under the definition of Sections 3719.01(E) and 4729.02(J) of the Revised Code, controlled substances in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird or a pharmacist under his control sold the following schedule II controlled substances without prescriptions and/or without a legitimate medical purpose:

Drug

Quantity

Methylphenidate 5mg	1,009
Methylphenidate Extended Release 20mg	201

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

- (q) James Brian Bird, as the responsible pharmacist did, between April 30, 1990, and April 30, 1993, sell, under the definition of Sections 3719.01(EE) and 4729.02(J) of the Revised Code, a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: James Brian Bird or a pharmacist under his control sold the following controlled substances without prescriptions and/or without a legitimate medical purpose:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Methylphenidate 10mg	II	1,118
Xanax 0.5mg	IV	1,208
Xanax 1mg	IV	940

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

- (r) James Brian Bird did, on or about December 21, 1993, plea guilty in the Court of Common Pleas of Tuscarawas County, Ohio, to fifteen counts of Trafficking in Drugs, in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

The Board concluded that James Brian Bird was guilty of a felony and gross immorality; guilty of dishonesty and unprofessional conduct in the practice of pharmacy; addicted to and abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy; and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of 3715.52 to 3715.72 or Chapters 2925., 3719., or 4729. of the Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code. Therefore, the Board revoked James Brian Bird's license, No. 03-2-13744, to practice pharmacy in the state of Ohio.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(r) of the Findings of Fact constitutes 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 (2)(r) of the Findings of Fact constitutes having been convicted of violating state or federal pharmacy or drug laws as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(b) through (2)(r) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(b) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.

- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the Application for Examination as a Pharmacist submitted by James Brian Bird.

Further, James Brian Bird may not apply for examination as a pharmacist before one year from the date of this Order.

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

MOTION CARRIED.

SO ORDERED.

4:20 p.m.

The Board was joined by Nancy Little, Licensing Administrator, for the purpose of reviewing her licensing report.

4:40 p.m. The Board recessed the meeting until Tuesday, August 12, 1997 at 8:00 a.m.

TUESDAY, AUGUST 12, 1997

8:11 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room C-11, Ohio Departments Building, 65 South Front Street, Columbus, Ohio:

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

The Board was joined by Timothy Benedict, Compliance Administrator, for the purpose of reviewing the Fourth Quarter Report and Annual Report for FY 1997 regarding the activities of the Compliance Division's field staff.

William T. Winsley, Assistant Executive Director, provided information to the Board regarding the reporting of the Pharmacist Licensure Examination results. During the week of August 4, 1997, the Board received only 39 grades from the National Association of Boards of Pharmacy (NABP). On August 11, 1997, an additional 69 grades were received. Mr. Winsley reported these 108 grade report letters would be mailed to the examination candidates on Wednesday, August 13, 1997. This would leave only 23 candidates whose grades were not yet received from NABP.

8:45 a.m.

The Board took a brief recess.

9:00 a.m.

Mr. Maslak arrived.

9:06 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to Chapters 119. and 4729. of the Revised Code in the matter of BMW-Med-Tec of Ohio, Inc., Elyria.

9:52 a.m.

The hearing ended and the record was closed. Mrs. Plant moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matter of BMW-Med-Tec of Ohio. The motion was seconded by Mr. Hanna and President Littlejohn conducted a roll call vote as follows: Adelman–Yes, Cavendish–Yes, Hanna–Yes, Lamping–Yes, Maslak–Yes, Neuber–Yes, Plant–Yes, and Repke–Yes.

10:24 a.m.

RES. 98-022

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-970321-034)

In The Matter Of:

BMW-MED-TEC OF OHIO, INC.

James D. Parks, President
860 Taylor Street
Elyria, Ohio 44035
(Terminal Distributor No. 02-0902500)

INTRODUCTION

THE MATTER OF BMW-MED-TEC OF OHIO, INC. CAME TO HEARING ON AUGUST 12, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

BMW-MED-TEC OF OHIO, INC. 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) Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James D. Parks, President, BMW-Med-Tec of Ohio, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 21, 1997.
- (2) Exhibit 1A--Two-page Hearing Request letter dated March 31, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated April 4, 1997.
- (4) Exhibit 2--Application for Registration as a Terminal Distributor of Dangerous Drugs of BMW-Med-Tec of Ohio, Inc. dated November 30, 1995.
- (5) Exhibit 3--Dangerous Drug Distributor Inspection Report of BMW-Med-Tec of Ohio, Inc., Terminal Distributor No. 02-902500, dated January 18, 1996.
- (6) Exhibit 4--Two-page certified copy of Judgment Entry in the Circuit Court of Marshall County, Tennessee, at Lewisburg, Case No. 9007, State of Tennessee vs. Franklin D. Shrader dated January 4, 1984.
- (7) Exhibit 5--Certified copy of Affidavit of Complaint in the General Sessions Court of Giles County, State of Tennessee, Case No. 15904, State of Tennessee vs. Franklin Shrader, Jr. for an offense committed on June 4, 1990.

- (8) Exhibit 6--Certified copy of Affidavit of Complaint in the General Sessions Court of Giles County, State of Tennessee, Case No. 15903, State of Tennessee vs. Franklin Shrader, Jr. for an offense committed on June 4, 1990.
- (9) Exhibit 7--Certified copy of Judgment Entry in the Criminal/Circuit Court of Giles County, Tennessee, Case No. 6511, State of Tennessee vs. Franklin Shrader dated February 29, 1994.
- (10) Exhibit 8--Certified copy of Criminal Docket No. 8731 in the State of Tennessee, Maury County, in the matter of Franklin D. Shrader dated February 24, 1995.
- (11) Exhibit 9--Certified copy of Judgment Entry in the Criminal/Circuit Court of Maury County, Tennessee, Case No. 8731, Count No. 1, State of Tennessee vs. Franklin Shrader dated August 14, 1995.
- (12) Exhibit 10--Certified copy of Judgment Entry in the Criminal/Circuit Court of Maury County, Tennessee, Case No. 8731, Count No. 2, State of Tennessee vs. Franklin Shrader dated August 14, 1995.

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 James D. Parks is the president of BMW-Med-Tec of Ohio, Inc., pursuant to Section 4729.55 of the Ohio Revised Code.
- (2) BMW-Med-Tec of Ohio, Inc. did, on or about November 30, 1995, make a false statement, or swear the truth of a false statement, when made for the purpose to secure the issuance by the Board of Pharmacy, a governmental agency, of a terminal distributor's license, to wit: when applying for a terminal distributor's license, the facility indicated that no employee of the applicant had convictions for felonies or misdemeanors, when in fact Franklin D. Shrader, Jr., the plant manager, had the following convictions from various Tennessee courts:
 - (a) Judgment Entry dated January 6, 1984, Selling a Schedule VI (*sic* IV) Controlled Substance;
 - (b) Judgment Entry dated October 30, 1990, Simple Possession of Cocaine;
 - (c) Judgment Entry dated October 30, 1990, Possession of Drug Paraphernalia;
 - (d) Judgment Entry dated February 28, 1994, Sale of Marijuana;
 - (e) Judgment Entry dated August 14, 1995, Possession of Cocaine; and
 - (f) Judgment Entry dated August 14, 1995, Driving While Revoked.

Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

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 constitutes making false material statements in an application for a license as a terminal distributor of dangerous drugs as provided in Division (A)(1) of Section 4729.57 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusion of Law, 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.

The motion was seconded by Mrs. Neuber and approved by the Board (Aye-7/Nay-1).

The Board then set the tentative meeting dates for FY 1999. The Board determined that they will meet the first Monday through Wednesday after the first Sunday of every month except September, 1998. During that month, they will meet on Tuesday, September 8, 1998 through Thursday, September 10, 1998.

The Board next reviewed the adjustments made at the July Board meeting to the recommendations of the Ad Hoc Committee on Rule Review. After discussion and review, the Board requested that these rules be reviewed with their additional corrections at the September, 1997 Board meeting for final approval. Mr. Winsley was requested by the Board to ask the opinion of several individuals who might be affected by the proposed new rule 4729-17-14 on controlled substance accountability prior to the September meeting. The Board also requested that the Ad Hoc Committee on Rule Review for 1998 consider a rule requiring improved recordkeeping and accountability for Schedule II controlled substances in retail pharmacies.

