

Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
September 8, 9, 10, 1997

MONDAY, SEPTEMBER 8, 1997

8:12 a.m. ROLL CALL

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

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

Mr. Maslak, Vice-President, presided in the absence of the Board President. The Board was joined by Tim Benedict, Compliance Administrator; David Rowland, Legal Affairs Administrator; and Robert Cole, Compliance Supervisor. 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 Mrs. Plant and a roll call vote was conducted by Vice-President Maslak as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

8:45 a.m.

The Board was joined by Assistant Executive Director William T. Winsley.

8:50 a.m.

Board President Amonte Littlejohn arrived and joined the meeting.

9:17 a.m.

RES. 98-028 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the continuance requested in the matter of Elizabeth Murcia be denied by the Board. The motion was seconded by Mr. Cavendish and approved (Aye-8/Nay-0).

RES. 98-029 Mrs. Plant moved that the Board propose to deny the application of Westchester Pharmacy for licensure as a terminal distributor of dangerous drugs due to the fact that the person signing as the responsible pharmacist, Robert Urfer, has not complied with the Board's Order issued on March 13, 1997. The motion was seconded by Mr. Lamping and approved by the Board (Aye-8/Nay-0). Mrs. Plant then moved that a Notice of Opportunity for a Hearing be issued to Mr. Urfer on the grounds that he has not complied with the Board's Order issued March 13, 1997. Mr. Lamping seconded the motion and it was approved (Aye-8/Nay-0).

RES. 98-030 Mr. Lamping moved that the Board summarily suspend the license of R.Ph. Mary Elizabeth Starr (03-2-19409) 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. Cavendish and approved by the Board (Aye-7/Nay-0/Abstain-1[Maslak]).

RES. 98-031 The Executive Director reported that the following settlement agreement was entered into by the Board with Henry B. Eyman, R.Ph., Springfield, Ohio following the signatures of the Board President and Assistant Attorney General:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-970423-037)

In the Matter of:

HENRY B. EYMAN, R.Ph.
1801 N. Fountain Blvd.
Springfield, Ohio 45504-1406
(R.Ph. No. 03-2-13233)

This Settlement Agreement is entered into by and between Henry B. Eyman, R.Ph. 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.

Henry B. Eyman 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.

Henry B. Eyman is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against him, and in order to obviate the need to conduct an administrative hearing to consider the disciplinary sanctions against his license to practice pharmacy in the state of Ohio, Henry B. Eyman enters into this Agreement 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 April 23, 1997, pursuant to Chapter 119. of the Ohio Revised Code, Henry B. Eyman 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, in accordance with Chapter 119. of the Ohio Revised Code, a hearing was requested and scheduled for September 8, 1997.
- (C) Henry B. Eyman stipulates to the allegations stated in the Summary Suspension Order/Notice of Opportunity for Hearing letter dated April 23, 1997, and the Board herein adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that Henry B. Eyman is a pharmacist registered by this Board to practice pharmacy in the state of Ohio. On April 23, 1997, Henry B. Eyman's license was suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
 - (2) Henry B. Eyman did, for the two years immediately preceding April 14, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of the Brown Drug Company, beyond the express or implied consent of the owner, to wit: Henry B. Eyman was observed stealing and abusing controlled substances while engaged in the practice of pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
 - (3) Henry B. Eyman did, knowingly use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Henry B. Eyman was observed, and Henry B. Eyman admitted, abusing the controlled substances Vicodin, Lorcet Plus, Percocet, Percodan, and Ritalin without a prescription for the drugs. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (4) Henry B. Eyman is addicted to or abusing controlled substances to such a degree as to render him unfit to practice pharmacy within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code, to wit: Henry B. Eyman admitted that while practicing pharmacy over a period of approximately two years he stole and abused controlled substances for pain and also to combat fatigue of working long hours in a pharmacy.

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

- (A) The removal of the Summary Suspension Order issued April 23, 1997, pursuant to Section 3719.121(B) of the Ohio Revised Code.

- (B) The indefinite suspension of his pharmacist identification card, No. 03-2-13233.

- (1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Henry B. Eyman may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (2) 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.

- (C) On October 23, 1998, or thereafter, the Board will consider any petition filed by Henry B. Eyman for a hearing, pursuant to Revised Code Chapter 119. of the Ohio Revised Code, upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:

- (1) Henry B. Eyman must enter into a contract with a limited treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Agreement and, upon signing, submit a copy of the contract to the Board office. The contract must provide:

- (a) random, **observed** urine drug screens shall be conducted at least every three months. The urine drug screens must report testing for alcohol; and must also report testing for creatinine or specific gravity of the sample as the dilutional standard;

- (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare; and

- (c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.

