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Minutes Of The Meeting
Ohio State Board of Pharmacy
Columbus, Ohio
April 21, 22, 23, 1997

MONDAY, APRIL 21, 1997

8:15 a.m. ROLL CALL

The State Board of Pharmacy convened in Room C-5, Ohio Departments Building, 65 South Front Street, Columbus, Ohio with the following members present:

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

Also present were: Mary Hollern, Assistant Attorney General; William Winsley, Assistant Executive Director; Tim Benedict, Compliance Administrator; and Robert Cole, Compliance Supervisor.

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

9:29 a.m.

Due to the poor acoustics in Room C-5, the meeting was recessed and moved to Room C-12. The Board meeting was continued in Executive Session.

9:35 a.m.

RES. 97-140 The Executive Session was concluded and the meeting opened to the public. President Neuber reported that a request for a continuance in the matter of Anthony Savoca, R.Ph. was denied and the 119. Hearing would be conducted as scheduled at 1:00 p.m.

The Board directed the Assistant Attorney General to finalize a settlement proposal in the matter of Frederick J. Weik pursuant to conditions stipulated by the Board during the Executive Session discussions.

RES. 97-141 Mr. Repke moved that the Board not accept the proposed settlement in the matter of Phillip W. Broerman and that the hearing be held as scheduled at 10:00 a.m. on Wednesday, April 23, 1997. The motion was seconded by Mr. Hanna and approved by the Board (Aye-6/Nay-0).

Mr. Lamping moved that the Board authorize the Assistant Attorney General to present the Board's terms for settling the matter of Mark Jeffrey Schirtzinger, R.Ph.; Xenia. Mrs. Plant seconded the motion and it was approved (Aye-6/Nay-0).

Mr. Lamping then moved that the Board authorize the Assistant Attorney General to present the Board's terms for settlements in the matters of Good Samaritan Hospital (Terminal Distributor License No. 02-0306050); Bethesda Hospital North (Terminal Distributor License No. 02-0032100); and Bethesda Hospital (Terminal Distributor License No. 02-0030200). Mr. Cavendish seconded the motion and it was approved (Aye-5/Nay-0). Mr. Hanna did not vote since he excused himself from the meeting and left during the discussion of these matters.

RES. 97-142 The Executive Director reported that the following settlement was entered into by the Board:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-960730-004)

In The Matter Of:

RALPH LEE LeVANGE, R.Ph.
425 Lakewood Blvd.
Park Forest, Illinois 60466
(R.Ph. No. 03-1-12771)

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

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

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

(A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.

(B) On or about July 30, 1996, pursuant to Chapter 119. of the Ohio Revised Code, Ralph Lee LeVange was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Further, a hearing was requested and scheduled for December 5, 1996; however, the hearing was continued by the Board.

(C) Ralph Lee LeVange neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

(1) Records of the Board of Pharmacy indicate that Ralph Lee LeVange was originally licensed in the state of Ohio on March 26, 1979, pursuant to reciprocity, was lapsed from September 15, 1989 to September 9, 1992, and again from September 15, 1992, to October 5, 1992; and, Ralph Lee LeVange is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that Ralph Lee LeVange was the Responsible Pharmacist at K-Mart Pharmacy in Troy, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code during the periods alleged herein.

(2) Ralph Lee LeVange did, from October 12, 1987, through November 25, 1988, with purpose to deprive, knowingly obtain or exert control over the property of K-Mart, by deception, the value being over \$5,000.00, to wit: Ralph Lee LeVange created false prescriptions through K-Mart's computer for himself, his wife, and his two sons, for the purpose of submitting false

insurance claims in the amount of \$13,285.72. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) Ralph Lee LeVange did, on or about the following dates, intentionally make and knowingly possess false or forged prescriptions, to wit: Ralph Lee LeVange created the following false prescriptions for a controlled substance through K-Mart's computer for the purpose of submitting false insurance claims:

<u>Family Member</u>	<u>Doctor</u>	<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Qty.</u>	<u>Payment</u>
Gwendolyn	Buffington	11/09/87	271491	Talwin NX	100	41.34
Gwendolyn	Buffington	11/27/87	273071	Talwin NX	100	41.43
Gwendolyn	Buffington	02/19/88	273071	Talwin NX	100	43.46
Gwendolyn	Buffington	04/15/88	273071	Talwin NX	100	43.46
Gwendolyn	Buffington	04/29/88	273071	Talwin NX	100	43.46

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

(4) Ralph Lee LeVange did, on or about the following dates, make false or forged prescriptions, to wit: Ralph Lee LeVange created the following false prescriptions for dangerous drugs through K-Mart's computer for the purpose of submitting false insurance claims:

<u>Family Member</u>	<u>Doctor</u>	<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Qty.</u>	<u>Payment</u>
Gwendolyn	Downer	10/12/87	268985	Nasalide NS	25	17.83
Parrish	Horvath	10/12/87	268984	Ceclor susp.	150	28.95
Parrish	Horvath	10/12/87	268984	Ceclor	150	28.95
Parrish	Horvath	10/26/87	268984	Ceclor susp.	150	30.99
Parrish	Horvath	10/26/87	268984	Ceclor	150	30.99
Gwendolyn	Downer	10/31/87	268985	Nasalide NS	25	14.87
Gwendolyn	Downer	11/04/87	271057	Nolamine	50	10.61
Gwendolyn	Downer	11/04/87	271034	Nasalide NS	25	14.87
Parrish	Horvath	11/04/87	271053	Augmentin	150	25.54
Parrish	Horvath	11/04/87	271054	Naldecon	480	28.36
Parrish	Horvath	11/04/87	271055	Ventolin	480	17.46
Aaron	Horvath	11/05/87	271067	Augmentin	150	25.54
Aaron	Horvath	11/05/87	271158	Ventolin	480	17.46
Aaron	Horvath	11/05/87	271068	Naldecon	240	16.41
Aaron	Horvath	11/05/87	271158	Ventolin	480	17.46
Gwendolyn	Dysert	11/09/87	271493	Monistat Crm	45	12.97
Parrish	Horvath	11/13/87	271939	Naldecon	480	28.36
Parrish	Horvath	11/13/87	271937	Ventolin	480	21.24
Aaron	Horvath	11/13/87	271952	Augumentin	150	25.54
Parrish	Horvath	11/13/87	271937	Ventolin	480	17.46
Aaron	Horvath	11/13/87	271952	Augmentin	150	25.54
Parrish	Horvath	11/13/87	271939	Naldecon	480	28.36
Parrish	Horvath	11/13/87	271937	Ventolin	480	17.46
Aaron	Horvath	11/14/87	271989	Naldecon	240	16.41
Aaron	Horvath	11/14/87	271991	Ventolin	480	17.46
Aaron	Horvath	11/14/87	271989	Naldecon	240	16.41
Aaron	Horvath	11/14/87	271991	Ventolin	480	17.46
Aaron	Horvath	11/18/87	272379	Ceclor	150	30.99
Ralph	Horvath	11/18/87	272362	Ceclor	40	98.75
Ralph	Horvath	11/18/87	272362	Ceclor	40	98.75
Aaron	Horvath	11/18/87	272379	Ceclor	150	30.99
Gwendolyn	Downer	11/27/87	271034	Nasalide NS	25	14.87
Gwendolyn	Dysert	11/27/87	273073	Monistat Crm	45	15.97
Parrish	Horvath	11/27/87	268984	Ceclor susp.	150	30.99
Parrish	Horvath	11/27/87	271937	Ventolin	480	21.24
Aaron	Horvath	11/27/87	271952	Augumentin	150	25.54
Aaron	Horvath	11/27/87	271989	Naldecon	240	16.41
Parrish	Horvath	11/27/87	268984	Ceclor	150	30.99
Parrish	Horvath	11/27/87	271937	Ventolin	480	17.46
Aaron	Horvath	11/27/87	271952	Augmentin	150	25.54

Aaron	Horvath	11/27/87	271989	Naldecon	240	16.41
Parrish	Horvath	11/27/87	271937	Ventolin	480	17.46
Gwendolyn	Downer	12/03/87	271034	Nasalide NS	25	14.87
Parrish	Horvath	12/03/87	271939	Naldecon	480	28.36
Parrish	Horvath	12/03/87	271937	Ventolin	480	21.24
Aaron	Horvath	12/03/87	271991	Ventolin	480	17.46
Aaron	Horvath	12/03/87	272379	Ceclor	150	30.99
Ralph	Horvath	12/03/87	272362	Ceclor	40	98.75
Parrish	Horvath	12/03/87	271937	Ventolin	480	17.46
Parrish	Horvath	12/03/87	271939	Naldecon	480	28.36
Parrish	Horvath	12/03/87	271937	Ventolin	480	17.46
Aaron	Horvath	12/03/87	271991	Ventolin	480	17.46
Ralph	Horvath	12/03/87	272362	Ceclor	40	98.75
Aaron	Horvath	12/03/87	272379	Ceclor	150	30.99
Gwendolyn	Rahimi	12/09/87	274001	Premarin .9mg	100	25.14
Aaron	Horvath	12/11/87	271989	Naldecon	240	16.41
Aaron	Horvath	12/11/87	271989	Naldecon	240	16.41
Parrish	Horvath	12/21/87	271939	Naldecon	480	28.36
Parrish	Horvath	12/21/87	271937	Ventolin	480	21.24
Parrish	Horvath	12/21/87	271938	Augmentin	150	25.54
Aaron	Horvath	12/21/87	271952	Augumentin	150	25.54
Aaron	Horvath	12/21/87	271989	Naldecon	240	16.41
Parrish	Horvath	12/21/87	271937	Ventolin	480	17.46
Aaron	Horvath	12/21/87	271952	Augmentin	150	25.54
Aaron	Horvath	12/21/87	271989	Naldecon	240	16.41
Parrish	Horvath	12/21/87	271939	Naldecon	480	28.36
Parrish	Horvath	12/21/87	271937	Ventolin	480	17.46
Parrish	Horvath	01/05/88	271937	Ventolin	480	21.24
Aaron	Horvath	01/05/88	271952	Augumentin	150	25.54
Aaron	Horvath	01/05/88	271991	Ventolin	480	17.46
Parrish	Horvath	01/05/88	271937	Ventolin	480	17.46
Aaron	Horvath	01/05/88	271952	Augmentin	150	27.7
Parrish	Horvath	01/05/88	271937	Ventolin	480	17.46
Aaron	Horvath	01/05/88	271991	Ventolin	480	17.46
Gwendolyn	Downer	01/09/88	271034	Nasalide NS	25	14.87
Parrish	Horvath	01/23/88	271937	Ventolin	480	21.24
Parrish	Horvath	01/23/88	271938	Augmentin	150	27.7
Aaron	Horvath	01/23/88	271989	Naldecon	240	16.41
Aaron	Horvath	01/23/88	271991	Ventolin	480	17.46
Ralph	Horvath	01/23/88	272362	Ceclor	40	98.75
Parrish	Horvath	01/23/88	271937	Ventolin	480	17.46
Aaron	Horvath	01/23/88	271989	Naldecon	240	16.41
Parrish	Horvath	01/23/88	271937	Ventolin	480	17.46
Aaron	Horvath	01/23/88	271991	Ventolin	480	17.46
Ralph	Horvath	01/23/88	272362	Ceclor	40	98.75
Gwendolyn	Downer	02/05/88	271034	Nasalide NS	25	14.87
Parrish	Horvath	02/05/88	271939	Naldecon	480	28.36
Aaron	Horvath	02/05/88	271989	Naldecon	240	16.41
Aaron	Horvath	02/05/88	271991	Ventolin	480	17.46
Aaron	Horvath	02/05/88	272379	Ceclor	150	30.99
Aaron	Horvath	02/05/88	271989	Naldecon	240	16.41
Parrish	Horvath	02/05/88	271939	Naldecon	480	28.36
Aaron	Horvath	02/05/88	271991	Ventolin	480	17.46
Aaron	Horvath	02/05/88	272379	Ceclor	150	30.99
Gwendolyn	Downer	02/15/88	271034	Nasalide NS	25	14.87
Gwendolyn	Dysert	02/15/88	273073	Monistat Crm	45	15.97
Ralph	Horvath	02/15/88	272362	Ceclor	40	98.75
Ralph	Horvath	02/15/88	272362	Ceclor	40	98.75
Parrish	Horvath	02/24/88	271937	Ventolin	480	17.46
Aaron	Horvath	02/24/88	271991	Ventolin	480	17.46
Parrish	Horvath	02/24/88	271937	Ventolin	480	17.46
Parrish	Horvath	02/24/88	271937	Ventolin	480	17.46