11:00 a.m.

Mr. Cavendish left the meeting for personal reasons.

11:22 a.m.

After a review by the Board of the Minutes from the July 14, 15, 16, 1997 meeting, Mrs. Neuber moved that the Minutes be approved as amended. The motion was seconded by Mrs. Plant and approved by the Board (Aye-7/Nay-0).

The Board continued its discussion of agenda items of general business.

11:40 a.m.

The Board recessed for lunch.

1:00 p.m.

The Board reconvened for the purpose of meeting with the candidates for licensure by reciprocity in Room 1919, 77 South High Street, Columbus, Ohio. The following members were present: Amonte Littlejohn, R.Ph. (President); Diane Adelman, R.Ph.; John Hanna, R.Ph.; Paul Lamping, R.Ph.; Joseph Maslak, R.Ph.; Suzanne L. Neuber, R.Ph.; Ruth Plant, R.Ph.; and Nicholas Repke, Public Member.

1:30 p.m.

RES. 98-023

Mr. Lamping moved that the following candidates be approved and their licenses to practice pharmacy in Ohio be issued:

BEAM, DAVID M.	03-1-22648	GEORGIA
CAMPBELL, RAYMOND G.	03-1-22624	WEST VIRGINIA
CONRAD, MICHAEL J	03-1-22637	PENNSYLVANIA
DUBENDORFER, KATHERINE A.	03-1-22638	PENNSYLVANIA
FRAGALE, GARY M.	03-1-22649	WEST VIRGINIA
PAYNE, JACQUELINE L.	03-1-22636	KENTUCKY
RICHTERMAN, KIMBERLY A.	03-1-22196	PENNSYLVANIA
SILVERSTEIN, MARTIN A.	03-1-22622	NEW YORK

The motion was seconded by Mr. Hanna and approved (Aye-7/Nay-0). The Board members then left the reciprocity meeting and returned to Room C-11 in the Ohio Departments Building, 65 South Front Street, Columbus, Ohio to continue their business meeting.

2:10 p.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to Chapters 119. and 4729. of the Revised Code in the matter of Keith Jered Hochadel, R.Ph., Salem, Ohio. As neither Mr. Hochadel or his attorney was present, David Rowland, Legal Affairs Administrator, attempted to reach both attorney Mark Senff and attorney Bradley Iams by telephone to determine whether or not either of them or Mr. Hochadel was planning to attend the hearing.

2:40 p.m.

The hearing in the matter of Keith Jered Hochadel was begun. Mr. Hochadel was not present.

5:15 p.m. The hearing and the meeting were recessed until Wednesday, August 13, 1997 at 8:30 a.m.

WEDNESDAY, AUGUST 13, 1997

8:30 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room C-11, Ohio Departments Building, 65 South Front Street, Columbus, Ohio:

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

8:40 a.m.

The hearing in the matter of Keith Jered Hochadel was resumed. President Littlejohn announced that Mr. Cavendish would not participate in the hearing or its deliberations since he was not present on Tuesday when the hearing began.

9:55 a.m.

The hearing ended and the record was closed. The Board took a short recess.

10:10 a.m.

The Board reconvened and Mr. Maslak moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matter of Keith Jered Hochadel and for the purpose of conferring with the Assistant Attorney General regarding pending and imminent court matters and the investigation of complaints regarding licensees and registrants. The motion was seconded by Mrs. Adelman and President Littlejohn conducted a roll call vote as follows: Adelman-Yes, Cavendish-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

The Board was joined by Assistant Attorney General Mary Hollern and the Board's Legal Affairs Administrator David Rowland.

10:20 a.m.

Assistant Attorney General Mary Hollern and the Board's Legal Affairs Administrator David Rowland left the meeting.

10:30 a.m.

RES. 98-024

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

ORDER OF THE STATE BOARD OF PHARMACY (Docket No. D-960917-014)

In The Matter Of:

KEITH JERED HOCHADEL, R.Ph.

36200 Shining Tree Lane
Salem, Ohio 44460
(R.Ph. No. 03-3-15826)

INTRODUCTION

THE MATTER OF KEITH JERED HOCHADEL CAME TO HEARING ON AUGUST 12, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KEITH JERED HOCHADEL 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) David L. Rowland, Ohio State Board of Pharmacy
- (2) Alan Christopher Taylor, Revco Drug Stores
- (3) Kimberly Fagan, Alliance, Ohio
- (4) David Gallagher, 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 September 17, 1996.
- (2) Exhibit 1A--Hearing Request letter dated October 2, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated October 10, 1996.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Keith Jered Hochadel showing original date of registration as March 1, 1985; and Renewal Application for Pharmacist License, No. 03-3-15826, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997.
- (5) Exhibit 1D--Addendum Notice dated March 21, 1997.
- (6) Exhibit 1E--Continuance Request letter from Mark D. Senff dated April 4, 1997.
- (7) Exhibit 1F--Continuance Request letter from Keith Jered Hochadel dated April 4, 1997.
- (8) Exhibit 1G--Hearing Schedule letter dated April 4, 1997.
- (9) Exhibit 1H--Sealed Record-Confidential Patient Key listing fourteen patients.
- (10) Exhibit 2--Microcassette tape containing the recording of an interview, Case No. 96-1809, of Keith Hochadel on July 2, 1996.
- (11) Exhibit 2A--Microcassette tape containing the recording of an interview, Case No. 96-1809, of Keith Hochadel on September 9, 1996.
- (12) Exhibit 3--Six-page handwritten statement of Keith J. Hochadel signed and notarized on September 13, 1996.
- (13) Exhibit 3A--Microcassette tape containing the recording of an interview, Case No. 96-1809, of Keith Hochadel on September 13, 1996.
- (14) Exhibit 3B--Handwritten statement of Keith Hochadel dated September 9, 1996.
- (15) Exhibit 3C--Microcassette tape containing the recording of an interview, Case No. 96-1809, of Keith Hochadel on December 3, 1996.
- (16) Exhibit 4--Two-page Mt. Union Square Pharmacy C-II Inventory taken by Keith Hochadel dated August 25, 1994.
- (17) Exhibit 5--Three-page Mt. Union Pharmacy Controlled Substance Inventory taken by Keith Hochadel dated May 1, 1995.
- (18) Exhibit 6--Seven-page Narcotic Inventory, Class II Drugs, taken by Keith Hochadel dated January 31, 1996.
- (19) Exhibit 7--Two-page Controlled Substance Inventory taken by Keith Hochadel dated May 1, 1996.