- (2) Henry B. Eyman upon petitioning the Board for reinstatement must provide evidence of documented sobriety from the effective date of this agreement. The documentation must include:

- (a) the results of an examination of his chemical dependency status including an addictionology consultation and proposed treatment plan;
- (b) any testimonials from others;
- (c) all contract(s) with treatment providers and written documentation from the treatment provider(s) regarding compliance with the program(s);
- (d) copies of all urine screen reports; and
- (e) evidence of continuing pharmacy education if required to report during the period of suspension.

If, in the judgment of the Board, Henry B. Eyman appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to 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.

Henry B. Eyman 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.

Henry B. Eyman waives any and all claims or causes of action he may have against the State of Ohio or the Board, and its 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 approve this Agreement, 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. Henry B. Eyman 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 Board President's signature below.

<u>/s/ Henry B. Eyman</u>	<u>/d/ 9/5/97</u>
Henry B. Eyman, Respondent	Date of Signature
<u>/s/ Douglas E. Graff</u>	<u>/d/ 9/8/97</u>
Douglas E. Graff, Attorney for Respondent	Date of Signature
<u>/s/ Amonte B. Littlejohn</u>	<u>/d/ 9/8/97</u>
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy	Date of Signature
<u>/s/ Mary L. Hollern</u>	<u>/d/ 9/8/97</u>
Mary L. Hollern, Ohio Assistant Attorney General	Date of Signature

RES. 98-032 The Board then discussed a request that all "Sunshine Notices" be faxed rather than mailed. The Board directed staff to inform persons on the "Sunshine" mailing list that they may choose to have such notices faxed or mailed. It was the consensus of the Board however that the Sunshine Notice fee does not include both means of delivery – only one of the two.

- RES. 98-033** The Board then discussed the National Association of Boards of Pharmacy's Executive Officers Conference which will be held November 16-19, 1997. Following a review of the program, Mr. Cavendish moved that the Board authorize the President and Executive Director to attend the program and that they be reimbursed for all expenses pursuant to Ohio laws and rules adopted by the Ohio Department of Administrative Services. The motion was seconded by Mrs. Adelman and approved (Aye-8/Nay-0).
- RES. 98-034** The Board then discussed the November 1997 meeting date. Mrs. Plant moved that the November 1997 meeting be cancelled. The motion was seconded by Mrs. Neuber and approved (Aye-7/Nay-1).
- RES. 98-035** The Board then discussed the National Association of Boards of Pharmacy's District IV AACP/NABP meeting which will be held November 7-9, 1997 in Dearborn, Michigan. Following discussion, Mr. Cavendish moved that the Board authorize the President and Executive Director to attend the program and that they be reimbursed for all expenses pursuant to Ohio laws and rules adopted by the Ohio Department of Administrative Services. The motion was seconded by Mr. Lamping and approved (Aye-8/Nay-0). Other Board members planning to attend this meeting at their own expense are Mrs. Adelman, Mrs. Neuber, and Mrs. Plant.
- RES. 98-036** The Assistant Executive Director, William T. Winsley, reported on the results of the NAPLEX examinations taken by candidates during the July-August 1997 window. Mr. Cavendish moved that the names of the successful candidates be listed in the Minutes of this meeting of the Board. The motion was seconded by Mrs. Adelman and approved (Aye-8/Nay-0).