Aaron	Horvath	02/24/88	271991	Ventolin	480	17.46
Parrish	Horvath	03/05/88	271937	Ventolin	480	17.46
Aaron	Horvath	03/05/88	271989	Naldecon	240	16.41
Aaron	Horvath	03/05/88	271991	Ventolin	480	17.46
Parrish	Horvath	03/05/88	271937	Ventolin	480	17.46
Aaron	Horvath	03/05/88	271989	Naldecon	240	16.41
Parrish	Horvath	03/05/88	271937	Ventolin	480	17.46
Aaron	Horvath	03/05/88	271991	Ventolin	480	17.46
Gwendolyn	Rahimi	03/05/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Nordquist	03/06/88	282675	Ceftin	60	212.68
Gwendolyn	Nordquist	03/09/88	283050	Tolectin DS	100	54.73
Gwendolyn	Nordquist	03/09/88	283051	Sectral	100	55.92
Gwendolyn	Dysert	03/15/88	273073	Monistat Crm	45	15.97
Aaron	Nordquist	03/15/88	283558	Quibron	480	22.27
Gwendolyn	Nordquist	03/15/88	283557	Tagamet Liq.	240	52.48
Gwendolyn	Downer	03/18/88	271034	Nasalide NS	25	14.87
Gwendolyn	Nordquist	03/19/88	283945	Ceftin	30	106.34
Parrish	Horvath	03/30/88	271937	Ventolin	480	17.46
Aaron	Horvath	03/30/88	271989	Naldecon	240	16.41
Aaron	Horvath	03/30/88	271991	Ventolin	480	17.46
Parrish	Horvath	03/30/88	271937	Ventolin	480	19.12
Aaron	Horvath	03/30/88	271989	Naldecon	240	16.41
Parrish	Horvath	03/30/88	271937	Ventolin	480	17.46
Aaron	Horvath	03/30/88	271991	Ventolin	480	17.46
Gwendolyn	Downer	04/06/88	271034	Nasalide NS	25	14.87
Gwendolyn	Rahimi	04/06/88	274001	Premarin .9mg	100	25.14
Parrish	Horvath	04/11/88	271937	Ventolin	480	19.12
Ralph	Horvath	04/11/88	272362	Ceclor	40	98.75
Parrish	Horvath	04/11/88	271937	Ventolin	480	19.12
Parrish	Horvath	04/11/88	271937	Ventolin	480	19.12
Ralph	Horvath	04/11/88	272362	Ceclor	40	98.75
Ralph	Horvath	04/26/88	272362	Ceclor	40	98.75
Ralph	Horvath	04/26/88	272362	Ceclor	40	98.75
Gwendolyn	Nordquist	04/26/88	287172	Tagamet Liq.	240	57.71
Gwendolyn	Rahimi	04/29/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Downer	04/30/88	271034	Nasalide NS	25	14.87
Gwendolyn	Downer	05/09/88	271034	Nasalide NS	25	14.87
Gwendolyn	Dysert	05/09/88	273073	Monistat Crm	45	12.97
Parrish	Horvath	05/10/88	271937	Ventolin	480	19.12
Aaron	Horvath	05/10/88	271989	Naldecon	240	17.97
Aaron	Horvath	05/10/88	271991	Ventolin	480	19.12
Parrish	Horvath	05/10/88	271937	Ventolin	480	19.12
Aaron	Horvath	05/10/88	271989	Naldecon	240	17.97
Parrish	Horvath	05/10/88	271937	Ventolin	480	19.12
Aaron	Horvath	05/10/88	271991	Ventolin	480	19.12
Gwendolyn	Nordquist	05/10/88	288238	Tagamet Liq.	240	57.71
Gwendolyn	Nordquist	05/10/88	288252	Ceftin	30	104.34
Ralph	Horvath	05/13/88	272362	Ceclor	40	98.75
Ralph	Horvath	05/13/88	272362	Ceclor	40	98.75
Gwendolyn	Downer	05/28/88	271034	Nasalide NS	25	14.87
Gwendolyn	Nordquist	06/04/88	290281	Ceftin	60	206.67
Gwendolyn	Nordquist	06/05/88	290302	Naprosyn	120	84.81
Gwendolyn	Nordquist	06/05/88	290303	Tenormin	100	42.68
Gwendolyn	Nordquist	06/07/88	290500	Sectral	100	55.92
Gwendolyn	Downer	06/13/88	271034	Nasalide NS	25	14.87
Ralph	Horvath	06/13/88	272362	Ceclor	40	98.75
Ralph	Horvath	06/13/88	272362	Ceclor	40	98.75
Gwendolyn	Rahimi	06/13/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Nordquist	06/20/88	291531	Mexitil	120	55.51
Gwendolyn	Nordquist	06/20/88	291532	Mevacor	100	138.76
Gwendolyn	Nordquist	06/20/88	291533	Zantac	60	115.49
Gwendolyn	Nordquist	06/20/88	291535	Prinivil	100	54.74

Gwendolyn	Nordquist	06/22/88	291640	Tonocard	100	55.25
Gwendolyn	Nordquist	06/22/88	291641	Seldane	100	47.58
Gwendolyn	Nordquist	06/26/88	291977	Zantac	60	115.49
Gwendolyn	Nordquist	06/26/88	291989	Seldane	100	47.58
Gwendolyn	Dysert	06/30/88	273073	Monistat Crm	45	14.13
Gwendolyn	Nordquist	07/02/88	292477	Phenergan	12	18.23
Gwendolyn	Downer	07/09/88	271034	Nasalide NS	25	15.32
Parrish	Horvath	07/09/88	271937	Ventolin	480	19.12
Aaron	Horvath	07/09/88	271991	Ventolin	480	19.12
Parrish	Horvath	07/09/88	271937	Ventolin	480	21.24
Parrish	Horvath	07/09/88	271937	Ventolin	480	19.12
Aaron	Horvath	07/09/88	271991	Ventolin	480	19.12
Gwendolyn	Nordquist	07/09/88	292899	Lidex Gel	15	12.54
Gwendolyn	Nordquist	07/09/88	292900	Auralgan	10	8.56
Gwendolyn	Nordquist	07/09/88	292901	Pediotic Susp	7.5	9.95
Gwendolyn	Nordquist	07/09/88	292902	Monistat Crm	45	14.13
Ralph	Horvath	07/10/88	272362	Ceclor	40	98.75
Ralph	Horvath	07/10/88	272362	Ceclor	40	98.75
Gwendolyn	Dysert	07/23/88	273073	Monistat Crm	45	14.13
Gwendolyn	Rahimi	07/23/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Nordquist	07/28/88	290281	Ceftin	60	206.67
Gwendolyn	Downer	08/02/88	271034	Nasalide NS	25	15.32
Parrish	Horvath	08/02/88	271937	Ventolin	480	21.24
Aaron	Horvath	08/02/88	271989	Naldecon	240	17.97
Parrish	Horvath	08/02/88	271937	Ventolin	480	21.24
Aaron	Horvath	08/02/88	271989	Naldecon	240	17.97
Parrish	Horvath	08/02/88	271937	Ventolin	480	21.24
Ralph	Horvath	08/06/88	272362	Ceclor	40	98.75
Ralph	Horvath	08/06/88	272362	Ceclor	40	98.75
Gwendolyn	Nordquist	08/06/88	290303	Tenormin	100	42.68
Gwendolyn	Nordquist	08/06/88	291641	Seldane	100	47.58
Gwendolyn	Dysert	08/15/88	273073	Monistat Crm	45	14.13
Aaron	Horvath	08/15/88	271989	Naldecon	240	17.97
Aaron	Horvath	08/15/88	271989	Naldecon	240	17.97
Gwendolyn	Rahimi	08/15/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Downer	08/20/88	271034	Nasalide NS	25	15.32
Gwendolyn	Nordquist	08/20/88	292902	Monistat Crm	45	14.13
Ralph	Horvath	08/24/88	272362	Ceclor	40	98.75
Ralph	Horvath	08/24/88	272362	Ceclor	40	98.75
Gwendolyn	Nordquist	08/24/88	290281	Ceftin	60	221.24
Gwendolyn	Nordquist	08/24/88	290303	Tenormin	100	42.68
Gwendolyn	Nordquist	08/24/88	296536	Tolectin DS	100	54.73
Gwendolyn	Nordquist	08/24/88	296539	Zantac	60	123.6
Gwendolyn	Nordquist	08/24/88	296540	Sectral	100	61.51
Gwendolyn	Downer	08/25/88	296542	Nolamine	50	11.25
Gwendolyn	Dysert	09/02/88	273073	Monistat Crm	45	14.13
Gwendolyn	Rahimi	09/02/88	274001	Premarin .9mg	100	25.14
Aaron	Levitt	09/03/88	297420	Accutane	100	227.27
Gwendolyn	Nordquist	09/07/88	297700	Tambocor	120	76.4
Gwendolyn	Nordquist	09/07/88	297701	Tolectin DS	120	65.68
Gwendolyn	Nordquist	09/07/88	297702	Ridaura cap	60	46.78
Gwendolyn	Nordquist	09/07/88	297703	Pamelor	100	120.81
Gwendolyn	Downer	09/12/88	298090	Nasalide NS	25	15.32
Parrish	Horvath	09/12/88	271937	Ventolin	480	21.24
Aaron	Horvath	09/12/88	271989	Naldecon	240	19.66
Aaron	Horvath	09/12/88	271991	Ventolin	480	21.24
Parrish	Horvath	09/12/88	271937	Ventolin	480	21.24
Aaron	Horvath	09/12/88	271989	Naldecon	240	19.66
Parrish	Horvath	09/12/88	271937	Ventolin	480	21.24
Aaron	Horvath	09/12/88	271991	Ventolin	480	21.24
Aaron	Levitt	09/12/88	297420	Accutane	100	227.27
Gwendolyn	Nordquist	09/13/88	298103	Ceftin	50	184.73