- (20) Exhibit 8--Sealed Record-Red, bound exempt narcotics register of Mt. Union Square Pharmacy dated from April 7, 1989, through July 25, 1996.
- (21) Exhibit 9--Sealed Record-Thirteen pages of signature log sheets dated from July 22, 1996, to July 28, 1996.
- (22) Exhibits 10 and 10A through 10C--Sealed Records-Four handwritten telephone prescriptions, lacking necessary dispensing information, not numbered.
- (23) Exhibit 11--Sealed Record-Prescription number 423576, and copy of Ohio Medicaid Card, Billing number 103559027099 good from April 1, 1996, through April 30, 1996.
- (24) Exhibit 12--Sealed Record--Prescription number 428412.
- (25) Exhibits 13 and 13A--Sealed Records-Two prescriptions lacking necessary dispensing information, not numbered.
- (26) Exhibit 14--Sealed Record-Prescription number 428130 (label on telephone prescription blank).
- (27) Exhibit 14A--Sealed Record-Prescription number 425164 (label).
- (28) Exhibit 14B--Sealed Record-Prescription number 428419 (label).
- (29) Exhibit 14C--Sealed Record-Prescription number 409113 (label).
- (30) Exhibit 14D--Sealed Record--Prescription number C427235 (label).
- (31) Exhibit 14E--Sealed Record--Prescription number 423839 (label).
- (32) Exhibit 14F--Sealed Record--Three prescriptions numbered 421375, 359419, and 361398 (labels).
- (33) Exhibit 15--Sealed Record-A pack of 220 prescriptions, labels, and/or other pharmacy-related documentation of Revco #2393 taken from Keith Hochadel's residence on September 13, 1996.
- (34) Exhibit 16--One Hismanal (Astemizole) 10mg tablet in an individually packaged sample container, Control No. 95L301A, expiration date 11/97.
- (35) Exhibit 17--Two vials of Ampicillin 1gm, Control No. 6B91164, expiration date 2/99.
- (36) Exhibit 18--Sealed Record-Six packs of assorted unfiled and/or undispensed prescriptions.
- (37) Exhibit 19--Sealed Record-Statement of Dr. William Lago regarding Patient #7 signed and notarized on January 6, 1997.
- (38) Exhibit 20--Three-page copy of Judgment Entry in the Stark County Common Pleas Court, Case No. 1997CR0283, of Keith Hochadel dated July 25, 1997; and six-page copy of Plea of Guilty in the Stark County Common Pleas Court, Case No. 1997CR0283, dated July 14, 1997.
- (39) Exhibit 21--Sealed Record-Seventeen-page Mt. Union Square Pharmacy patient profile of Patient #7 dated from January 1, 1993, to September 18, 1996.
- (40) Exhibits 23 and 23A through 23Z--Sealed Records-Twenty-seven prescriptions for Patient #7.
- (41) Exhibit 24--Sealed Record-Four-page Mt. Union Square Pharmacy patient profile dated from January 1, 1993, through September 19, 1996, starting with prescription number 423162.
- (42) Exhibit 25--Sealed Record-Prescription number 423162.
- (43) Exhibit 26--Empty, amber vial, prescription number 423162.
- (44) Exhibit 27--Sealed Record-Five-page Mt. Union Square Pharmacy patient profile dated from January 1, 1993, through September 19, 1996, starting with prescription number 428068.
- (45) Exhibit 28--Empty, amber vial, prescription number 426556.
- (46) Exhibit 29--Accountability Statement of Mt. Union Square Pharmacy for Vicodin 5/500mg dated October 22, 1996.
- (47) Exhibit 30--Accountability Statement of Mt. Union Square Pharmacy for Hydrocodone 5mg/APAP 500mg dated October 22, 1996.
- (48) Exhibit 31--Accountability Statement of Mt. Union Square Pharmacy for Vicodin 7.5mg/APAP 750mg dated October 22, 1996.
- (49) Exhibit 32--Accountability Statement of Mt. Union Square Pharmacy for Hydrocodone 7.5mg/APAP 750mg dated October 22, 1996.
- (50) Exhibit 33--Accountability Statement of Revco #2393 for Vicodin 5/500mg dated October 22, 1996.
- (51) Exhibit 34--Accountability Statement of Revco #2393 for Hydrocodone 5mg/APAP dated October 22, 1996.
- (52) Exhibit 35--Accountability Statement of Revco #2393 for Vicodin 7.5/750mg dated October 22, 1996.
- (53) Exhibit 36--Accountability Statement of Revco #2393 for Hydrocodone 7.5mg/APAP 750mg dated October 22, 1996 (using Hochadel's opening inventory on August 6, 1996).

- (54) Exhibit 36A--Accountability Statement of Revco #2393 for Hydrocodone 7.5mg/APAP 750mg dated October 22, 1996 (using Taylor's opening inventory on August 17, 1996).
- (55) Exhibit 36B--Accountability Statement of Revco #2393 for Hydrocodone 7.5mg/APAP 750mg dated October 22, 1996 (using Taylor's opening inventory on August 6, 1996).
- (56) Exhibit 37--Sealed Record-Statement of Denis R. Lunne, M.D. regarding Patient #1 signed and notarized on January 6, 1997.
- (57) Exhibit 38--Sealed Record--Two-page Mt. Union Square Pharmacy patient profile of Patient #1 dated from January 1, 1992, to September 1, 1996, starting with prescription number 428180; two-page Mt. Union Square Pharmacy patient profile of Patient #1 dated from January 1, 1992, to September 1, 1996, starting with prescription number 423742; and four-page Mt. Union Square Pharmacy patient profile dated from January 1, 1992, to September 1, 1996, starting with prescription number 411554.
- (58) Exhibit 39--Sealed Record-Prescription number C369737.
- (59) Exhibit 40--Sealed Record-Prescription number C831818.
- (60) Exhibit 41--Sealed Record-Prescription number C832712.
- (61) Exhibit 41A--Sealed Record-Salem Drugs, Inc. patient profile of Patient #1 dated from January 1, 1994, to December 2, 1996, starting with prescription number 887522.
- (62) Exhibit 42--Sealed Record-Three-page statement of John E. Barrett, D.P.M. regarding Patient #2 signed and notarized on December 20, 1996.
- (63) Exhibit 43--Sealed Record-Prescription number N426560.
- (64) Exhibit 43A--Sealed Record-Prescription number 426561.
- (65) Exhibit 43B--Sealed Record-Prescription number N426794.
- (66) Exhibit 44--Sealed Record-Four-page table regarding prescription information of Patient #2.
- (67) Exhibit 45--Sealed Record-Seven-page Mt. Union Square Pharmacy patient profile of Patient #2 dated from January 1, 1993, to September 19, 1996.
- (68) Exhibit 46--Sealed Record-Six pages of Mt. Union Square Pharmacy patient profile of Patient #3 dated from January 1, 1993, to September 1, 1996.
- (69) Exhibit 47--Sealed Record-Statement of Henry C. Woodring regarding Dr. Jean E. Szmyd signed and notarized on January 15, 1997; statement of Henry C. Woodring regarding Patient #3 signed and notarized on January 15, 1997.
- (70) Exhibit 49--Sealed Record-Four-page table of prescription information of Patient #3.
- (71) Exhibits 50 and 50A through 50F--Sealed Records-Seven prescriptions for Patient #3.
- (72) Exhibit 51--Sealed Record-Two-page statement of Duane Kuentz, M.D. regarding Patient #4 signed and notarized on January 8, 1997.
- (73) Exhibit 52--Sealed Record-Twelve-page Mt. Union Square Pharmacy patient profile of Patient #4 dated from January 1, 1993, to September 19, 1996.
- (74) Exhibit 53--Sealed Record-Two-page table regarding prescription information of Patient #4.
- (75) Exhibits 54 and 54A through 54C--Sealed Records-Four prescriptions for Patient #4.
- (76) Exhibit 55--Sealed Record-Two-page statement of Nutan Poseria, M.D. regarding Patient #5 signed and notarized on January 9, 1997.
- (77) Exhibit 56--Sealed Record-Forty-one page Mt. Union Square Pharmacy patient profile of Patient #5 dated from January 1, 1993, to September 18, 1996.
- (78) Exhibit 57--Sealed Record-Six-page table regarding prescription information of Patient #5.
- (79) Exhibits 58 and 58A through 58L--Sealed Records-Thirteen prescriptions for Patient #5.
- (80) Exhibit 59--Sealed Record-Statement of Nutan Poseria, M.D. regarding Patient #6 signed and notarized on January 9, 1997.
- (81) Exhibit 60--Sealed Record-Eight-page Mt. Union Square Pharmacy patient profile of Patient #6 dated from January 1, 1992, through September 18, 1996.
- (82) Exhibit 61--Sealed Record-Three-page table regarding prescription information of Patient #6.
- (83) Exhibits 62 and 62A through 62H--Sealed Records-Nine prescriptions for Patient #6.
- (84) Exhibit 63--Sealed Record-Statement of William Lago, M.D. regarding Patient #8 signed and notarized on January 6, 1997.
- (85) Exhibit 64--Sealed Record-Six-page Mt. Union Square Pharmacy patient profile of Patient #8 dated from January 1, 1993, through September 18, 1996.
- (86) Exhibit 65--Sealed Record-One prescription for Patient #8.
- (87) Exhibit 66--Sealed Record-Eight-page statement of Mark E. Hostettler, M.D. regarding Patient #9 signed and notarized on January 7, 1997.