Seth Lee Adams; London, OH	03-1-22432
James W. Allen II; Hamilton, OH	03-1-22467
Amy Kristine Baker; Columbus, OH	03-1-22488
Beth R. Banky; Genoa, OH	03-1-22569
Christina Marie Barnes; Westerville, OH	03-1-22591
Andrea Marie Battaglia; Struthers, OH	03-1-22484
Lance Otis Bell; Logan, OH	03-1-22214
Dana E. Bessette; Columbus, OH	03-1-22383
Karen Lea Bias; Hickory, NC	03-1-22580
Maxwell L. Bible; Toledo, OH	03-1-22543
Stacy Anne Bill; North Royalton, OH	03-1-22307
Anna Marie Blair; Knoxville, TN	03-1-22293
Gregory Martin Boccieri; Youngstown, OH	03-1-22399
Karen L. Bolander; Ottawa Lake, MI	03-1-22446
Phillip Shane Bostick; Cincinnati, OH	03-1-22574
Shannon Mary Boughen; Dayton, OH	03-1-22333
Craig L. Bowers; Nevada, OH	03-1-22380
Lee Jarrod Bragg; Huntington, WV	03-1-22294
Dan Robert Brame; Cincinnati, OH	03-1-22465
Gregory Braylock Sr.; S. Euclid, OH	03-1-22430
Ted William Brenneman; Toledo, OH	03-1-22433
Teresa Marie Brewer; Toledo, OH	03-1-22538
Eric David Brooker; Waterford, OH	03-1-22607
Kevin Robert Brooks; Cincinnati, OH	03-1-22553
Hien The Bui; Fairfield, OH	03-1-22542
Jennifer Kay Burner; Woodville, OH	03-1-22330
Tamara Carol Bussell; Hamilton, OH	03-1-22525
Mendy Danette Byers; Toronto, OH	03-1-22238
Sandra Darlene Byrd; Cincinnati, OH	03-1-22582
Marianne Theresa Byrnes; Springboro, OH	03-1-22519

Diane Michelle Cabala; Columbus, OH	03-1-22342
Ticey Michelle Cafaro; Ashtabula, OH	03-1-22335
Beth Anne Carberry; Cincinnati, OH	03-1-22382
Holly Elizabeth Carle; Cincinnati, OH	03-1-22300
Angela Dawn Carpenter; Ada, OH	03-1-22381
Mark Christopher Carrington; McDermott, OH	03-1-22586
Edward Lee Christofano; Greensburg, PA	03-1-22394
Amy Jo Clark; Doylestown, OH	03-1-22441
Angela R. Claus; Genoa, OH	03-1-22411
Elizabeth Anne Clinesmith; Westerville, OH	03-1-22353
Melissa Ann Cobb; Peebles, OH	03-1-22545
David Paul Collins Jr.; Cleveland, OH	03-1-22530
Stephen G. Conley; Crawfordsville, IN	03-1-22448
Larae Meschelle Copley; Columbus, OH	03-1-22532
Latanya L. Coppler; Carey, OH	03-1-22375
Elizabeth S. Cousins; Bloomington, IN	03-1-22557
Kerri L. Cramer; Toledo, OH	03-1-22453
Michael Wayne Cunningham; Cincinnati, OH	03-1-22514
Molly Beth Cunningham; Cincinnati, OH	03-1-22515
Amy D. Cutter; Loveland, OH	03-1-22458
Joan Christine Czerwinski; Sylvania, OH	03-1-22494
Jennifer Lynn Dahms; Alvada, OH	03-1-22395
Stephanie Anne David; Warren, OH	03-1-22461
Edward Anthony Decaria; Weirton, WV	03-1-22280
Nimesh Desai; Brantford, Ontario, Canada,	03-1-22337
Alexander Mark Di Tullio; Cincinnati, OH	03-1-22464
Kimberly Dawn Dietrich; Chardon, OH	03-1-22368
Kristine Karen Dietz; Cincinnati, OH	03-1-22410
Brian Thomas Dixon; Pataskala, OH	03-1-22278
Robert T. Dorado; Columbus, OH	03-1-22444
Molly Abigail Dukeman; Findlay, OH	03-1-22237
Marianne Rosemarie Dumas; Indian Springs, OH	03-1-22562
Jeffery D. Duncan; Huntington, WV	03-1-22311
Melissa S. Dunham; Enon, OH	03-1-22202
Renee Ann Earl; Columbus, OH	03-1-22267
Michelle Renee Enoch; Bellefontaine, OH	03-1-22405
Shannon Lynn Everman; Cleveland, OH	03-1-22277
Laura Ann Fadden; Centerville, OH	03-1-22503
Adel Ali Fares; Toledo, OH	03-1-22450
Hadi Ali Fares; Toledo, OH	03-1-22449
Christopher T. Farroni; Columbus, OH	03-1-22321
Jyl Elizabeth Fausey; Green Springs, OH	03-1-22429
Lara Feghali; Powell, OH	03-1-22588
David G. Fetty; Cortland, OH	03-1-22420
Michelle A. Fiorito; Cincinnati, OH	03-1-22481
Elizabeth Anne Franko; Parma Heights, OH	03-1-22355
Jennifer J. Frisinger; West Carrollton, OH	03-1-22252
Mary Furrow; Vandalia, OH	03-1-22233
David Charles Gale; Wadsworth, OH	03-1-22236
Sarah Joy Gamez; North Royalton, OH	03-1-22305
Laura C. Garrett; Toledo, OH	03-1-22463
Bridget Marie Garrity; Bay Village, OH	03-1-22407
Darin Garrity; Olmsted Falls, OH	03-1-22319
Michelle Garrity; Olmsted Falls, OH	03-1-22318
Angela Renee Gilb; Loveland, OH	03-1-22509
Andrew Duane Goddard; Ada, OH	03-1-22391
Kelly Ann Goller; Cincinnati, OH	03-1-22560
Dana M. Gros; Fairborn, OH	03-1-22590
Gary L. Groubert; Coral Springs, FL	03-1-22160
Ann Marie Guenther; Cincinnati, OH	03-1-22555