Gwendolyn	Nordquist	09/13/88	298205	Minocin	100	150.22
Gwendolyn	Nordquist	09/13/88	298206	Catapres	100	36.26
Gwendolyn	Nordquist	09/14/88	298263	Decadron Comp.	12.6	21.5
Gwendolyn	Nordquist	09/14/88	298264	Decadron tab.	100	121.46
Gwendolyn	Nordquist	09/16/88	298428	Stelazine tab	100	99.98
Gwendolyn	Nordquist	09/16/88	298429	Thoraz Span	100	52.07
Gwendolyn	Nordquist	09/17/88	298554	Parafon Forte	100	52.88
Gwendolyn	Nordquist	09/17/88	298615	Moduretic	100	30.21
Gwendolyn	Nordquist	09/17/88	298604	Septra Susp	480	29.02
Gwendolyn	Nordquist	09/21/88	298973	Beconase NS	25	19.97
Gwendolyn	Nordquist	09/21/88	298974	Augmentin	50	71.25
Gwendolyn	Nordquist	09/21/88	298991	Norgesic Forte	100	57.67
Gwendolyn	Nordquist	09/21/88	298992	Noroxin	50	97.85
Ralph	Horvath	09/22/88	272362	Ceclor	40	105.66
Ralph	Horvath	09/22/88	272362	Ceclor	40	105.66
Parrish	Horvath	09/27/88	271937	Ventolin	480	21.24
Aaron	Horvath	09/27/88	271991	Ventolin	480	21.24
Parrish	Horvath	09/27/88	271937	Ventolin	480	21.24
Parrish	Horvath	09/27/88	271937	Ventolin	480	21.24
Aaron	Horvath	09/27/88	271991	Ventolin	480	21.24
Gwendolyn	Nordquist	09/27/88	299489	Cipro	60	213.47
Gwendolyn	Nordquist	09/27/88	299490	Mevacor	100	135.43
Gwendolyn	Dysert	10/01/88	273073	Monistat Crm	45	14.13
Parrish	Horvath	10/01/88	271937	Ventolin	480	21.24
Aaron	Horvath	10/01/88	271989	Naldecon	240	19.66
Parrish	Horvath	10/01/88	271937	Ventolin	480	21.24
Aaron	Horvath	10/01/88	271989	Naldecon	240	19.66
Parrish	Horvath	10/01/88	271937	Ventolin	480	21.24
Aaron	Levitt	10/01/88	297420	Accutane	100	227.27
Gwendolyn	Nordquist	10/01/88	290303	Tenormin	100	47.44
Gwendolyn	Nordquist	10/01/88	292902	Monistat Crm	45	14.13
Gwendolyn	Nordquist	10/01/88	288238	Tagamet Liq.	240	57.71
Gwendolyn	Rahimi	10/01/88	274001	Premarin .9mg	100	25.14
Gwendolyn	Downer	10/01/88	298090	Nasalide NS	25	15.32
Gwendolyn	Nordquist	10/05/88	300305	Parafon Forte	120	63.46
Gwendolyn	Nordquist	10/05/88	300306	Nitrobid Cap.	100	17.3
Gwendolyn	Nordquist	10/05/88	300307	Indocin SR	60	51.82
Ralph	Horvath	10/10/88	272362	Ceclor	40	105.66
Ralph	Horvath	10/10/88	272362	Ceclor	40	105.66
Gwendolyn	Nordquist	10/11/88	300815	Pepcid	30	57.27
Gwendolyn	Nordquist	10/11/88	300816	Noroxin	60	117.42
Gwendolyn	Nordquist	10/15/88	301130	Ceftin	60	221.24
Gwendolyn	Nordquist	10/15/88	301131	Mevacor	60	81.88
Parrish	Horvath	10/19/88	271937	Ventolin	480	21.24
Parrish	Horvath	10/19/88	271937	Ventolin	480	21.24
Parrish	Horvath	10/19/88	271937	Ventolin	480	21.24
Gwendolyn	Dysert	10/24/88	273073	Monistat Crm	45	14.13
Gwendolyn	Nordquist	10/24/88	290303	Tenormin	100	47.44
Gwendolyn	Rahimi	10/24/88	274001	Premarin .9mg	100	25.14
Aaron	Horvath	10/26/88	271991	Ventolin	480	21.24
Aaron	Horvath	10/26/88	271991	Ventolin	480	21.24
Aaron	Levitt	10/26/88	297420	Accutane	100	227.27
Gwendolyn	Nordquist	10/30/88	290281	Ceftin	60	221.24
Gwendolyn	Nordquist	10/30/88	291641	Seldane	100	54.64
Gwendolyn	Nordquist	11/06/88	292902	Monistat Crm	45	14.13
Parrish	Horvath	11/08/88	271937	Ventolin	480	21.24
Parrish	Horvath	11/08/88	271937	Ventolin	480	21.24
Parrish	Horvath	11/08/88	271937	Ventolin	480	21.24
Aaron	Horvath	11/12/88	271989	Naldecon	240	19.66
Ralph	Horvath	11/12/88	272362	Ceclor	40	105.66
Aaron	Horvath	11/12/88	271989	Naldecon	240	19.66
Ralph	Horvath	11/12/88	272362	Ceclor	40	105.66

Gwendolyn	Nordquist	11/12/88	288238	Tagamet Liq.	240	57.71
Parrish	Horvath	11/21/88	271937	Ventolin	480	21.24
Parrish	Horvath	11/21/88	271937	Ventolin	480	21.24
Parrish	Horvath	11/21/88	271937	Ventolin	480	21.24
Gwendolyn	Dysert	11/23/88	273073	Monistat Crm	45	14.13
Gwendolyn	Rahimi	11/23/88	274001	Premarin .9mg	100	25.14
Aaron	Horvath	11/25/88	271989	Naldecon	240	16.41
Aaron	Horvath	11/25/88	271991	Ventolin	480	21.24
Aaron	Horvath	11/25/88	271989	Naldecon	240	17.63
Aaron	Horvath	11/25/88	271991	Ventolin	480	21.24

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

(5) Ralph Lee LeVange was, pursuant to a plea agreement on or about February 5, 1991, convicted in the Common Pleas Court of Miami County, Ohio, of Theft in violation of Section 2913.02 of the Ohio Revised Code, a misdemeanor of the first degree.

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

- (1) The indefinite suspension of the pharmacist identification card, No. 03-1-12771, held by Ralph Lee LeVange indefinitely and such suspension is effective as of December 5, 1996. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Ralph Lee LeVange may not be employed by or work in a facility licensed by the Board to possess or distribute dangerous drugs during such period of suspension. Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested. Further, Ralph Lee LeVange must petition the Board, pursuant to a Revised Code Chapter 119. hearing, for reinstatement of his license to practice pharmacy in Ohio.
- (2) The imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

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

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

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

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

/s/ Ralph LeVange
Ralph Lee LeVange, Respondent

/d/ 3/31/97
Date of Signature

/s/ Charles H Sell II
Chuck Sell, Attorney for Respondent

/d/ 4/2/97
Date of Signature

/s/ Suzanne L. Neuber
Suzanne L. Neuber, President, Ohio State Board of Pharmacy

/d/ 4/21/97
Date of Signature

/s/ Mary L. Hollern
Mary L. Hollern, Ohio Assistant Attorney General

/d/ 4/21/97
Date of Signature

The Executive Director also reported that Anthem Prescriptions notified the office that they would not be prepared to make their presentation to the Board on Tuesday morning at 9:00 a.m. Accordingly, they have requested that their presentation be scheduled for the Board meeting in June or July.

Staff reported that the attorneys for McKesson have notified President Neuber that an official response regarding the Board's concerns with the MaxiCare Program would be forwarded within the next week. The notice apologized for the delay in responding but stated that it was due to changes being implemented in the program to address the Board's concerns.

RES. 97-143 Mrs. Plant moved that the Board approve the National Association of Boards of Pharmacy Bureau of Voluntary Compliance State Board Newsletter agreement for FY 98. The motion was seconded by Mr. Lamping and approved (Aye-6/Nay-0).

RES. 97-144 Tim Benedict presented two requests that waivers be granted pursuant to Ohio Administrative Code Rule 4729-5-11. The first request was submitted by R.Ph. Doug Theuring that he be permitted to serve as the responsible pharmacist for both Elmwood Place Pharmacy (02-0149650) and Elmwood Institutional Pharmacy (02-0917250) for another year. Mrs. Plant moved that the request be approved and that the Board permit him to serve as the responsible pharmacist for the two terminal distributors of dangerous drugs sites for one year. Mr. Lamping seconded the motion and it was approved (Aye-6/Nay-0).

RES. 97-145 The second request was submitted by R.Ph. Kevin Cunningham. He requested that he be permitted to serve as the responsible pharmacist for both Coram Alternate Site Services (02-0843750) and HCN Healthcare Infusion Services (02-0997500). Mr. Cavendish moved that the request be approved and that he be permitted to serve as the responsible pharmacist for both of these terminal distributor sites for one year. The motion was seconded by Mr. Hanna and approved (Aye-6/Nay-0).

Mr. Benedict reported that Compliance Agents William Padgett and Kevin Kineer will be attending an FDA workshop April 22, 1997 on Medical Gases in Arlington, Virginia.

9:40 a.m.

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

10:35 a.m.

RES. 97-146 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board approve the request of Jack Wilhelm's attorney that his client be granted a

ninety-day extension to pay the \$10,000 monetary penalty due April 12, 1997. The motion was seconded by Mr. Hanna and approved by the Board (Aye-6/Nay-0).

The Board then considered requests submitted by Robert D. Urfer that he be permitted to pay the \$40,000 monetary penalties imposed by the Board on a monthly payment plan over a forty-eight-month time period. Mr. Urfer also requested that the time allowed for him to successfully complete the Jurisprudence examination be extended until October 31, 1997.

RES. 97-147 Mrs. Plant moved that the request for the extension of time to successfully complete the Jurisprudence examination be denied. The motion was seconded by Mr. Hanna and approved by the Board (Aye-6/Nay-0).

RES. 97-148 Mrs. Plant then moved that the request to pay the \$40,000 monetary penalties over a forty-eight-month time period be denied and that the full amount be paid to the State of Ohio during the next ninety days (three months). The motion was seconded by Mr. Lamping and approved (Aye-6/Nay-0).

The Board then considered correspondence regarding a "conscience clause" survey conducted by the Department of Pharmacy at the University of Puerto Rico School of Pharmacy. The survey instrument was forwarded to all boards of pharmacy and state pharmacists associations in the United States. The results of the survey disclosed that four state associations, one national association, and one board of pharmacy were considering developing a "conscience clause" as a part of their code of ethics, laws, or regulations.

Staff reported that a meeting regarding the purchase and takeover of Revco Drug Stores, Inc. was held on April 4, 1997 with the following representatives of CVS/Pharmacy, Woonsocket, Rhode Island:

Carlos Ortiz, R.Ph., Director of Government and Legislative Affairs; Diane McMonagle-Glass, Esquire, Assistant General Counsel; and Matthew Leonard, R.Ph., Third Party Contract Administration.

Also attending the meeting was Jim Henry, lobbyist with the Council of Retail Merchants, and Karen Disharoon with the National Association of Chain Drug Stores.

Tim Benedict reported that Carl Frost has been hired as the new compliance agent and that he fills the position vacated due to the disability retirement of Cheryl Rooks. Mr. Frost will be assigned to the Northeastern Ohio area due to the number of licensees and present workload of the compliance agents in that part of the state.

11:10 a.m.

The Board recessed for lunch.

1:16 p.m.

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

Staff reported on the status of legislation being considered by the 121st General Assembly that has an impact on the profession, the legal distribution of drugs, and/or the Board.

1:37 p.m.

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

4:32 p.m.

The hearing was concluded and Mrs. Plant moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received during the 119. Hearing in the matter of Anthony Savoca, R.Ph. The motion was seconded by Mr. Lamping and President Neuber conducted a roll call vote as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

4:40 p.m.
RES. 97-149

The Executive Session was concluded and the meeting opened to the public. Mr. Cavendish moved the Board adopt the following Order. The motion was seconded by Mr. Hanna and approved (Aye-6/Nay-0).

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960612-066)

In The Matter Of:

ANTHONY SAVOCA, R.Ph.
27647 Remington Drive
Westlake, Ohio 44145
(R.Ph. No. 03-1-07626)

INTRODUCTION

THE MATTER OF ANTHONY SAVOCA CAME TO HEARING ON APRIL 21, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ANTHONY SAVOCA WAS REPRESENTED BY AMY M. DECOLIBUS, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) James Reye, Ohio State Board of Pharmacy
- (2) Caroline Simon, Technician, Revco #0339
- (3) Rita P. Kroustos, R.Ph., Revco #0339
- (4) Anthony Savoca, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 12, 1996.
- (2) Exhibit 1A--Hearing Request letter dated June 30, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated July 8, 1996.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Anthony Joseph Savoca showing original date of registration as March 14, 1962; and Renewal Application for Pharmacist License, No. 03-1-07626, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Anthony Savoca dated June 6, 1995.
- (5) Exhibit 1D--Addendum Notice dated November 21, 1996.
- (6) Exhibit 1E--Continuance Request letter dated November 27, 1996.
- (7) Exhibit 1F--Hearing Schedule letter dated December 4, 1996.
- (8) Exhibit 1G--Continuance Request letter dated April 18, 1997.
- (9) Exhibit 2--Sealed Record--Two-page Revco #0339 Prescription Access Link, Patient Insurance Profile of Lisa Petrucci dated from January 1, 1995, to May 29, 1996, report dated May 30, 1996.
- (10) Exhibit 3--Sealed Record--Revco #0339 Prescription Access Link, Patient Insurance Profile of Lisa Ufie dated from January 1, 1995, to May 29, 1996, report dated May 30, 1996.
- (11) Exhibit 4--Sealed Record--Prescription number 0339-050545.