- (88) Exhibit 67--Sealed Record-Eighteen-page Mt. Union Square Pharmacy of Patient #9 dated from January 1, 1993, to September 30, 1996.
- (89) Exhibit 68--Sealed Record-Three-page table regarding prescription information of Patient #9.
- (90) Exhibits 69, 69A through 69Z, and 69AA through 69AV--Sealed Records-Forty-nine prescriptions for Patient #9.
- (91) Exhibit 70--Sealed Record-Five-page statement of Mark E. Hostettler, M.D. regarding Patient #10 signed and notarized on January 7, 1997.
- (92) Exhibit 71--Sealed Record-Twenty-one-page Mt. Union Square Pharmacy patient profile of Patient #10 dated from January 1, 1993, to September 30, 1996.
- (93) Exhibit 72--Sealed Record-Three-page table regarding prescription information of Patient #10.
- (94) Exhibits 73, 73A through 73Z, and 73AA through 73AM--Sealed Records-Forty prescriptions for Patient #10.
- (95) Exhibit 74--Sealed Record-Letter from Shelye Jo Morgan dated March 12, 1997, and copy of letter from Timothy J. Benedict dated December 20, 1996, both regarding Patient #11.
- (96) Exhibit 75--Sealed Record-Two-page statement of Patient #11 signed and notarized on October 20, 1996.
- (97) Exhibit 77--Sealed Record-Mt. Union Square Pharmacy patient profile for Patient #11 dated from January 1, 1993, to September 30, 1996.
- (98) Exhibit 78--Sealed Record-Four-page statement of Mark E. Hostettler, M.D. regarding Patient #12 signed and notarized on January 7, 1997.
- (99) Exhibit 79--Sealed Record-Six-page Mt. Union Square Pharmacy patient profile for Patient #12 dated from January 1, 1993, to September 18, 1996.
- (100) Exhibit 80--Sealed Record-Two-page table regarding prescription information of Patient #12.
- (101) Exhibits 81 and 81A through 81N--Sealed Records-Fifteen prescriptions for Patient #12.
- (102) Exhibit 82--Sealed Record-Three-page statement of David A. Miller, M.D. regarding Patient #2 signed and notarized on January 9, 1997.
- (103) Exhibits 83 and 83A through 83E--Sealed Records-Six prescriptions for Patient #2.
- (104) Exhibit 86--Sealed Record-Copy of Bud's Discount #2107 patient profile of Patient #2 dated from January 1, 1992, through December 20, 1996.
- (105) Exhibit 87--Sealed Record-Seven-page copy of Easterday Pharmacy patient profile of Patient #2 dated from November 3, 1994, through July 19, 1996.
- (106) Exhibit 88--Sealed Record-Marc's Pharmacy Alliance patient profile of Patient #2 dated from January, 1996, through December, 1996; and attached Tax Insurance Summary of Patient #2 dated from July 19, 1996, thorough December 19, 1996.
- (107) Exhibit 89--Sealed Record-Twenty-page Revco Discount Drug #2393 patient profile of Patient #2 dated from January 1, 1993, through December 19, 1996.
- (108) Exhibit 90--Sealed Record-Five-page RAP - S. Union patient profile of Patient #2 dated from January 1, 1994, to December 19, 1996.
- (109) Exhibit 95--Sealed Record-Two-page Sam's Health Mart patient profile of Patient #2 dated from January 1, 1996, to December 19, 1996.
- (110) Exhibit 95A--Sealed Record-Ten-page table regarding prescription information of Patient #2.
- (111) Exhibit 96--Sealed Record-Statement of Andres Lao, Jr., M.D. regarding Patient #3 signed and notarized on January 7, 1997.
- (112) Exhibit 97--Sealed Record-One prescription for Patient #3.
- (113) Exhibit 98--Sealed Record-Statement of William Lao, M.D. regarding Patient #13 signed and notarized on January 7, 1997.
- (114) Exhibit 99--Sealed Record-Five-page Mt. Union Square Pharmacy patient profile of Patient #13 dated from January 1, 1993, to September 30, 1996.
- (115) Exhibit 100--Sealed Record-Table regarding prescription information of Patient #13.
- (116) Exhibits 101 and 101A through 101E--Sealed Records-Six prescriptions for Patient #13.
- (117) Exhibit 102--Sealed Record-Statement of William Lao, M.D. regarding Patient #14 signed and notarized on January 7, 1997.
- (118) Exhibit 103--Sealed Record-Six-page Mt. Union Square Pharmacy patient profile of Patient #14 dated from January 1, 1993, to September 30, 1996.
- (119) Exhibit 104--Sealed Record-Two-page table regarding prescription information of Patient #14.
- (120) Exhibits 105 and 105A through 105D--Sealed Records-Five prescriptions for Patient #14.

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 September 17, 1996, Keith Jered Hochadel 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 September 24, 1996, Keith Jered Hochadel received the letter of September 17, 1996, informing him of the allegations against him, and his rights.
- (3) On March 21, 1997, Keith Jered Hochadel was notified by letter of additional charges filed against him, his right to a hearing in this matter, his rights in such hearing, and his right to submit his contentions in writing.
- (4) As demonstrated by return receipt of March 24, 1997, Keith Jered Hochadel received the letter of March 21, 1997, informing him of the allegations against him, and his rights.
- (5) Keith Jered Hochadel requested a hearing in these matters and a hearing was scheduled in accordance with Chapter 119. of the Ohio Revised Code; however, Keith Jered Hochadel nor his counsel of record were present for the hearing.
- (6) Records of the Board indicate that Keith Jered Hochadel was originally licensed to practice pharmacy in the state of Ohio on March 1, 1985. On September 17, 1996, Keith Jered Hochadel's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (7) Keith Jered Hochadel did, from August of 1995 through September 13, 1996, knowingly obtain or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Keith Jered Hochadel admitted to an agent of the Ohio Board of Pharmacy that he continually ingested Hydrocodone with APAP 7.5mg and Hydromet cough syrup without a prescription. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (8) Keith Jered Hochadel is abusing controlled substances to such a degree as to render him unfit to practice pharmacy, to wit: while practicing pharmacy Keith Jered Hochadel stole controlled substances; Keith Jered Hochadel admitted to an agent of the Ohio Board of Pharmacy that on occasion, while practicing pharmacy, he consumed Hydrocodone with APAP 7.5mg, a schedule III controlled substance, without a prescription; and, Keith Jered Hochadel failed to keep accountability records such as dispensing reports, wholesale purchase records, and Drug Enforcement Administration (D.E.A.) controlled substances inventories. Such conduct falls within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (9) Keith Jered Hochadel did, from August 17, 1996 through September 13, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #2393, beyond the express or implied consent of the owner, to wit: Keith Jered Hochadel admitted to an agent of the Ohio Board of Pharmacy that he stole Hydrocodone with APAP 7.5mg; subsequently, an audit revealed a shortage of 237 unit doses of Hydrocodone with APAP 7.5mg, a schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (10) Keith Jered Hochadel as the Responsible Pharmacist did, on or about January or February, 1995, fail to notify the Board of Pharmacy and the D.E.A. upon discovery of

the theft of controlled substances, to wit: after a breaking and entering and theft had occurred at Mt. Union Square Pharmacy, Keith Jered Hochadel admittedly decided not to report the matter so as to protect the suspected thief. Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code.