Elizabeth Lee Hall; Mason, OH	03-1-22478
Ronda L. Healy; Lima, OH	03-1-22274
Heather C. Heimbrod; Dublin, OH	03-1-22292
Dana Lynn Hendershot; Powhatan Pt., OH	03-1-22213
Emily S. Hermiller; Ottawa, OH	03-1-22426
Barbara Jean Herring; Reynoldsburg, OH	03-1-22317
Jeannie Marie Hiser; Middletown, OH	03-1-22511
April Rene Hoak; Mason, OH	03-1-22601
Laurie Lynn Hohn; Columbus, OH	03-1-22315
Mark A. Hoskins; Sagamore Hills, OH	03-1-22350
Martin Patrick Hostinsky; Niles, OH	03-1-22135
Kelly Ann Howell; Perrysburg, OH	03-1-22535
Laura Michelle Hughes; Amelia, OH	03-1-22524
Angela Sue Hutton; Greenville, OH	03-1-22352
Nathan Allen Hux; Reynoldsburg, OH	03-1-22564
Danielle Renee Imo; Ypsilanti, MI	03-1-22270
Melissa Kaye Isaacs; Cleves, OH	03-1-22523
Jeffrey A. Iserman; Perrysburg, OH	03-1-22210
Lisa Marie Ison; Villa Hills, KY	03-1-22440
Marc Quinn Ivory; Boardman, OH	03-1-22403
Marie T. Jacinto; Cincinnati, OH	03-1-22517
Kevin Dwain Jacobs; Wapakoneta, OH	03-1-22565
Alan K. Jarvis; Belpre, OH	03-1-22345
Karen Elizabeth Jeffrey; Cincinnati, OH	03-1-22516
Tara Marschellia Jenkins; Columbus, OH	03-1-22358
Matthew Allen Jensen; Cincinnati, OH	03-1-22566
Kimberly Renae Johnson; Jackson, OH	03-1-22483
Cassandra Lynn Johnston; West Carrollton, OH	03-1-22360
Kenneth E. Kalosky; Campbell, OH	03-1-22250
Todd A. Key; Galloway, OH	03-1-22492
Tae Hee Kim; Columbus, OH	03-1-22610
Kristen Lynn Klosterman; Fairfield, OH	03-1-22505
Tressa A. Kneer; Beavercreek, OH	03-1-22496
Libby C. Koch; Temperance, MI	03-1-22550
Jennifer Lynn Kolenc; Wheeling, WV	03-1-22322
Jennifer L. Kovacs; Cincinnati, OH	03-1-22248
Michelle Yvonne Krietemeyer; Plymouth, OH	03-1-22596
Jodi Marie Krupp; Fostoria, OH	03-1-22604
Nicole L. Kunesh; Westlake, OH	03-1-22262
Sunila Anand Lal; Seven Hills, OH	03-1-22579
Michelle Marie Lamanna; Shaker Heights, OH	03-1-22259
Joan W. Lee; Columbus, OH	03-1-22615
Robert S. Lee; Brecksville, OH	03-1-22506
Allen Louis Lefkovitz; Englewood, OH	03-1-22421
Philip Michael Lefoer; Boardman, OH	03-1-22132
Shelly L. Leopold; Ottawa, OH	03-1-22276
Vicky K. Leopold; Ottawa, OH	03-1-22287
Shelia Eunice Lewis; Cleveland, OH	03-1-22374
Rachel Lynn Ley; Dublin, OH	03-1-22472
Kerrie Lynn Lievens; Petersburg, MI	03-1-22243
Sarah Marie Life; Columbus, OH	03-1-22572
Anne M. Lindemer; West Liberty, OH	03-1-22302
Aaron Craig Link; Wapakoneta, OH	03-1-22513
Michelle Renee Long; Cincinnati, OH	03-1-22392
Sarah L. Longstreet; Bowling Green, OH	03-1-22303
Jennifer Lynn Lovejoy; Swanton, OH	03-1-22568
Curtis Victor Lucas; Cincinnati, OH	03-1-22593
Anthony Raymond Lucchi; Toledo, OH	03-1-22594