- (12) Exhibit 5--Sealed Record-Prescription number 0339-042052.
- (13) Exhibit 6--Five-page handwritten statement of Karen McKinzie signed and notarized on May 30, 1996.
- (14) Exhibit 7--Handwritten statement of Rita P. Kroustos signed and notarized on May 31, 1996.
- (15) Exhibit 8--Sealed Record-Prescription number 0339-041104.
- (16) Exhibit 9--Four-page handwritten statement of Caroline Simon signed and notarized on May 30, 1996.
- (17) Exhibit 10--Sealed Record-Prescription number 0339-039182.
- (18) Exhibit 11--Sealed Record-Revco #0339 Prescription Access Link, Patient Insurance Profile of Carmen Rodriguez dated from January 1, 1996, to March 13, 1996, report dated March 13, 1996.
- (19) Exhibit 12--Sealed Record-Revco #339 Customer Signature Log dated May 6, 1996, to May 21, 1996.
- (20) Exhibit 13--Sealed Record-Prescription number 0339-052837.
- (21) Exhibit 14--Sealed Record-Revco #339 Customer Signature Log dated May 29, 1996, to May 30, 1996.
- (22) Exhibit 15--Sealed Record-Prescription numbers 0339-002071 and 0339-004067.
- (23) Exhibit 16--Sealed Record-Revco #339 Customer Signature Log dated August 24, 1995.
- (24) Exhibit 17--Sealed Record-Prescription number 0339-050860.
- (25) Exhibit 18--Sealed Record-Revco #339 Customer Signature Log dated May 14, 1996, to May 19, 1996.
- (26) Exhibit 19--Sealed Record-Prescription number 0339-862160.
- (27) Exhibit 20--Sealed Record-Revco #339 Customer Signature Log dated January 7, 1995, to January 12, 1995.
- (28) Exhibit 21--Sealed Record-Prescription number 0339-031416.
- (29) Exhibit 22--Sealed Record-Revco #339 Customer Signature Log dated January 26, 1996, to January 29, 1996, and one entry not dated.
- (30) Exhibit 23--Sealed Record-Prescription number 0339-008799.
- (31) Exhibit 24--Sealed Record-Revco #339 Customer Signature Log dated September 20, 1995, to September 21, 1995.
- (32) Exhibit 25--Sealed Record-Prescription number 0339-876478.
- (33) Exhibit 26--Sealed Record-Revco #339 Customer Signature Log dated March 9, 1995, to March 10, 1995.
- (34) Exhibit 27--Sealed Record-Prescription number 0339-873607.
- (35) Exhibit 28--Sealed Record-Revco #339 Customer Signature Log dated February 22, 1995, to February 23, 1995.
- (36) Exhibit 29--Sealed Record-Prescription number 0339-035843.
- (37) Exhibit 30--Sealed Record-Revco #339 Customer Signature Log dated February 15, 1996, to February 23, 1996.
- (38) Exhibit 31--Sealed Record-Prescription number 0339-885072.
- (39) Exhibit 32--Sealed Record-Revco #339 Customer Signature Log dated April 24, 1995, to April 27, 1995.
- (40) Exhibit 33--Sealed Record-Prescription number 0339-885073.
- (41) Exhibit 34--Sealed Record-Prescription number 0339-876479.
- (42) Exhibit 35--Sealed Record-Prescription number 0339-879005.
- (43) Exhibit 36--Sealed Record-Prescription number 0339-888750.
- (44) Exhibit 37--Sealed Record-Prescription number 0339-891782.
- (45) Exhibit 38--Sealed Record-Prescription number 0339-897433.
- (46) Exhibit 39--Sealed Record-Prescription number 0322-693533 and 0339-000502.
- (47) Exhibit 40--Sealed Record-Prescription number 0339-004987.
- (48) Exhibit 41--Sealed Record-Prescription number 0339-007006.
- (49) Exhibit 42--Sealed Record-Prescription number 0339-010641.
- (50) Exhibit 43--Sealed Record Prescription number 0339-888751.
- (51) Exhibit 44--Sealed Record-Prescription number 0339-891783.
- (52) Exhibit 45--Sealed Record-Prescription number 0339-041293.
- (53) Exhibit 46--Sealed Record-Prescription number 0339-893738.
- (54) Exhibit 47--Sealed Record-Prescription number 0339-893737.
- (55) Exhibit 48--Sealed Record-Prescription number 0322-693533.
- (56) Exhibit 49--Sealed Record-Twelve-page Revco #0339 Prescription Access Link, Patient Insurance Profile of Karen Norton dated from January 1, 1995, to June 11, 1996, report dated June 11, 1996.

- (57) Exhibit 50--Handwritten statement of Caroline Simon signed and notarized on July 3, 1996.
- (58) Exhibit 51--Three-page Ohio State Board of Pharmacy Statement Form completed by Dr. Louis Keppler, M.D. signed and notarized on August 19, 1996.
- (59) Exhibit 52--Two-page Ohio State Board of Pharmacy Statement Form completed by Dr. Jeffrey Galvin, signed and notarized on July 3, 1996.
- (60) Exhibit 53--Three-page Statement Form completed by Dr. Charles Peck, M.D., signed and notarized on July 3, 1996.
- (61) Exhibit 54--Sealed Record--Two-page copy of Blue Cross and Blue Shield of Ohio Financial Investigations Department report completed by Louis Keppler, M.D., regarding Karen Norton, dated July 18, 1996.
- (62) Exhibit 55--Sealed Record--Two-page copy of Blue Cross and Blue Shield of Ohio Financial Investigations Department report completed by Jeffrey Galvin, M.D., regarding Karen Norton, dated July 3, 1996.
- (63) Exhibit 56--Sealed Record--Two-page copy of Blue Cross and Blue Shield of Ohio Financial Investigations Department report completed by C. Peck, M.D., regarding Karen Norton, dated July 3, 1996.
- (64) Exhibit 57--Sealed Record--Notarized copy of prescriptions numbered 0339-874774 and 0339-874775.
- (65) Exhibit 58--Sealed Record--Two-page printout of information regarding prescriptions numbered 339-874774 and 339-874775.
- (66) Exhibit 59--Handwritten statement of James L. Rush, M.D. signed and notarized on May 31, 1996.
- (67) Exhibit 60--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Alprazolam 0.25mg dated June 27, 1996.
- (68) Exhibit 61--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Alprazolam 0.5mg dated June 27, 1996.
- (69) Exhibit 62--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Alprazolam 1mg dated June 27, 1996.
- (70) Exhibit 63--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Xanax .25mg dated June 27, 1996.
- (71) Exhibit 64--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Hydrocodone 7.5mg/APAP 750mg dated June 27, 1996.
- (72) Exhibit 65--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Vicodin ES dated June 27, 1996.
- (73) Exhibit 66--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Hydrocodone 5mg/APAP 500mg dated June 27, 1996.
- (74) Exhibit 67--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Valium 10mg dated March 5, 1996, and attached list of Valium 10mg purchases dated from May 17, 1995, through April 1, 1996.
- (75) Exhibit 68--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Valium 5mg dated March 5, 1996, and attached list of Valium 5mg purchases dated from May 6, 1995, through May 29, 1996.
- (76) Exhibit 69--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Diazepam 10mg dated March 5, 1996.
- (77) Exhibit 70--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Diazepam 5mg dated March 5, 1996, and attached list of Diazepam 5mg purchases dated from May 5, 1995, through May 25, 1996.
- (78) Exhibit 71--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #339 for Xanax .5mg dated June 27, 1996, and attached list of Xanax .5mg purchases dated from January 11, 1995, through May 3, 1996.
- (79) Exhibit 72--Sealed Record--Prescription number 0322-652006.
- (80) Exhibit 73--Sealed Record--Prescription number 361068.
- (81) Exhibit 74--Sealed Record--Copy of page numbered 0162 from a Prescription Refill Log Book dated from July 1, 1995, to July 2, 1995.
- (82) Exhibit 75--Sealed Record--Prescription number 0339-011928.
- (83) Exhibit 76--Sealed Record--Copy of page numbered 0159 from a Prescription Refill Log Book dated May 18, 1996, to May 19, 1996.
- (84) Exhibit 77--Sealed Record--Copy of page numbered 0025 from a Prescription Refill Log Book dated February 1, 1995, to February 2, 1995.
- (85) Exhibit 78--Sealed Record--Copy of page numbered 0125 from a Prescription Refill Log Book dated May 3, 1996, to May 4, 1996.

- (86) Exhibit 79--Sealed Record-Copy of page numbered 0063 from a Prescription Refill Log Book dated April 6, 1996, to April 7, 1996.
- (87) Exhibit 80--Sealed Record-Copy of page numbered 0036 from a Prescription Refill Log Book dated March 26, 1996.
- (88) Exhibit 81--Sealed Record-Copy of page numbered 0159 from a Prescription Refill Log Book dated September 21, 1995, to September 22, 1995.
- (89) Exhibit 82--Sealed Record-P.A.L. Prescription Refill Log Book of Revco #339 dated from March 11, 1996, to May 29, 1996.
- (90) Exhibit 83--Sealed Record-P.A.L. Prescription Refill Log Book of Revco #339 dated from July 10, 1995, to October 2, 1995.
- (91) Exhibit 84--Sealed Record-P.A.L. Prescription Refill Log Book of Revco #339 dated from April 17, 1995, to July 10, 1995.
- (92) Exhibit 85--Foxmeyer Invoice, Order No. HQD774, for items sold to Revco 0339, dated February 28, 1996.
- (93) Exhibit 86--Sealed Record-P.A.L. Prescription Refill Log Book of Revco #339 dated January 19, 1995, to April 17, 1995.
- (94) Exhibit 87--Two-page Lake County Regional Forensic Laboratory Report, Laboratory No. 960822-1715, signed by Dr. Philip D. Bouffard on August 22, 1996; and Receipt for Exhibits, Laboratory No. 960822-1715, dated August 22, 1996, and August 23, 1996.
- (95) Exhibit 88--Sealed Record-Prescription number 0339-051391.
- (96) Exhibit 89--Revco #0339 PAL/POS Rx Report [Will Call Box] dated March 12, 1996.
- (97) Exhibit 90--Two-page Plea Agreement, No. 345316, of Anthony J. Savoca signed and dated January 28, 1997, with attached copy of ten-page Ohio State Board of Pharmacy Report of Investigation, Case No. 96-1289, by Jim Reye regarding Anthony Savoca dated August 30, 1996, and copy of four-page Blue Cross/Blue Shield Outline dated from November 19, 1994, to May 18, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of letter from Peter J. Gray dated February 21, 1997.
- (2) Exhibit B--Letter from Gary A. Ebert dated February 28, 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 Anthony Savoca was originally licensed to practice pharmacy in the state of Ohio on March 14, 1962; and, on June 12, 1996, Anthony Savoca's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Anthony Savoca did, from March 22, 1996, through May 16, 1996, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Anthony Savoca sold 270 Diazepam 10mg tablets and 600 Diazepam 5mg tablets to his girlfriend without valid prescriptions. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (3) Anthony Savoca did, from March 22, 1996, through May 8, 1996, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Anthony Savoca sold 30 Alprazolam 0.25mg tablets and 90 Alprazolam 0.5mg tablets to his girlfriend without valid prescriptions. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (4) Anthony Savoca did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: to cover his thefts and trafficking in drugs, Anthony Savoca created and possessed in the computer at

Revco Discount Drug Center #339, 21925 Lorain Road, Fairview Park, Ohio the following computer records purporting to be prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
0339-042043	04/08/96	Diazepam 10mg	60
0339-045052	03/27/96	Diazepam 5mg	100
0339-045052	04/06/96	Diazepam 5mg	100
0339-045052	04/08/96	Diazepam 5mg	100
0339-045052	04/12/96	Diazepam 5mg	100
0339-045052	04/22/96	Diazepam 5mg	100
0339-045052	05/08/96	Diazepam 5mg	100
0339-050545	05/16/96	Diazepam 10mg	30
0339-041104	05/03/96	Alprazolam 0.25mg	30
0339-045427	04/15/96	Diazepam 10mg	30
0339-045427	05/08/96	Diazepam 10mg	30
0339-041105	03/22/96	Alprazolam 0.5mg	30
0339-041105	04/12/96	Alprazolam 0.5mg	30
0339-041105	05/08/96	Alprazolam 0.5mg	30
0339-041106	03/22/96	Diazepam 10mg	30
0339-041106	04/06/96	Diazepam 10mg	30
0339-041106	04/12/96	Diazepam 10mg	30
0339-041106	03/26/96	Diazepam 10mg	30