- (11) Keith Jered Hochadel as the Responsible Pharmacist did, on or about September 6, 1996, fail to file a discontinuing business form with the Board when Mt. Union Square Pharmacy sold its business to Revco and discontinued, to wit: on August 7, 1996, Revco formally purchased Mt. Union Square Pharmacy, and Keith Jered Hochadel as the Responsible Pharmacist did not file the proper forms. Such conduct is in violation of Rule 4729-9-07 of the Ohio Administrative Code.
- (12) Keith Jered Hochadel as the Responsible Pharmacist did, on or about September 13, 1996, and dates immediately preceding, fail to keep all records of drug accountability belonging to Mt. Union Square Pharmacy on site at the location of the licensed facility where the dangerous drugs were located, to wit: records of dispensing and inventory were maintained at Keith Jered Hochadel's home and in a rental storage area adjacent to the pharmacy. Such conduct is in violation of Rule 4729-9-22 of the Ohio Administrative Code.
- (13) Keith Jered Hochadel as the Responsible Pharmacist did, on or about September 13, 1996, fail to maintain a "three part filing system" wherein prescriptions for schedule II controlled substances are filed separate from prescriptions for schedule III, IV, and V controlled substances, which are filed separate from prescriptions for dangerous drugs. Such conduct is in violation of Rule 4729-5-09 of the Ohio Administrative Code.
- (14) Keith Jered Hochadel as the Responsible Pharmacist did, on or about September 13, 1996, and on dates immediately preceding, fail to take and maintain on file a D.E.A. biennial inventory, to wit: Keith Jered Hochadel started but did not complete controlled substance inventories dated 8-25-94, 5-1-95, 1-31-96, and 5-1-96. Such conduct is in violation of Section 1304.16 of the Code of Federal Regulations.
- (15) Keith Jered Hochadel did, from May 1, 1995, through August 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Mt. Union Square Pharmacy, beyond the express or implied consent of the pharmacy, to wit: Keith Jered Hochadel stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>
Vicodin 5/500	496
Hydrocodone with APAP 5/500	131
Vicodin ES 7.5/750	1,045
Hydrocodone with APAP 7.5/750	7,086

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

- (16) Keith Jered Hochadel did, from August 6, 1996, through September 14, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #2393, beyond the express or implied consent of the pharmacy, to wit: Keith Jered Hochadel stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>
Vicodin 5/500	75
Hydrocodone with APAP 5/500	552
Vicodin ES 7.5/750	35
Hydrocodone with APAP 7.5/750	337

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

- (17) Keith Jered Hochadel as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess the following false or forged prescriptions, to wit: Keith Jered Hochadel and/or a pharmacist under his control

created and maintained on file the following prescriptions not authorized by a practitioner:

<u>Rx No.</u>	<u>Rx Type</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Qty.</u>	<u>Pt. No.</u>	<u>Dr.</u>
337742	new	05/13/93	Ilophen-C	120cc	1	Lunne
369737	new	06/03/94	Phenergan VC/ Codeine	120cc	1	Lunne
370211	new	06/08/94	Benylin/Hydrocodone Cmpd	120cc	1	Lunne
832712	new	06/21/94	Benylin/Hycodan	90cc	1	Lunne
426954	new	06/18/96	Oxycodone 5mg/APAP	20	2	Barrett
415602	new	12/28/95	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	05/23/96	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	07/16/96	Clorazepate 7.5mg tabs	50	3	Szmyd
406169	new	08/26/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	10/14/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	11/09/95	Propacet-N 100mg	100	4	Kuentz
414255	refill	03/28/96	Propacet-N 100mg	100	4	Kuentz
426350	new	04/22/96	Propacet-N 100mg	100	4	Kuentz
426350	refill	06/06/96	Propacet-N 100mg	100	4	Kuentz
428329	new	07/26/96	Propacet-N 100mg	100	4	Kuentz
413390	new	12/01/95	Diethylpropion SR 75mg	14	5	Poseria
414206	new	12/09/95	Diethylpropion SR 75mg	14	5	Poseria
414206	refill	01/04/96	Diethylpropion SR 75mg	14	5	Poseria
417232	new	01/18/96	Diazepam 5mg	50	5	Poseria
417232	refill	02/12/96	Diazepam 5mg	50	5	Poseria
417232	refill	03/16/96	Diazepam 5mg	50	5	Poseria
417232	refill	04/10/96	Diazepam 5mg	50	5	Poseria
417232	refill	04/27/96	Diazepam 5mg	50	5	Poseria
417232	refill	05/11/96	Diazepam 5mg	50	5	Poseria
418402	new	02/02/96	Diethylpropion SR 75mg	14	5	Poseria
419073	new	02/12/96	Diethylpropion SR 75mg	14	5	Poseria
419073	refill	03/16/96	Diethylpropion SR 75mg	14	5	Poseria
421324	new	03/11/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	03/16/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	04/10/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	04/24/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	05/11/96	Propox/Comp 65mg	30	5	Poseria
421325	new	03/11/96	Propacet-N 100mg	30	5	Poseria
421325	refill	03/16/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/01/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/10/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/24/96	Propacet-N 100mg	30	5	Poseria
421325	refill	05/11/96	Propacet-N 100mg	30	5	Poseria
423088	new	04/04/96	Diethylpropion SR 75mg	14	5	Poseria
423480	new	04/10/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	04/24/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	05/06/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	05/11/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	06/01/96	Diethylpropion SR 75mg	14	5	Poseria
426479	new	06/08/96	Propacet-N 100mg	30	5	Poseria
426479	refill	06/18/96	Propacet-N 100mg	30	5	Poseria
426481	new	06/08/96	Diazepam 5mg	50	5	Poseria
426481	refill	07/08/96	Diazepam 5mg	50	5	Poseria
426481	refill	07/11/96	Diazepam 5mg	50	5	Poseria
426481	refill	08/02/96	Diazepam 5mg	50	5	Poseria
427210	new	06/24/96	Propacet-N 100mg	100	5	Poseria
427210	refill	06/28/96	Propacet-N 100mg	100	5	Poseria
427210	refill	07/11/96	Propacet-N 100mg	30	5	Poseria
427210	refill	07/22/96	Propacet-N 100mg	30	5	Poseria
427235	new	06/25/96	Diethylpropion SR 75mg	14	5	Poseria
427235	refill	07/22/96	Diethylpropion SR 75mg	14	5	Poseria
427235	refill	09/02/96	Diethylpropion SR 75mg	14	5	Poseria
428343	new	07/27/96	Propox/Comp 65mg	30	5	Poseria

428343	refill	08/01/96	Propox/Comp 65mg	30	5	Poseria
414209	new	12/09/95	Darvocet-N 100	100	6	Poseria
414209	refill	01/11/96	Darvocet-N 100	100	6	Poseria
414209	refill	01/17/96	Darvocet-N 100	100	6	Poseria
421767	new	03/16/96	Darvocet-N 100	100	6	Poseria
421767	refill	03/27/96	Darvocet-N 100	100	6	Poseria
421767	refill	04/10/96	Darvocet-N 100	100	6	Poseria
421767	refill	04/24/96	Darvocet-N 100	100	6	Poseria
427209	new	06/24/96	Talwin NX 50mg	15	6	Poseria
427679	new	07/06/96	Darvocet-N 100	100	6	Poseria
427679	refill	07/11/96	Darvocet-N 100	100	6	Poseria
427679	refill	07/22/96	Darvocet-N 100	30	6	Poseria
427679	refill	08/20/96	Darvocet-N 100	100	6	Poseria
398698	new	05/12/95	Duragesic patch 100mcg	10	8	Lago
402344	new	07/03/95	Roxicet 5mg	100	8	Lago
402712	new	07/08/95	Duragesic patch 25mcg	10	8	Lago
376814	new	09/02/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	09/27/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	10/21/94	Alprazolam .5mg	50	9	Hostettler
425360	new	05/13/96	Ambien 5mg	20	9	Hostettler
425360	refill	07/03/96	Ambien 5mg	20	9	Hostettler
365411	new	04/13/94	Vicodin ES 7.5mg	50	10	Hostettler
365411	refill	05/06/94	Vicodin ES 7.5mg	50	10	Hostettler
381404	new	10/26/94	Vicodin ES 7.5mg	20	10	Hostettler
416503	new	01/10/96	APAP/Codeine 30mg	30	11	A. C. H.
416503	refill	02/01/96	APAP/Codeine 30mg	30	11	A. C. H.
414829	new	12/18/95	Lorazepam 1mg	30	12	Hostettler
414829	refill	02/29/96	Lorazepam 1mg	30	12	Hostettler
370347	new	06/10/94	Ativan 1mg	30	13	Lao
370347	refill	11/04/94	Ativan 1mg	30	13	Lao
371300	new	06/21/94	Darvocet-N-100	30	13	Lao
386012	new	12/17/94	Ativan 1mg	30	13	Lao
386012	refill	01/14/95	Ativan 1mg	30	13	Lao
386012	refill	02/28/95	Ativan 1mg	30	13	Lao
386012	refill	03/28/95	Ativan 1mg	30	13	Lao
386012	refill	04/28/95	Ativan 1mg	30	13	Lao
386012	refill	06/09/95	Ativan 1mg	30	13	Lao
401926	new	06/28/95	Ativan 1mg	100	13	Lao
401926	refill	10/21/95	Ativan 1mg	30	13	Lao
401926	refill	11/28/95	Ativan 1mg	30	13	Lao
415805	new	12/30/95	Ativan 1mg	30	13	Lao
415805	refill	01/22/96	Ativan 1mg	30	13	Lao
415805	refill	03/15/96	Ativan 1mg	30	13	Lao
426128	new	05/31/96	Lorazepam 1mg	100	13	Lao
326479	new	01/05/93	Ativan .5mg	30	14	Lao
326479	refill	02/10/93	Ativan .5mg	30	14	Lao
326479	refill	03/16/93	Ativan .5mg	30	14	Lao
326479	refill	04/24/93	Ativan .5mg	30	14	Lao
326479	refill	05/28/93	Ativan .5mg	30	14	Lao
326479	refill	06/25/93	Ativan .5mg	30	14	Lao
341752	new	07/07/93	Ativan .5mg	30	14	Lao
341752	refill	07/30/93	Ativan .5mg	30	14	Lao
341752	refill	08/13/93	Ativan .5mg	30	14	Lao
341752	refill	09/08/93	Ativan .5mg	30	14	Lao
341752	refill	09/24/93	Ativan .5mg	30	14	Lao
341752	refill	10/24/93	Ativan .5mg	30	14	Lao
353404	new	11/29/93	Ativan .5mg	30	14	Lao
353404	refill	01/28/94	Ativan .5mg	30	14	Lao
353404	refill	02/23/94	Ativan .5mg	30	14	Lao
353404	refill	03/27/94	Ativan .5mg	30	14	Lao
353404	refill	04/10/94	Ativan .5mg	30	14	Lao
353404	refill	05/12/94	Ativan .5mg	30	14	Lao