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

- (5) Anthony Savoca did, on or about March 22, 1996, knowing that he had no privilege to do so, and with purpose to defraud or knowing that he was facilitating a fraud, falsify computerized data, to wit: Anthony Savoca created computer data for prescription number 0339-041106 for 30 units of Diazepam 10mg so as to cover for thefts and trafficking in drugs. Such conduct is in violation of Section 2913.42 of the Ohio Revised Code.
- (6) Anthony Savoca did, from March 11, 1996, through May 16, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco, beyond the express or implied consent of Revco Discount Drug Center #339, to wit: Anthony Savoca stole the following drugs from his place of employment while engaged in the practice of pharmacy:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
0339-039182	03/11/96	Cardura 4mg	30
0339-042043	04/08/96	Diazepam 10mg	60
0339-045052	03/27/96	Diazepam 5mg	100
0339-045052	04/06/96	Diazepam 5mg	100
0339-045052	04/08/96	Diazepam 5mg	100
0339-045052	04/12/96	Diazepam 5mg	100
0339-045052	04/22/96	Diazepam 5mg	100
0339-045052	05/08/96	Diazepam 5mg	100
0339-050545	05/16/96	Diazepam 10mg	30
0339-041104	05/03/96	Alprazolam 0.25mg	30
0339-045427	04/15/96	Diazepam 10mg	30
0339-045427	05/08/96	Diazepam 10mg	30
0339-041105	03/22/96	Alprazolam 0.5mg	30
0339-041105	04/12/96	Alprazolam 0.5mg	30
0339-041105	05/08/96	Alprazolam 0.5mg	30
0339-041106	03/22/96	Diazepam 10mg	30
0339-041106	04/06/96	Diazepam 10mg	30
0339-041106	04/12/96	Diazepam 10mg	30
0339-041106	03/26/96	Diazepam 10mg	30

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

- (7) Anthony Savoca did, on or about March 11, 1996, make a false or forged prescription for a dangerous drug, to wit: when taking a telephone call from his girlfriend, who is not a practitioner, Anthony Savoca created prescription number 0339-039182 for 30 unit doses of Cardura 4mg; however, 100 unit doses of Cardura 4mg were dispensed. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (8) Anthony Savoca did, from December 21, 1994, through October 9, 1995, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Anthony Savoca sold the following drugs without valid prescriptions and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Physician</u>
0339-011927	10/09/95	Vicodin ES	100	Keppler
0339-010641	10/02/95	Vicodin ES	100	Keppler
0339-007006	09/21/95	Vicodin ES	100	Keppler
0339-007006	09/11/95	Vicodin ES	100	Keppler
0339-004987	08/30/95	Vicodin ES	100	Keppler
0339-004067	08/24/95	Vicodin ES	100	Keppler
0339-000502	08/02/95	Vicodin ES	100	Keppler
0322-693533	07/24/95	Vicodin ES	100	Keppler
0339-897433	07/13/95	Vicodin ES	100	Keppler
0339-893737	06/19/95	Vicodin ES	100	Keppler
0339-891782	06/06/95	Vicodin ES	100	Keppler
1078-042119	05/29/95	Vicodin ES	100	Keppler
0339-888750	05/18/95	Vicodin ES	100	Keppler
0339-885073	04/27/95	Vicodin ES	100	Keppler
0339-881795	04/08/95	Vicodin ES	100	Keppler
0339-879005	03/29/95	Vicodin ES	100	Keppler
0339-879005	03/24/95	Vicodin ES	100	Keppler
0322-652006	03/20/95	Vicodin Es	100	Keppler
0339-876479	03/10/95	Vicodin ES	100	Keppler
0322-652006	03/09/95	Vicodin ES	100	Keppler
0322-652006	02/23/95	Vicodin ES	100	Keppler
0322-652006	02/07/95	Vicodin ES	100	Keppler
0339-868736	02/01/95	Vicodin ES	100	Keppler
1078-032235	01/22/95	Vicodin ES	100	Keppler
0339-862160	01/17/95	Vicodin ES	100	Keppler
0339-862160	01/12/95	Vicodin ES	100	Keppler
0339-862160	01/03/95	Vicodin ES	100	Keppler
1078-032235	12/27/94	Vicodin ES	100	Keppler
0339-862160	12/21/94	Vicodin ES	100	Keppler

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

- (9) Anthony Savoca did, from May 5, 1996, through June 5, 1996, knowingly 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: Anthony Savoca sold the following drugs without valid prescriptions and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Physician</u>
0339-052837	06/05/96	Vicodin ES	50	Galvin
0339-052837	05/30/96	Vicodin ES	50	Galvin
0339-050860	05/18/96	Vicodin ES	50	Galvin
0339-048724	05/05/96	Vicodin ES	50	Galvin

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

- (10) Anthony Savoca did, from February 23, 1995, through May 21, 1996, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Anthony Savoca sold the following drugs without valid prescriptions and not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Physician</u>
0339-051391	05/21/96	Valium 5mg	100	Galvin
0339-041293	03/22/96	Valium 5mg	100	Galvin
0339-035843	02/22/96	Valium 5mg	100	Galvin
0339-031416	01/29/96	Valium 5mg	100	Peck
0339-008799	09/21/95	Valium 5mg	100	Peck
0339-893738	06/19/95	Valium 5mg	100	Peck
0339-891783	06/19/95	Valium 5mg	100	Peck
0339-888751	05/18/95	Valium 5mg	100	Peck
0339-885072	04/27/95	Valium 5mg	100	Peck
0339-876468	03/10/95	Valium 5mg	100	Peck
0339-873607	02/23/95	Valium 5mg	100	Peck

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

- (11) Anthony Savoca did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: to cover his thefts and trafficking in drugs, Anthony Savoca created and possessed the following prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Physician</u>
0339-052837	06/05/96	Vicodin ES	50	Galvin
0339-052837	05/30/96	Vicodin ES	50	Galvin
0339-051391	05/21/96	Valium 5m	100	Galvin
0339-050860	05/18/96	Vicodin ES	50	Galvin
0339-048724	05/05/96	Vicodin ES	50	Galvin
0339-041293	03/22/96	Valium 5mg	100	Galvin
0339-035843	02/22/96	Valium 5mg	100	Galvin
0339-031416	01/29/96	Valium 5mg	100	Peck
0339-011927	10/09/95	Vicodin ES	100	Keppler
0339-010641	10/02/95	Vicodin ES	100	Keppler
0339-007006	09/11/95	Vicodin ES	100	Keppler
0339-007006	09/21/95	Vicodin ES	100	Keppler
0339-008799	09/21/95	Valium 5mg	100	Peck
0339-004987	08/30/95	Vicodin ES	100	Keppler
0339-004067	08/24/95	Vicodin ES	100	Keppler
0339-002071	08/13/95	Vicodin ES	100	Keppler
0339-000502	08/02/95	Vicodin ES	100	Keppler
0322-693533	07/24/95	Vicodin ES	100	Keppler
0339-897433	07/13/95	Vicodin ES	100	Keppler
0339-893738	06/19/95	Valium 5mg	100	Peck
0339-891783	06/19/95	Valium 5mg	100	Peck
0339-893737	06/19/95	Vicodin ES	100	Keppler
0339-891782	06/06/95	Vicodin ES	100	Keppler
0339-888750	05/18/95	Vicodin ES	100	Keppler
0339-888751	05/18/95	Valium 5mg	100	Peck
0339-885073	04/27/95	Vicodin ES	100	Keppler
0339-885072	04/27/95	Valium 5mg	100	Peck
0339-881795	04/08/95	Vicodin ES	100	Keppler
0339-879005	03/29/95	Vicodin ES	100	Keppler
0339-879005	03/24/95	Vicodin ES	100	Keppler
0339-876468	03/10/95	Valium 5mg	100	Peck
0339-876479	03/10/95	Vicodin ES	100	Keppler
0339-874774	03/02/95	Hycodan Syrup	4oz	Rush
0339-873607	02/23/95	Valium 5mg	100	Peck
0339-868736	02/01/95	Vicodin ES	100	Keppler

0339-862160	01/17/95	Vicodin ES	100	Keppler
0339-862160	01/12/95	Vicodin ES	100	Keppler
0339-862160	01/03/95	Vicodin ES	100	Keppler
0339-862160	12/21/94	Vicodin ES	100	Keppler

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

- (12) Anthony Savoca did, on or about March 2, 1995, make or utter a false or forged prescription for a dangerous drug, to wit: Anthony Savoca created prescription number 0339-874775, in his name, for 30 units of Omnipen 500mg, without authorization from a practitioner. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.
- (13) Anthony Savoca did, from May 1, 1995, through May 30, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco Drug #339, 21925 Lorain Road, Fairview Park, Ohio, beyond the express or implied consent of the owner, to wit: Anthony Savoca stole the following drugs in the following amounts from his place of employment:

<u>Drug</u>	<u>Quantity</u>	<u>% of Drug Supply</u>
Xanax 0.5mg	2,714	31%
Xanax 0.25mg	100	1.8%
Alprazolam 1mg	4,669	62%
Alprazolam 0.5mg	8,298	63%
Alprazolam 0.25mg	12,968	65%
Diazepam 10mg	824	11%
Diazepam 5mg	664	4%
Valium 5mg	214	4%
Valium 10mg	324	13%
Hydrocodone 5mg/APAP 500mg	437	2.81%
Vicodin ES	225	3.49%
Hydrocodone 7.5mg/APAP 750mg	131	1%

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

- (14) Anthony Savoca did, on or about March 1, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco Drug #339, 21925 Lorain Road, Fairview Park, Ohio, beyond the express or implied consent of the owner, to wit: Anthony Savoca stole two stock bottles of Diazepam 10mg tablets, a total of 200 units, from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (15) Anthony Savoca did, on or about March 1, 1996, knowingly 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: Anthony Savoca gave his girlfriend two stock bottles of Diazepam 10mg tablets, a total of 200 units, without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (16) Anthony Savoca did, on or about the following dates, knowing that he had no privilege to do so, and with purpose to defraud or knowing that he was facilitating a fraud, falsify computerized data, to wit: Anthony Savoca created the following data so as to cover for thefts and trafficking in drugs:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Physician</u>
0339-052837	05/30/96	Vicodin ES	50	Galvin
0339-051391	05/21/96	Valium 5m	100	Galvin
0339-050860	05/18/96	Vicodin ES	50	Galvin
0339-050545	05/16/96	Diazepam 10mg	30	McCafferty
0339-045427	05/08/96	Diazepam 10mg	30	McCafferty
0339-041105	05/08/96	Alprazolam 0.5mg	30	McCafferty

0339-045052	05/08/96	Diazepam 5mg	100	McCafferty
0339-048724	05/05/96	Vicodin ES	50	Galvin
0339-041104	05/03/96	Alprazolam 0.25 mg	30	McCafferty
0339-045052	04/22/96	Diazepam 5mg	100	McCafferty
0339-045427	04/15/96	Diazepam 10mg	30	McCafferty
0339-045052	04/12/96	Diazepam 5mg	100	McCafferty
0339-041105	04/12/96	Alprazolam 0.5mg	30	McCafferty
0339-041106	04/12/96	Diazepam 10mg	30	McCafferty
0339-045052	04/08/96	Diazepam 5mg	100	McCafferty
0339-042043	04/08/96	Diazepam 10mg	60	McCafferty
0339-045052	04/06/96	Diazepam 5mg	100	McCafferty
0339-041106	04/06/96	Diazepam 10 mg	30	McCafferty
0339-045052	03/27/96	Diazepam 5mg	100	McCafferty
0339-041106	03/26/96	Diazepam 10 mg	30	McCafferty
0339-041105	03/22/96	Diazepam 10mg	30	McCafferty
0339-041293	03/22/96	Valium 5mg	100	Galvin
0339-035843	02/22/96	Valium 5mg	100	Galvin
0339-031416	01/29/96	Valium 5mg	100	Peck
0339-011927	10/09/95	Vicodin ES	100	Keppler
0339-010641	10/02/95	Vicodin ES	100	Keppler
0339-008799	09/21/95	Valium 5mg	100	Peck
0339-007006	09/21/95	Vicodin ES	100	Keppler
0339-007006	09/11/95	Vicodin ES	100	Keppler
0339-004067	08/24/95	Vicodin ES	100	Keppler
0339-002071	08/13/95	Vicodin ES	100	Keppler
0339-000502	08/02/95	Vicodin ES	100	Keppler
0322-693533	07/24/95	Vicodin ES	100	Keppler
0339-897433	07/13/95	Vicodin ES	100	Keppler
0339-893737	07/01/95	Vicodin ES	100	Keppler
0339-893737	06/19/95	Vicodin ES	100	Keppler
0339-891782	06/06/95	Vicodin ES	100	Keppler
0339-888750	05/18/95	Vicodin ES	100	Keppler
0339-885072	04/27/95	Valium 5mg	100	Peck
0339-885073	04/27/95	Vicodin ES	100	Keppler
0339-881795	04/08/95	Vicodin ES	100	Keppler
0339-879005	03/29/95	Vicodin ES	100	Keppler
0339-879005	03/24/95	Vicodin ES	100	Keppler
0339-876479	03/10/95	Vicodin ES	100	Keppler
0339-876468	03/10/95	Valium 5mg	100	Peck
0339-873607	02/23/95	Valium 5mg	100	Peck
0339-871391	02/11/95	Vicodin ES	100	Keppler
0339-868736	02/01/95	Vicodin ES	100	Keppler
0339-862160	01/17/95	Vicodin ES	100	Keppler
0339-862160	01/12/95	Vicodin ES	100	Keppler
0339-862160	01/03/95	Vicodin ES	100	Keppler

Such conduct is in violation of Section 2913.42 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (16) of the Findings of Fact constitute being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (16) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4), (7) through (12), and (15) 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 June 12, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Anthony Savoca:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07626, held by Anthony Savoca effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07626, held by Anthony Savoca effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-07626, held by Anthony Savoca 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.

4:50 p.m. The meeting was recessed until Tuesday, April 22, 1997, at 8:00 a.m.

TUESDAY, APRIL 22, 1997

8:00 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room C-12, Ohio Departments Building, 65 South Front Street, Columbus, Ohio:

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

8:09 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of considering the matter of David P. McMillan, R.Ph., Phoenix, Arizona.

8:19 a.m.

The record was closed and the Board recessed for five minutes.

8:22 a.m.

The Board meeting was reconvened and the Board was joined by Assistant Attorney General Mary Hollern for the purpose of considering the matter of Charles R. Mohr; Wadsworth.

8:26 a.m.

The record was closed and Mrs. Plant moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matters of David P. McMillan, R.Ph. and Charles R. Mohr. The motion was seconded by Mr. Lamping and President Neuber conducted a roll call vote as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Plant-Yes, and Repke-Yes.

8:35 a.m.

Board member Amonte Littlejohn arrived and joined the meeting.

8:55 a.m.

RES. 97-150

The Executive Session was concluded and the meeting opened to the public. Mr. Repke moved the Board adopt the following Order. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0/Abstain-1[Littlejohn]).

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-961104-018)

In The Matter Of:

DAVID P. McMILLEN, R.Ph.
1717 E. Union Hills #1078
Phoenix, Arizona 85024
(R.Ph. No. 03-1-08884)

INTRODUCTION

THE MATTER OF DAVID P. McMILLEN CAME ON FOR CONSIDERATION ON APRIL 22, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID P. McMILLEN WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated November 4, 1996.
- (2) Exhibit 1A--Pharmacist File Front Sheet of David Paul McMillen showing original date of registration as August 14, 1967.
- (3) Exhibit 1B--Three Renewal Applications for Pharmacist License, No. 03-1-08884, for a license to practice pharmacy in Ohio of David P. McMillen for the renewal periods as follows: from September 15, 1996, to September 15, 1997, dated August 11, 1996; from September 15, 1995, to September 15, 1996, dated August 10, 1995; and from September 15, 1994, to September 15, 1995, dated August 31, 1994.
- (4) Exhibit 2--Copy of two-page Amended Board Order before the Arizona State Board of Pharmacy, No. 94-06-H, of David P. McMillen dated September 22, 1994; and copy of five-page Findings of Fact, Conclusions of Law and Board Order before the Arizona State

Board of Pharmacy, No. 94-06-H, in the matter of David P. McMillen dated September 22, 1994.

- (5) Exhibit 3--Certification of Authenticity letter from Sharon Campbell Knowles, Florida Board of Pharmacy, dated June 4, 1996, with the following attachments: copy of three-page Final Order of the State of Florida Board of Pharmacy, Case No. 94-18830, in the matter of David McMillen dated February 8, 1996; copy of four-page Administrative Complaint from the State of Florida Agency for Health Care Administration Board of Pharmacy, Case No. 94-18830, in the matter of David P. McMillen dated July 27, 1995; copy of two-page Amended Board Order before the Arizona State Board of Pharmacy, No. 94-06-H, of David P. McMillen dated September 22, 1994; and copy of five-page Findings of Fact, Conclusions of Law and Board Order before the Arizona State Board of Pharmacy, No. 94-06-H, in the matter of David P. McMillen dated September 22, 1994.
- (6) Exhibit 4--Letter from L. A. Lloyd, Arizona State Board of Pharmacy, dated November 12, 1996, with the following attachment: certified copy of five-page Findings of Fact, Conclusions of Law and Board Order before the Arizona State Board of Pharmacy, No. 94-06-H, in the matter of David P. McMillen dated September 22, 1994.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) On November 4, 1996, David P. McMillen 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 November 12, 1996, David P. McMillen received the letter of November 4, 1996, informing him of the allegations against him, and his rights.
- (3) David P. McMillen has not responded in any manner to the letter of November 4, 1996, and has not requested a hearing in this matter.
- (4) Records of the Board of Pharmacy indicate that David P. McMillen was originally licensed in the state of Ohio on August 14, 1967, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (5) David P. McMillen was disciplined by the Arizona State Board of Pharmacy on or about September 22, 1994, and by the State of Florida, Board of Pharmacy on or about February 8, 1996, for having stolen controlled substances from his employing pharmacy without a legitimate medical need, without a valid prescription order, and for personal use.
- (6) David P. McMillen did, from May 2, 1993, through July 9, 1994, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Osco Drug #2310, Phoenix, Arizona, beyond the express or implied consent of the owner. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) and (6) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

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

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-1-08884, held by David P. McMillen indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, David P. McMillen may not be employed by or work in a facility licensed by the Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) After September 22, 1999, the Board will consider any petition filed by David P. McMillen for a hearing, pursuant to Ohio Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if David P. McMillen appears before the Ohio Board and provides evidence of compliance with each of the probation requirements as set forth in the Order - Part III, of the Findings of Fact, Conclusions of Law and Board Order before the Arizona State Board of Pharmacy, No. 94-06-H, dated September 22, 1994.

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.

RES. 97-151 Mrs. Plant moved that the Board adopt the following Order regarding the application of Charles R. Mohr for licensure by examination. The motion was seconded by Mr. Hanna and approved (Aye-5/Nay-0/Abstain-1[Littlejohn]).

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970117-026)

In The Matter Of:

CHARLES R. MOHR
6526 Burdett Road
Wadsworth, Ohio 44281
(D.O.B. 2/2/57)

INTRODUCTION

THE MATTER OF CHARLES R. MOHR CAME ON FOR CONSIDERATION ON APRIL 22, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

CHARLES R. MOHR WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

- (A) Testimony

State's Witnesses:

- (1) Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None
- (B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for a Hearing letter dated January 17, 1997.
- (2) Exhibit 2--Application for Examination as a Pharmacist of Charles R. Mohr signed and notarized on October 4, 1996, with the following attachments: typewritten statement of Charles R. Mohr, not dated; copy of Certificate of Pharmacy Education of Charles R. Mohr; and copy of Administrative Communication from the Ohio State Board of Pharmacy dated January 11, 1984.
- (3) Exhibit 3--Six-page copy of Order of the State Board of Pharmacy, Docket No. D-940201-043, in the matter of Charles R. Mohr dated August 15, 1994.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) On January 17, 1997, Charles R. Mohr 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 January 23, 1997, Charles R. Mohr received the letter of January 17, 1997, informing him of the allegations against him, and his rights.
- (3) Charles R. Mohr has not responded in any manner to the letter of January 17, 1997, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that Charles R. Mohr submitted an Application for Examination as a Pharmacist on or about October 15, 1996.
- (5) Records further indicate that on or about August 15, 1994, the Board found the following to be fact:
 - (a) Records of the Board indicate that Charles R. Mohr was originally registered to practice pharmacy in the state of Ohio on March 1, 1984, pursuant to examination, and his pharmacist identification card was summarily suspended on February 1, 1994.
 - (b) Charles R. Mohr was, on or about November 12, 1993, convicted in the Common Pleas Court of Medina County, Ohio, of felony drug abuse offenses under Sections 2913.02 and 2925.22 of the Ohio Revised Code.
 - (c) Charles R. Mohr did, from January 1, 1993, to April 30, 1993, with the purpose to deprive, knowingly obtain or exert control over the property of another, LoMed, beyond the express or implied consent of LoMed, the property being dangerous drugs, to wit: during this time period Charles R. Mohr stole 1,660 tablets of Xanax 1mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (d) Charles R. Mohr was addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Charles R. Mohr admitted to stealing drugs from his employer(s) for personal use; he admitted to having two previous problems with abuse of Xanax, in 1987, and again in 1989; he has had drug treatment on at least two separate occasions; and, Charles R. Mohr admitted to having a first and a second relapse in his drug usage after drug treatment.

The Board concluded that Charles R. Mohr was guilty of a felony; guilty of dishonesty and unprofessional conduct in the practice of pharmacy; addicted to and abusing 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 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 Charles R. Mohr's license, No. 03-2-15404, 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 (5)(b) of the Findings of Fact constitutes having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5)(b) through (5)(d) of the Findings of Fact constitute having been convicted of violating any state or federal pharmacy or drug law 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 (5)(b) through (5)(d) 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 (5)(d) 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 (5) 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 on the basis of 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 Charles R. Mohr.

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

MOTION CARRIED.

SO ORDERED.

9:15 a.m.

The Board was joined by David Nelson of David Nelson & Associates of Washington, D.C. and Barr Laboratories representatives Chris Mengler, R.Ph., Associate Director, Strategic Planning,

and Kathleen Jaeger, R.Ph., J.D. The purpose of meeting with the Board was to provide the generic pharmaceutical industry's perspective on the safety of narrow therapeutic index drugs.

9:40 a.m.

Following completion of the presentation, the Board recessed for five minutes.

9:46 a.m.

The Board meeting was reconvened and the Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting an adjudication hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Moh'd S. A. Zalmout's application for licensure as a pharmacy intern.

10:21 a.m.

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

10:29 a.m.

RES. 97-152

The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board deny the application of Moh'd S. A. Zalmout for licensure as an Ohio Pharmacy Intern and adopt the following Order. The motion was seconded by Mr. Littlejohn and approved (Aye-6/Nay-0).

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970321-033)

In The Matter Of:

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

INTRODUCTION

THE MATTER OF MOH'D S. ZALMOUT CAME TO HEARING ON APRIL 22, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MOH'D S. ZALMOUT WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) Moh'd S. Zalmout, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 21, 1997.
- (2) Exhibit 1A--Hearing Request letter, not dated.
- (3) Exhibit 1B--Hearing Schedule letter dated April 10, 1997.

- (4) Exhibit 2--Application for Pharmacy Intern Registration of Moh'd S. Zalmout signed and notarized on February 14, 1997; Certificate of Acceptance of Moh'd S. Zalmout dated February 13, 1997; and two-page Official Academic Transcript from the University of Toledo of Moh'd SA Zalmout dated January 10, 1996.
- (5) Exhibit 3--Copy of letter of explanation of Mohd S.A Zalmout, not dated.
- (6) Exhibit 4--Six-page copy of Presentence Investigation of Mohammed Zalmout, Case No. 94 CR 430, dated February 2, 1996.
- (7) Exhibit 5--Copy of Notice of Filing dated March 6, 1996; two-page copy of Government's Motion for Downward Departure, not dated, from the United States District Court, Northern District of Illinois, Eastern Division, No. 94 CR 430, of Mohammed S. Zalmout and Jamal A. Azzabi; copy of U.S. Probation Worksheet A, not dated; and four-page copy of U.S. Probation Worksheet D for Mohammad Zalmout, Docket No. 94 CR 430-2.
- (8) Exhibit 6--Four-page copy of Judgment in a Criminal Case in the United States District Court, Northern District of Illinois, Case No. 94 CR 430-1 of Mohammed S. Zalmout dated April 8, 1996.
- (9) Exhibit 7--Three-page copy of Order of the State Board of Pharmacy, Docket No. D-960816-008, in the matter of Moh'd S. A. Zalmout dated January 31, 1997.