353404	refill	12/24/94	Ativan .5mg	30	14	Lao
370348	new	06/10/94	Ativan .5mg	30	14	Lao
370348	refill	07/10/94	Ativan .5mg	30	14	Lao
370348	refill	08/09/94	Ativan .5mg	30	14	Lao
370348	refill	09/06/94	Ativan .5mg	30	14	Lao
370348	refill	10/07/94	Ativan .5mg	30	14	Lao
370348	refill	11/06/94	Ativan .5mg	30	14	Lao
370348	refill	12/04/94	Ativan .5mg	30	14	Lao
387373	new	01/04/95	Ativan .5mg	30	14	Lao
387373	refill	02/01/95	Ativan .5mg	30	14	Lao
387373	refill	02/28/95	Ativan .5mg	30	14	Lao
387373	refill	03/31/95	Ativan .5mg	30	14	Lao
387373	refill	05/09/95	Ativan .5mg	30	14	Lao
387373	refill	06/03/95	Ativan .5mg	30	14	Lao
387373	refill	06/27/95	Ativan .5mg	100	14	Lao
408186	new	09/22/95	Ativan .5mg	30	14	Lao
408186	refill	10/22/95	Ativan .5mg	30	14	Lao
408186	refill	11/18/95	Ativan .5mg	30	14	Lao
408186	refill	12/16/95	Ativan .5mg	30	14	Lao
408186	refill	12/30/95	Ativan .5mg	30	14	Lao
408186	refill	01/26/96	Ativan .5mg	30	14	Lao
408186	refill	02/24/96	Ativan .5mg	30	14	Lao

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

- (18) Keith Jered Hochadel did, on or about the following dates, make false or forged prescriptions for dangerous drugs, to wit: Keith Jered Hochadel created the following prescriptions not authorized by a practitioner:

<u>Rx No.</u>	<u>Rx Type</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Qty.</u>	<u>Pt. No.</u>	<u>Dr.</u>
345222	new	08/23/93	Furosemide 40mg	30	1	Lunne
354654	new	12/12/93	Biaxin 500mg	20	1	Lunne
354655	new	12/12/93	Biaxin 500mg	20	1	Lunne
354656	new	12/12/93	Biaxin 500mg	20	1	Lunne
354657	new	12/12/93	Biaxin 500mg	20	1	Lunne
370209	new	06/08/94	Chlordrine SR	20	1	Lunne
381454	new	10/26/94	Tagamet 400mg	60	1	Lunne
381454	refill	11/25/94	Tagamet 400mg	20	1	Lunne
392809	new	03/07/95	CardizemCD 180mg	30	1	Lunne
392810	new	03/07/95	Metoprolol 100mg	100	1	Lunne
401957	new	06/28/95	Amoxicillin 250mg	30	1	Lunne
420034	refill	02/29/96	Stadol NS 10mg/2.5ml	1	2	Miller
420034	refill	03/02/96	Stadol NS 10mg/2.5ml	1	2	Miller
421060	new	03/07/96	Stadol NS 10mg/2.5ml	1	2	Miller
421060	refill	03/11/96	Stadol NS 10mg/2.5ml	1	2	Miller
421060	refill	03/13/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	03/21/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	03/25/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	03/27/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	03/29/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	03/30/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/11/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/13/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/15/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/16/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/18/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/24/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/26/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/26/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	05/01/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	05/03/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	05/04/96	Stadol NS 10mg/2.5ml	1	2	Miller

422041	refill	04/26/96	Imitrex	1 box	2	Miller
422041	refill	05/06/96	Imitrex	1 box	2	Miller
422041	refill	05/08/96	Imitrex	1 box	2	Miller
422041	refill	05/11/96	Imitrex	1 box	2	Miller
422041	refill	05/15/96	Imitrex	1 box	2	Miller
422041	refill	05/20/96	Imitrex	1 box	2	Miller
422041	refill	05/29/96	Imitrex	1 box	2	Miller
422041	refill	07/22/96	Imitrex	1 box	2	Miller
422041	refill	08/20/96	Imitrex	1 box	2	Miller
424871	new	05/06/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/11/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	05/13/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	05/15/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/17/96	Stadol NS 10mg/2.5ml	3	2	Miller
424871	refill	05/20/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/21/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/22/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/29/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	05/30/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/03/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	06/04/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	06/07/96	Stadol NS 10mg/2.5ml	4	2	Miller
424871	refill	06/10/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	06/13/96	Stadol NS 10mg/2.5ml	2	2	Miller
424871	refill	06/14/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/16/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/18/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/19/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/20/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/22/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/24/96	Stadol NS 10mg/2.5ml	1	2	Miller
424871	refill	06/28/96	Stadol NS 10mg/2.5ml	1	2	Miller
426561	new	06/10/96	Toradol 10mg	20	2	Barrett
427087	new	06/20/96	Isocet	20	2	Miller
427087	refill	07/26/96	Isocet	20	2	Miller
427164	new	06/22/96	Ultram 50mg	30	2	Miller
427164	refill	06/25/96	Ultram 50mg	30	2	Barrett
427164	refill	06/29/96	Ultram 50mg	6	2	Barrett
427164	refill	07/01/96	Ultram 50mg	20	2	Barrett
427164	refill	07/03/96	Ultram 50mg	20	2	Barrett
427164	refill	07/16/96	Ultram 50mg	50	2	Barrett
427164	refill	07/23/96	Ultram 50mg	30	2	Barrett
427506	new	07/01/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/03/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/03/96	Stadol NS 10mg/2.5ml	2	2	Miller
427506	refill	07/09/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/10/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/12/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/16/96	Stadol NS 10mg/2.5ml	2	2	Miller
427506	refill	07/22/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/26/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/27/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/30/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	07/31/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	08/03/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	08/04/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	08/04/96	Stadol NS 10mg/2.5ml	1	2	Miller
427506	refill	08/19/96	Stadol NS 10mg/2.5ml	1	2	Miller
335777	new	04/19/93	Lopressor 50mg	100	3	Szmyd
335777	refill	08/01/93	Lopressor 50mg	100	3	Szmyd
335777	refill	11/14/93	Lopressor 50mg	100	3	Szmyd
335777	refill	12/30/93	Lopressor 50mg	100	3	Szmyd