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 Moh'd S. Zalmout applied to the Board for registration as an intern in the state of Ohio on February 18, 1997.
- (2) Records further indicate that on or about January 31, 1997, the Board found the following to be fact:
 - (a) On August 16, 1996, Moh'd S. Zalmout was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
 - (b) As demonstrated by return receipt of August 19, 1996, Moh'd S. Zalmout received the letter of August 16, 1996, informing him of the allegations against him, and his rights.
 - (c) Moh'd S. Zalmout did not respond in any manner to the letter of August 16, 1996, and did not request a hearing in this matter.
 - (d) Records of the Board indicate that Moh'd S. Zalmout applied to the Board for registration as an intern in the state of Ohio on May 13, 1996.
 - (e) Moh'd S. Zalmout did, on or about January 6, 1996, in the United States District Court of Northern Illinois, Case No. 94-CR-430, plead guilty to Conspiracy to Commit Credit Card Fraud, in violation of 18 U.S.C. Section 1029(b)(2).

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(e) 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)(e) of the Findings of Fact constitutes not being of

good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

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

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

MOTION CARRIED.

SO ORDERED.

The Board continued their review and consideration of agenda items. Mr. Hanna reported that the Nursing Board Formulary Committee would be meeting on Monday, May 19, 1997 and shared a memorandum dated April 17, 1997 with the Board members. The memorandum erroneously reported that the Board of Pharmacy had agreed to support legislation granting limited dispensing authority in the pilot APN programs during budget hearings. Board staff testifying at the hearing agreed to present proposed drafts of any such legislation to the Board for their consideration.

RES. 97-153 The Executive Director presented a request from Patrick T. Meyer, a candidate for licensure by reciprocity that he be permitted to appear and sit for the jurisprudence review on Tuesday afternoon at 1:00 p.m. Mr. Meyer's request was due to problems he has experienced in getting his official application processed in a timely manner by the Illinois Department of Registration and Licensing. Mr. Cavendish moved that the request be approved and Mr. Meyer permitted to participate in the reciprocity hearing on Tuesday with the understanding that his identification card will be issued by the office upon receipt and processing of the official NABP application. Mr. Hanna seconded the motion and it was approved (Aye-6/Nay-0).

10:42 a.m.

Mr. Cavendish left for personal business. Mr. Hanna moved that the Board go into Executive Session for the purpose of considering the investigation of registrants or licensees of the Board. The motion was seconded by Mr. Littlejohn and a roll call vote was conducted by President Neuber as follows: Hanna-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

The Board was joined by Assistant Attorney General Mary Hollern, Compliance Administrator Tim Benedict, Assistant Executive Director William Winsley, Legal Affairs Administrator David Rowland, and Compliance Specialists Elaine Jones and William McMillan.

10:46 a.m.

Board member Robert Cavendish returned and joined the meeting.

11: 15 p.m.

RES. 97-154 The Executive Session was concluded and the meeting opened to the public. Mr. Hanna moved that the Board summarily suspend the license of Henry Eyman, R.Ph. (03-2-13233) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-5/Nay-0/Abstain-1[Cavendish]).

RES. 97-155 Mr. Cavendish moved that the Board summarily suspend the license of Elizabeth Murcia, R.Ph. (03-2-12631) for the reason that there is clear and convincing evidence that the continuation of her professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-6/Nay-0).

RES. 97-156 Tim Benedict, Compliance Administrator, reported on the status of the thirty-two registered pharmacists who are currently on probation and presented a request from David Herrmann (03-2-14021) concerning the requirement that he be treated by a licensed psychologist. Following discussion, the Board directed Mr. Benedict to inform Mr. Herrmann that the Board would accept treatment by a licensed professional clinical counselor in lieu of a licensed psychologist.

11:35 a.m.

The Board recessed for lunch.

1:00 p.m.

RES. 97-157 The Board reconvened in Room 1919 of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio for the purpose of meeting with the following reciprocity candidates:

ACKLEY, DOUGLAS J.	03-3-22265	KENTUCKY
ANDERSON, DAVID E.	03-3-22219	GEORGIA
BABB, TERRY L.	03-3-22264	SOUTH CAROLINA
BROOKS, DONNA M.	03-3-22282	INDIANA
BUSH, JANELLE E.	03-3-22269	ILLINOIS
DAVIS, BRENDA D.	03-3-22266	PUERTO RICO
EDIE, CHRISTINE F.	03-3-22193	SOUTH CAROLINA
HARPER, SHERRI L.	03-3-22275	WEST VIRGINIA
HAYS, TODD W.	03-3-22231	PENNSYLVANIA
MEYER, PATRICK T.	03-3-22364	ILLINOIS
MIELE, ANDREA N.	03-3-22291	PENNSYLVANIA
MUELLER, ROBERT M.	03-3-22241	KENTUCKY
PAETZOLD, MICHELE L.	03-3-22244	WEST VIRGINIA
PAI, VINITA B.	03-3-22225	IOWA
POLDING, TARA L.	03-3-22240	NEW YORK
RAYMER, NICOLE D.	03-3-22290	KENTUCKY
SANDERS, MELANIE B.	03-3-22226	PENNSYLVANIA
TEWES, CAROLYN M.	03-3-22230	KENTUCKY
THAI, THANH-TAN T.	03-3-22217	PENNSYLVANIA
THOMAS, LARRY L.	03-3-22271	TEXAS
WILLIAMS, JEAN H.	03-3-22227	NORTH CAROLINA
WITT, JULIE J.	03-3-22272	ARIZONA

1:30 p.m.

Mr. Cavendish moved that the candidates be approved and their licenses (identification cards) to practice pharmacy in Ohio be issued with the exception of Patrick T. Meyer. Mr. Meyer's identification card will be mailed by the office upon receipt and processing of the original completed application from the state of Illinois. The motion was seconded by Mr. Lamping and approved (Aye-6/Nay-0).

1:42 p.m.

The Board reconvened the business meeting in Room C-12, Ohio Departments Building, 65 South Front Street, Columbus, Ohio.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of conducting a Chapter 119. Public Rules Hearing.

1:53 p.m.

RES. 97-158 All procedural documents and written comments having been entered into the record and an opportunity to testify having been offered to all persons attending the public hearing, the record was closed and the Chapter 119. Public Rules Hearing was concluded. Following the closing of the record, John Long, R.Ph. with Merck-Medco, asked the Board to keep the record open so that he could submit written comments. President Neuber announced that even though the hearing had been concluded and the official record closed, she would reopen the record to receive any additional written comments that Mr. Long may wish to submit until 4:00 p.m., Wednesday, April 23, 1997.

Mrs. Neuber and Mr. Repke excused themselves from the remainder of the meeting in order to attend to personal business. Mr. Littlejohn, Vice-President of the Board, assumed the chair and

the Board continued their review of administrative matters and reports not requiring official Board action.

3:34 p.m.

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

4:36 p.m.

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

4:55 p.m.

RES. 97-159

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

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-961217-021)

In The Matter Of:

STEPHEN ROBERT CHIKOSKY, R.Ph.
235 Waggaman Circle
Boardman, Ohio 44512
(R.Ph. No. 03-2-15373)

INTRODUCTION

THE MATTER OF STEPHEN ROBERT CHIKOSKY CAME TO HEARING ON APRIL 22, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AND RUTH A. PLANT, R.Ph.

STEPHEN ROBERT CHIKOSKY 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) George Pavlich, Ohio State Board of Pharmacy
- (2) Stephen Robert Chikosky, Respondent

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated December 17, 1996.
- (2) Exhibit 1A--Hearing Request letter dated January 7, 1977, (sic).
- (3) Exhibit 1B--Hearing Schedule letter dated January 15, 1997.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Stephen Robert Chikosky showing original date of registration as March 27, 1984, and Renewal Application for Pharmacist License, No. 03-2-15373, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Stephen Robert Chikosky dated July 21, 1996.
- (5) Exhibit 2--Sealed Record-Copy of prescription number 4414810 dated May 13, 1996.

- (6) Exhibit 3--Sealed Record-Copy of tax receipt, duplicate receipt, and prescription label for prescription number 4414810 dated May 22, 1996.
- (7) Exhibit 4--Copy of register tape for sales made between May 30, 1996, at 11:51 a.m. through May 30, 1996, at 12:48 p.m.
- (8) Exhibit 4A--Sealed Record-Copy of K-Mart Pharmacy #4233 Medical Expenses for Patient Michael Delsignore dated from January 1, 1996, to November 4, 1996, report dated November 4, 1996.
- (9) Exhibit 5--Sealed Record-Four-page copy of K-Mart Pharmacy Third Party Prescription Signature Log dated from May 22, 1996, to May 30, 1996.
- (10) Exhibit 6--Copy of four-page handwritten statement of Stephen R. Chikosky signed and notarized on September 12, 1996.
- (11) Exhibit 7--Copy of Accountability Statement of K-Mart Pharmacy #4233 for Vicodin ES dated November 4, 1996.
- (12) Exhibit 8--Two-page copy of Report of Theft or Loss of Controlled Substances of K-Mart Pharmacy, Terminal Distributor No. 02-157250, dated October 7, 1996.
- (13) Exhibit 9--Sealed Record-Copy of prescriptions numbered 4415649 and 4415650.
- (14) Exhibit 10--Sealed Record-Two-page copy of K-Mart Pharmacy Third Party Prescription Signature Log dated from August 28, 1996, to September 4, 1996.
- (15) Exhibit 11--Sealed Record-Two-page copy of K-Mart Pharmacy #4233 Medical Expenses for Patient Nancy Delsignore dated from January 1, 1996, to November 4, 1996, dated November 4, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of three-page Problem Report regarding calls from Mr. Wm. Delsignore dated October 3, 1996.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Stephen Robert Chikosky was originally licensed in the state of Ohio on March 27, 1984, pursuant to reciprocity, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Stephen Robert Chikosky did, on or about May 30, 1996, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Revised Code, to wit: Stephen Robert Chikosky sold 120 units of Vicodin ES pursuant to false or forged prescription number 4414810, using a duplicate label from a previous dispensing of that prescription, without recording the sale in the pharmacy's dispensing record and without having a new prescription from a practitioner. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (3) Stephen Robert Chikosky did, on or about September 4, 1996, knowingly sell a controlled substance in an amount exceeding the bulk amount but less than five times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Stephen Robert Chikosky sold 90 units of Vicodin ES pursuant to false or forged prescription number 4415650, using a duplicate label from a previous dispensing of that prescription, without recording the sale in the pharmacy's dispensing record and without having a new prescription from a practitioner. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (4) Stephen Robert Chikosky did, on or about May 30, 1996, intentionally create and/or knowingly possess a false or forged prescription, to wit: Stephen Robert Chikosky created and possessed on file prescription number 4414810, using a duplicate label from a previous dispensing of that prescription, without recording the sale in the pharmacy's dispensing record and without having a new prescription from a practi-

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

- (5) Stephen Robert Chikosky did, on or about September 4, 1996, intentionally create and/or knowingly possess a false or forged prescription, to wit: Stephen Robert Chikosky created and possessed on file prescription number 4415650, using a duplicate label from a previous dispensing of that prescription, without recording the sale in the pharmacy's dispensing record and without having a new prescription from a practitioner. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Stephen Robert Chikosky:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-2-15373, held by Stephen Robert Chikosky on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Stephen Robert Chikosky's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Stephen Robert Chikosky may not serve as a responsible pharmacist.
 - (3) Stephen Robert Chikosky must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Stephen Robert Chikosky must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Stephen Robert Chikosky must comply with the terms of this Order.

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

- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) 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. Plant and approved by the Board (Aye-5/Nay-0).

5:00 p.m. The Board recessed until Wednesday, April 23, 1997, at 9:00 a.m.

WEDNESDAY, APRIL 23, 1997

9:06 a.m. ROLL CALL

The following members of the State Board of Pharmacy reconvened in Room C-12, Ohio Departments Building, 65 South Front Street, Columbus, Ohio:

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

Nancy Little, Licensing Administrator, joined the Board to answer questions regarding the monthly report. Tim Benedict, Compliance Administrator, was also present and the Board discussed procedures regarding lapsed licenses. One of the procedures discussed was the mailing of letters to the employer on record regarding a lapsed pharmacist license.

9:25 a.m.

Board member Amonte Littlejohn arrived and joined the meeting.

The Board then discussed with staff the lack of patient counseling by pharmacists. Following discussion, the Board directed that a meeting with the Directors of Pharmacy Operations for the chains be held to discuss this issue with the full Board at the July 1997 meeting.

RES. 97-160 Assistant Executive Director William Winsley joined the Board to discuss the results of the pharmacist licensure examination administered in March and April. The first computerized NAPLEX exam was administered during the week of March 24-29, 1997 and the Jurisprudence exam was administered April 3, 1997. Mr. Lamping moved that the names of the successful candidates be entered into the Minutes of the Board. The motion was seconded by Mrs. Adelman and approved (Aye-7/Nay-0).

Thaddeus J. Borkowski; Parma, OH	03-3-22212
Julie M. Collins; Belle Center, OH	03-3-22203
Tracy Kay Grothouse; Johnstown, OH	03-3-22211
Rebecca Ann Havlik; North Olmstead, OH	03-3-22194
Kelly S. Moffett; Columbiana, OH	03-3-22197
Brenda Kay Mullens; Gallipolis, OH	03-3-22209
Lilian Man-Lee Ng; Columbus, OH	03-3-22162
Cheryl Anne Phillips; Fort Wayne, IN	03-3-22205
Lisa Katherine Ramirez; Port Clinton, OH	03-3-21554
Rhonda Kay Smith; Fort Jennings, OH	03-3-22186
Revathi Subramony; Shaker Heights, OH	03-3-22192
Todd Allen Tackage; Columbus, OH	03-3-22204
Cameron Mitchell Van Dyke; Marietta, OH	03-3-22169

9:55 a.m.

Public Board member Nicholas Repke arrived and joined the meeting. The Board continued their consideration of agenda items not requiring formal action.

10:25 a.m.

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

12:20 p.m.

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

12:44 p.m.

RES. 97-161

The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board adopt the following Order. The motion was seconded by Mr. Cavendish and approved by the Board (Aye-8/Nay-0).

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-970103-023)

In The Matter Of:

PHILLIP WILLIAM BROERMAN, R.Ph.
3947 Durango Green
Cleves, Ohio 45002
(R.Ph. No. 03-2-18165)

INTRODUCTION

THE MATTER OF PHILLIP WILLIAM BROERMAN CAME TO HEARING ON APRIL 23, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

PHILLIP WILLIAM BROERMAN WAS REPRESENTED BY MARK D. SENFF, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Officer Rick Haun, Cincinnati Police Department
- (2) Michael J. Rothan, D.D.S., Cincinnati, Ohio
- (3) Officer Robert Kercheval, Harrison Police Department
- (4) Michael Cluxton, Ohio State Board of Pharmacy
- (5) Phillip William Broerman, R.Ph., Respondent

Respondent's Witnesses:

- (1) Susan Heilmayer, Sister of Respondent
- (2) Paulette Broerman, Mother of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated January 3, 1997.

- (2) Exhibit 1A--Hearing Request letter dated January 7, 1997, with attached pharmacist pocket identification card, No. 03-2-18165, of Phillip William Broerman showing expiration date as September 15, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated January 15, 1997.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Phillip W. Broerman showing original date of registration as February 23, 1990; and Renewal Application for Pharmacist License, No. 03-2-18165, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Phillip William Broerman dated July 9, 1996.
- (5) Exhibit 2--Two-page handwritten statement of Phillip W. Broerman signed and notarized on October 23, 1996.
- (6) Exhibit 3--Three-page Journal Entry in the Hamilton County Municipal Court, Case No. C/96/TRC/047265/A, in the matter of Phillip W. Broerman dated from October 6, 1996, through December 18, 1996.
- (7) Exhibit 4--Certified copy of Judgment Entry: Sentence in the Hamilton County Common Pleas Court, Case No. B 968046, of Phillip Broerman dated November 26, 1996.
- (8) Exhibit 5--Sealed Record-Copy of computer screen showing Team Rx (Prescription Entry - P Broerman) patient profile dated from August 25, 1996, through October 5, 1996; copy of prescription labels numbered 1072742-276 and 1072743-276; and copy of two Walgreens telephone prescriptions for Phil Broerman for the following: Valium 5 and Soma 350, prescriptions not dated.
- (9) Exhibit 6--Brown amber vial with Walgreens cap, unlabeled, containing the following: twenty-five round, white tablets with imprint of DAN/5513; seven oval, white tablets with imprint of G-6001; and one round, yellow tablet with imprint of LL64/57344.
- (10) Exhibit 7--Copy of two-page Official Crime Laboratory Report from the offices of Carl L. Parrott, Jr., M.D., C.L. File #5921-96-T, Subject: Phillip W. Broerman signed by Jerome Freitag, Toxicologist, dated October 17, 1996.
- (11) Exhibit 8--Handwritten statement of Michael J. Rothan, D.D.S. signed and notarized on November 5, 1996.
- (12) Exhibit 9--Letter from Michael J. Rothan, D.D.S. dated November 4, 1996.
- (13) Exhibit 10--Micromedex, Inc., ©1974-1997, Volume 92, Expiration Date: 05/31/97, Identidex® System: 5513, DAN (Imprint Code): Carisoprodol Tablet 350mg from Schein Pharmaceutical.
- (14) Exhibit 11--Micromedex, Inc., ©1974-1997, Volume 92, Expiration Date: 05/31/97, Identidex® System: 5513, DAN (Imprint Code): Carisoprodol Tablet 350mg from Danbury Pharmacal.
- (15) Exhibit 12--Micromedex, Inc., ©1974-1997, Volume 92, Expiration Date: 05/31/97, Identidex® System: LL64 57344 (Imprint Code): Stay Awake Tablet 200mg from AAA Pharmaceutical.
- (16) Exhibit 13--Micromedex, Inc., ©1974-1997, Volume 92, Expiration Date: 05/31/97, Identidex® System: 600 (Imprint Code): Ibuprofen Tablet 600mg from Winsor Pharmaceuticals.

Respondent's Exhibits:

- (1) Exhibit A--Two-page letter from Tom H. Pepper, M.D. dated April 17, 1997.
- (2) Exhibit B--Copy of three-page report of Initial Examination of Phil Broerman by James S. Howell, D.C. dated October 9, 1996.
- (3) Exhibit C--Letter from Karen Broerman dated April 18, 1997.
- (4) Exhibit D--Letter from Andrew R. Palmer dated April 13, 1997.
- (5) Exhibit E--Letter from Donald Ernst dated April 19, 1997.
- (6) Exhibit F--Letter from Lois Holmes dated April 2, 1997.
- (7) Exhibit G--Letter from Lisa Breen dated April 10, 1997.
- (8) Exhibit H--Letter from Susan M. Heilmayer dated April 13, 1997.
- (9) Exhibit I--Letter from Thomas E. Bechmann dated February 17, 1997.
- (10) Exhibit J--Copy of Twin Dental Account Transactions of Phillip Broerman, report dated January 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 Phillip William Broerman was originally licensed to practice pharmacy in Ohio on February 23, 1990, and on January 3, 1997, his license was summarily suspended in accordance with Section 3719.121(C) of the Ohio Revised Code.
- (2) Phillip William Broerman was convicted, on or about November 26, 1996, in the Common Pleas Court of Hamilton County, Ohio, of Theft of Drugs in violation of Section 2913.02 of the Ohio Revised Code, a felony of the fourth degree.
- (3) Phillip William Broerman did, on or about October 6, 1996, knowingly obtain, possess, 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: Phillip William Broerman possessed and/or used one unit of Diazepam 5mg without having a prescription for the medication and without a legitimate medical purpose. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Phillip William Broerman did, on or about October 6, 1996, possess dangerous drugs when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: Phillip William Broerman possessed and/or used Carisoprodol 350mg tablets without having a prescription for the medication and without a legitimate medical purpose. Such conduct is in violation of Section 4729.51(C)(3) of the Ohio Revised Code.
- (5) Phillip William Broerman did, October 6, 1996, operate a motor vehicle in this state while under the influence of alcohol and/or drugs of abuse, to wit: Phillip William Broerman was arrested for OMVI and subsequently convicted. Such conduct is a first degree misdemeanor in violation of Section 4511.19 of the Ohio Revised Code.
- (6) Phillip William Broerman did, on or about October 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, beyond the express or implied consent of the owner, to wit: Phillip William Broerman stole 30 units of Carisoprodol 350mg and one unit of Diazepam 5mg from his employing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Phillip William Broerman did, on or about August 25, 1996, intentionally make and/or knowingly possess a false or forged prescription, to wit: Phillip William Broerman forged prescription number 1058849 for 30 units of Propoxyphene 65mg, a schedule IV controlled substance, to cover for his theft of the drugs. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Phillip William Broerman did, on or about October 5, 1996, knowingly make a false statement in a prescription, report, or record required by Chapter 4729. of the Revised Code, to wit: Phillip William Broerman forged prescription number 1072742 for 30 units of Carisoprodol 350mg, a dangerous drug, to cover for his theft of the drugs. Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.
- (9) Phillip William Broerman did, on or about October 5, 1996, intentionally make and/or knowingly possess a false or forged prescription, to wit: Phillip William Broerman forged prescription number 1072743 for 3 units of Diazepam 5mg, a schedule IV controlled substance, to cover for his theft of the drugs. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (10) Phillip William Broerman did, on or about October 6, 1996, misbrand a drug, to wit: Phillip William Broerman placed 25 units of Carisoprodol into an unlabeled vial and removed the vial from the pharmacy in which he worked. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of 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 (3), (4), and (6) through (10) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being impaired 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3), (4), and (7) through (10) 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 Sections 3715.52 to 3715.72 or 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 January 3, 1997.

Pursuant to Section 4729.16 of the Ohio Revised Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-2-18165, held by Phillip William Broerman on probation for two years, effective as of the date of the release of his license. The terms of probation are as follows:

- (A) Phillip William Broerman must enter into a contract to obtain random urine drug screens with an ODADAS approved laboratory or an approved treatment provider acceptable to the Board for a period of not less than two years. Upon receipt of a copy of the signed contract, the Board will release the license of Phillip William Broerman. The contract must provide that:
 - (1) Random, observed urine screens shall be conducted at least once every three months. The urine drug screens must report testing for creatinine as the dilutional standard or specific gravity;
 - (2) The laboratory/treatment provider shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (3) The laboratory/treatment provider shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Other terms of probation are as follows:
 - (1) Phillip William Broerman must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (2) Phillip William Broerman must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (3) Phillip William Broerman must abide by the rules of the Ohio State Board of Pharmacy.

(4) Phillip William Broerman must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

RES. 97-162 The Board then proceeded to elect officers for FY 98 pursuant to Internal Management Rule 4729-2-01. Amonte Littlejohn was elected President and Joseph Maslak was elected Vice-President of the Board.

RES. 97-163 The Board was joined by Robert L. Cole, Compliance Supervisor for the Board. Mr. Cole presented information discovered by Compliance Agent David Gallagher regarding electronic alarm systems that are being used to secure pharmacies. Agent Gallagher reported that it appears that a new industry standard for such systems provides for a "Bypassing Protection Zones" feature. Following discussion, the Board directed staff that such systems cannot be approved to secure pharmacies and dangerous drugs unless such feature is disabled by the alarm company when the system is installed. Further such feature may not be enabled at any time by anyone following approval of the security system by a Board agent.

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

PER DIEM	<u>03/25</u>	<u>04/21</u>	<u>04/22</u>	<u>04/23</u>	<u>Total</u>
Adelman	-	-	-	1	1
Cavendish	-	1	1	1	3
Hanna	-	1	1	1	3
Lamping	-	1	1	1	3
Littlejohn	-	1	1	1	3
Maslak	-	-	-	1	1
Neuber	-	1	1	1	3
Plant	-	1	1	1	3
Repke	1	1	1	1	4

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

1:15 p.m. Mr. Maslak moved that the meeting be adjourned. Mrs. Adelman seconded the motion and it was approved (Aye-8/Nay-0).

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

/d/ 6/18/97
Date

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