335777	refill	04/16/94	Lopressor 50mg	100	3	Szmyd
351212	new	11/04/93	Klorvess Gran Pack	30	3	Lao
351212	refill	12/30/93	Klorvess Gran Pack	30	3	Lao
351212	refill	03/05/94	Klorvess Gran Pack	30	3	Lao
351212	refill	04/05/94	Klorvess Gran Pack	30	3	Lao
351212	refill	05/06/94	Klorvess Gran Pack	30	3	Lao
351212	refill	07/07/94	Klorvess Gran Pack	30	3	Lao
351212	refill	08/08/94	Klorvess Gran Pack	30	3	Lao
351212	refill	09/09/94	Klorvess Gran Pack	30	3	Lao
351212	refill	02/07/95	Klorvess Gran Pack	30	3	Lao
351212	refill	03/09/95	Klorvess Gran Pack	30	3	Lao
370690	refill	09/26/94	Lopressor 50mg	50	3	Szmyd
383142	new	11/14/94	Metoprolol 50mg	100	3	Szmyd
383142	refill	09/25/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	11/13/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	12/28/95	Metoprolol 50mg	100	3	Szmyd
396004	new	04/10/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	05/13/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	06/08/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	07/13/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	08/14/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	09/16/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	10/09/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	11/09/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	12/14/95	Potassium Chlo. 20meq	30	3	Lao
396004	refill	01/17/96	Potassium Chlo. 20meq	30	3	Lao
396004	refill	03/18/96	Potassium Chlo. 20meq	30	3	Lao
396004	refill	04/10/96	Potassium Chlo. 20meq	30	3	Lao
426672	new	06/13/96	Reglan/Metoclopramide 10mg	100	7	Lago
426672	refill	07/17/96	Reglan/Metoclopramide 10mg	100	7	Lago
416504	new	01/10/96	Ibuprofen 800mg	50	11	A. C. H.
413292	refill	12/28/95	Amoxicillin 500mg	100	12	Hostettler
413292	refill	02/29/96	Amoxicillin 500mg	100	12	Hostettler

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

- (19) Keith Jered Hochadel did, on or about the following dates, sell at retail a dangerous drug when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: Keith Jered Hochadel sold the following dangerous drugs when not authorized by a practitioner or were authorized under false pretenses and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Rx Type</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Qty.</u>	<u>Pt. No.</u>	<u>Dr.</u>
421991	refill	03/23/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/02/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/03/96	Stadol NS 10mg/2.5ml	2	2	Miller
421991	refill	04/06/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/08/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/09/96	Stadol NS 10mg/2.5ml	1	2	Miller
421991	refill	04/29/96	Stadol NS 10mg/2.5ml	1	2	Miller
351212	refill	10/09/94	Klorvess Gran Pack	30	3	Lao
351212	refill	11/06/94	Klorvess Gran Pack	30	3	Lao
351212	refill	12/04/94	Klorvess Gran Pack	30	3	Lao
351212	refill	01/03/95	Klorvess Gran Pack	30	3	Lao
370690	refill	08/02/94	Lopressor 50mg	50	3	Szmyd
370690	refill	08/30/94	Lopressor 50mg	50	3	Szmyd
370690	refill	10/23/94	Lopressor 50mg	50	3	Szmyd
383142	refill	01/15/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	03/05/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	04/25/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	06/17/95	Metoprolol 50mg	100	3	Szmyd
383142	refill	08/05/95	Metoprolol 50mg	100	3	Szmyd

383142	refill	02/23/96	Metoprolol 50mg	100	3	Szmyd
383142	refill	05/01/96	Metoprolol 50mg	100	3	Szmyd
396004	refill	02/14/96	Potassium Chlo. 20meq	30	3	Lao
379731	refill	02/24/95	Paxil 20mg	30	9	Hostettler

Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

- (20) Keith Jered Hochadel as the Responsible Pharmacist did, on or about the following dates, sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Keith Jered Hochadel and/or a pharmacist under his control sold the following drugs without a valid prescription and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Rx Type</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Qty.</u>	<u>Pt. No.</u>	<u>Dr.</u>
426954	new	06/18/96	Oxycodone/APAP 5mg	20	2	Barrett
368691	refill	08/27/94	Clorazepate 7.5mg tabs	50	3	Szmyd
389519	new	01/28/95	Clorazepate 7.5mg tabs	50	3	Szmyd
389519	refill	09/05/95	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	new	12/28/95	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	02/23/96	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	04/09/96	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	05/23/96	Clorazepate 7.5mg tabs	50	3	Szmyd
415602	refill	07/16/96	Clorazepate 7.5mg tabs	50	3	Szmyd
390289	refill	03/19/95	Propacet-N 100mg	100	4	Kuentz
394949	refill	05/22/95	Propacet-N 100mg	100	4	Kuentz
402286	refill	08/02/95	Propacet-N 100mg	100	4	Kuentz
406169	new	08/26/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	09/12/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	09/25/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	10/14/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	11/09/95	Propacet-N 100mg	100	4	Kuentz
406169	refill	11/27/95	Propacet-N 100mg	100	4	Kuentz
414255	refill	02/27/96	Propacet-N 100mg	100	4	Kuentz
414255	refill	03/28/96	Propacet-N 100mg	100	4	Kuentz
426350	refill	06/06/96	Propacet-N 100mg	100	4	Kuentz
428329	new	07/26/96	Propacet-N 100mg	100	4	Kuentz
413390	new	12/01/95	Diethylpropion SR 75mg	14	5	Poseria
414206	new	12/09/95	Diethylpropion SR 75mg	14	5	Poseria
414206	refill	01/04/96	Diethylpropion SR 75mg	14	5	Poseria
417232	new	01/18/96	Diazepam 5mg	50	5	Poseria
417232	refill	02/12/96	Diazepam 5mg	50	5	Poseria
417232	refill	03/16/96	Diazepam 5mg	50	5	Poseria
417232	refill	04/10/96	Diazepam 5mg	50	5	Poseria
417232	refill	04/27/96	Diazepam 5mg	50	5	Poseria
417232	refill	05/11/96	Diazepam 5mg	50	5	Poseria
418402	new	02/02/96	Diethylpropion SR 75mg	14	5	Poseria
419073	new	02/12/96	Diethylpropion SR 75mg	14	5	Poseria
419073	refill	03/16/96	Diethylpropion SR 75mg	14	5	Poseria
421324	new	03/11/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	03/16/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	04/10/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	04/24/96	Propox/Comp 65mg	30	5	Poseria
421324	refill	05/11/96	Propox/Comp 65mg	30	5	Poseria
421325	new	03/11/96	Propacet-N 100mg	30	5	Poseria
421325	refill	03/16/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/01/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/10/96	Propacet-N 100mg	30	5	Poseria
421325	refill	04/24/96	Propacet-N 100mg	30	5	Poseria
421325	refill	05/11/96	Propacet-N 100mg	30	5	Poseria
423088	new	04/04/96	Diethylpropion SR 75mg	14	5	Poseria
423480	new	04/10/96	Diethylpropion SR 75mg	14	5	Poseria

423480	refill	04/24/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	05/06/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	05/11/96	Diethylpropion SR 75mg	14	5	Poseria
423480	refill	06/01/96	Diethylpropion SR 75mg	14	5	Poseria
426479	new	06/08/96	Propacet-N 100mg	30	5	Poseria
426479	refill	06/18/96	Propacet-N 100mg	30	5	Poseria
426481	new	06/08/96	Diazepam 5mg	50	5	Poseria
426481	refill	07/08/96	Diazepam 5mg	50	5	Poseria
426481	refill	07/11/96	Diazepam 5mg	50	5	Poseria
426481	refill	08/02/96	Diazepam 5mg	50	5	Poseria
427210	new	06/24/96	Propacet-N 100mg	100	5	Poseria
427210	refill	06/28/96	Propacet-N 100mg	100	5	Poseria
427210	refill	07/11/96	Propacet-N 100mg	30	5	Poseria
427210	refill	07/22/96	Propacet-N 100mg	30	5	Poseria
427235	new	06/25/96	Diethylpropion SR 75mg	14	5	Poseria
427235	refill	07/22/96	Diethylpropion SR 75mg	14	5	Poseria
427235	refill	09/02/96	Diethylpropion SR 75mg	14	5	Poseria
428343	new	07/27/96	Propox/Comp 65mg	30	5	Poseria
428343	refill	08/01/96	Propox/Comp 65mg	30	5	Poseria
414209	refill	01/11/96	Darvocet-N-100	100	6	Poseria
414209	refill	01/17/96	Darvocet-N-100	100	6	Poseria
421767	new	03/16/96	Darvocet-N-100	100	6	Poseria
421767	refill	03/27/96	Darvocet-N-100	100	6	Poseria
421767	refill	04/10/96	Darvocet-N-100	100	6	Poseria
421767	refill	04/24/96	Darvocet-N-100	100	6	Poseria
427209	new	06/24/96	Talwin NX 50mg	15	6	Poseria
427679	new	07/06/96	Darvocet-N-100	100	6	Poseria
427679	refill	07/11/96	Darvocet-N-100	100	6	Poseria
427679	refill	07/22/96	Darvocet-N-100	30	6	Poseria
427679	refill	08/20/96	Darvocet-N-100	100	6	Poseria
376814	new	09/02/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	09/13/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	09/27/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	09/29/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	10/08/94	Alprazolam .5mg	50	9	Hostettler
376814	refill	10/21/94	Alprazolam .5mg	50	9	Hostettler
387964	refill	01/27/95	Vicodin ES 7.5mg	50	9	Hostettler
425360	refill	07/03/96	Ambien 5mg	20	9	Hostettler
365411	refill	05/06/94	Vicodin ES 7.5mg	50	10	Hostettler
381404	new	10/26/94	Vicodin ES 7.5mg	20	10	Hostettler
416503	new	01/10/96	APAP/Codeine 30mg	30	11	A. C. H.
416503	refill	02/01/96	APAP/Codeine 30mg	30	11	A. C. H.
414829	refill	02/29/96	Lorazepam 1mg	30	12	Hostettler
370347	refill	11/04/94	Ativan 1mg	30	13	Lao
386012	new	12/17/94	Ativan 1mg	30	13	Lao
386012	refill	01/14/95	Ativan 1mg	30	13	Lao
386012	refill	02/28/95	Ativan 1mg	30	13	Lao
386012	refill	03/28/95	Ativan 1mg	30	13	Lao
386012	refill	04/28/95	Ativan 1mg	30	13	Lao
386012	refill	06/09/95	Ativan 1mg	30	13	Lao
401926	new	06/28/95	Ativan 1mg	100	13	Lao
401926	refill	10/21/95	Ativan 1mg	30	13	Lao
401926	refill	11/28/95	Ativan 1mg	30	13	Lao
415805	new	12/30/95	Ativan 1mg	30	13	Lao
415805	refill	01/22/96	Ativan 1mg	30	13	Lao
415805	refill	03/15/96	Ativan 1mg	30	13	Lao
426128	new	05/31/96	Lorazepam 1mg	100	13	Lao
370348	refill	08/09/94	Ativan .5mg	30	14	Lao
370348	refill	09/06/94	Ativan .5mg	30	14	Lao
370348	refill	10/07/94	Ativan .5mg	30	14	Lao
370348	refill	11/06/94	Ativan .5mg	30	14	Lao
370348	refill	12/04/94	Ativan .5mg	30	14	Lao

387373	new	01/04/95	Ativan .5mg	30	14	Lao
387373	refill	02/01/95	Ativan .5mg	30	14	Lao
387373	refill	02/28/95	Ativan .5mg	30	14	Lao
387373	refill	03/31/95	Ativan .5mg	30	14	Lao
387373	refill	05/09/95	Ativan .5mg	30	14	Lao
387373	refill	06/03/95	Ativan .5mg	30	14	Lao
387373	refill	06/27/95	Ativan .5mg	100	14	Lao
408186	new	09/22/95	Ativan .5mg	30	14	Lao
408186	refill	10/22/95	Ativan .5mg	30	14	Lao
408186	refill	11/18/95	Ativan .5mg	30	14	Lao
408186	refill	12/16/95	Ativan .5mg	30	14	Lao
408186	refill	12/30/95	Ativan .5mg	30	14	Lao
408186	refill	01/26/96	Ativan .5mg	30	14	Lao
408186	refill	02/24/96	Ativan .5mg	30	14	Lao

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (21) Keith Jered Hochadel did, on or about the following dates, sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Keith Jered Hochadel sold the following drugs without a valid prescription and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Rx Type</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Qty.</u>	<u>Pt. No.</u>	<u>Dr.</u>
426560	new	06/10/96	Roxicet 5mg	40	2	Barrett
426794	new	06/14/96	Roxicet 5mg	30	2	Barrett

Such conduct is in violation of Section 2925.03 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 (7), (9), and (15) through (21) of the Findings of Fact are acts that would constitute a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (7), (8), (9), and (15) through (21) of the Findings of Fact are acts that would constitute gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (7) through (17) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (7) and (8) 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.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (7) and (17) through (21) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Keith Jered Hochadel.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Keith Jered Hochadel:

- (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. 03-3-15826, held by Keith Jered Hochadel 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. 03-3-15826, held by Keith Jered Hochadel 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. 03-3-15826, held by Keith Jered Hochadel effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-15826, held by Keith Jered Hochadel effective as of the date of the mailing of this Order.
- (E) On the basis of the Findings of Fact and paragraph (5) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-15826, held by Keith Jered Hochadel 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 Mrs. Plant and approved by the Board (Aye-6/Nay-0/Abstain-1[Cavendish]). Mr. Cavendish did not participate in adjudicating this matter since he was not able to be present for the full hearing.

RES. 98-025 The Board next considered correspondence from both Cigna and Med-Direct regarding transfer of prescription information by computer. Board staff was instructed to discuss the requirements of positive identification as defined in Rule 4729-5-01 of the Ohio Administrative Code with both companies. After this problem is resolved, the Board will reconsider the programs.

RES. 98-026 The response to the Board's Cease and Desist letter to Magic Herb was discussed. The proposed new label for the product "Magic Herb" was reviewed for compliance with the new labeling requirements for ephedrine-containing products as found in Section 3719.44 of the Ohio Revised Code. The Board instructed staff to notify the manufacturer that Ohio law requires that the actual ephedrine content be specified on the label rather than the content of ephedra alkaloids.

The response to the Board's Cease and Desist letter to Kmart Corporation regarding recent advertisements was distributed to the Board for their information.

RES. 98-027 A request from WestLaw Publishing Company to provide a link between their Internet HomePage and the Board's was approved by the Board.

Copies of a letter received from the Ohio Inspector General closing his case involving Thomas J. Hutton's complaint against the Board were distributed to the Board members.

Information received from Barr Laboratories regarding their warfarin product that was recently approved by the FDA was discussed by the Board. No action was required in this matter.

A letter addressed to Larry Weaver, Office of Budget and Management, setting forth the proposed meeting agenda of the Joint Working Group of Health Care Regulatory Boards was distributed to the Board members for their review. Board staff will attend the meeting.

A request from the National Notification Center (NNC) that the Board add a link to the NNC from the Board's HomePage was considered. The Board instructed staff to obtain further information about the NNC prior to the September Board meeting. The matter will be discussed further at that time.

Copies of the draft response to the FDA about their proposed rules dealing with dietary supplements containing ephedrine were distributed to the Board members. The members present agreed to review the draft and notify the Board office of any proposed changes.

Timothy Benedict, Compliance Administrator, joined the Board to present a report on the status of those licensees currently on probation with the Board.

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

PER DIEM	<u>08/11</u>	<u>08/12</u>	<u>08/13</u>	<u>Total</u>
Adelman	1	1	1	3
Cavendish	1	1	1	3
Hanna	1	1	-	2
Lamping	1	1	1	3
Littlejohn	1	1	1	3
Maslak	1	1	1	3
Neuber	1	1	1	3
Plant	1	1	1	3
Repke	1	1	1	3

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

11:00 a.m. Mr. Cavendish moved that the meeting be adjourned. Mrs. Neuber seconded the motion and it was approved (Aye-7/Nay-0).

/s/ Amonte B. Littlejohn
Amonte B. Littlejohn, President

/d/ 9/10/97
Date

/s/ W Winsley
William T. Winsley, Assistant Executive Director