Julie A. Marcussen; Amherst, NY	03-1-22246
Tina Marie Marimon; Covington, KY	03-1-22534
Tina Louise Marley; Avon Lake, OH	03-1-22256
Nichole Marie Mayo; Pickerington, OH	03-1-22348
Charles F. McCluskey III; Columbus, OH	03-1-22361
Ryan E. McEldowney; Rossburg, OH	03-1-22257
Rebecca Lynn McKay; Cincinnati, OH	03-1-22222
Tara Anmarie McKenna; Cincinnati, OH	03-1-22390
Jayne Elizabeth McLaughlin; Toledo, OH	03-1-22251
Gregg Allan Metzger; Clinton, OH	03-1-22373
David Alan Meyer; Youngstown, OH	03-1-22366
Christine L. Miller; Toledo, OH	03-1-22247
David Wesley Miller; Grove City, OH	03-1-22388
Jodi Christine Miller; Hilliard, OH	03-1-22419
Joseph Brian Miller; Cincinnati, OH	03-1-22362
Nicole Lynn Miller; Cincinnati, OH	03-1-22365
Richard Joseph Miller; Cincinnati, OH	03-1-22595
Lisa Lyn Mitchel; Columbus, OH	03-1-22343
Bradley William Mitchell; Bucyrus, OH	03-1-22346
Steven R. Montag; Cincinnati, OH	03-1-22474
Rebecca S. Moran; Cincinnati, OH	03-1-22224
Lisa Marie Moss; Cincinnati, OH	03-1-22471
Matthew S. Mustaine; Columbus, OH	03-1-22413
Matthew Donavon Nourse; Lucasville, OH	03-1-22575
Keith Michael O'Connor; Mentor, OH	03-1-22536
Mary B. O'Shaughnessy; Seven Hills, OH	03-1-22408
Stella Chinyere Ogbuehi; Gahanna, OH	03-1-22468
Patricia A. Oliver; North Olmsted, OH	03-1-22308
Kimberly E. Oros; Dublin, OH	03-1-22268
Linda Jane Orr; Eaton, OH	03-1-22451
Stacey Renee' Orum; Columbus, OH	03-1-22583
Kara Mae Otto; Ottawa, OH	03-1-22502
Kristen Mari Pacini; Loveland, OH	03-1-22218
Joshua S. Paire; Middletown, OH	03-1-22571
Pamela Ann Palmer; Lebanon, OH	03-1-22485
Lisa Michelle Pamula; Columbus, OH	03-1-22339
Joely Marie Parlink; Columbus, OH	03-1-22459
Nicholas John Parrish; Columbus, OH	03-1-22512
Kristen Kara Patch; Boardman, OH	03-1-22189
Maya Devendra Patel; Miamisburg, OH	03-1-22561
Michael Steven Pellek; Monclova, OH	03-1-22475
Heather Leigh Perrin; Cincinnati, OH	03-1-22493
Lisa Ann Petska; Mansfield, OH	03-1-22497
Jennifer Elaine Phillips; Hubbard, OH	03-1-22208
Cheryl Ann Pomesky; Canton, OH	03-1-22428
Lynn Ann Porowski; Strongsville, OH	03-1-22334
Christopher Robert Positano; Jewett, OH	03-1-22286
Rebecca Ranees Potter; Westerville, OH	03-1-22576
Heather Dawn Prater; Dayton, OH	03-1-22386
Sonja Kristine Pyle; Maineville, OH	03-1-22499
Melissa A. Randall; Columbus, OH	03-1-22340
Brett Alan Randolph; Salem, OH	03-1-22371
Jennifer Sarah Recker; Ottawa, OH	03-1-22341
Jeffrey Kris Reed; Cincinnati, OH	03-1-22611
Andrew Charles Reinhart; North Canton, OH	03-1-22347
Cynthia L. Reinhart; Columbiana, OH	03-1-22254
Racquelle Lynn Reis; Tiffin, OH	03-1-22425
Jennifer Lynn Richards; Cincinnati, OH	03-1-22469
Joshua Theodore Richardson; Westerville, OH	03-1-22551

Robert C. Riedel; Chippewa Lake, OH	03-1-22306
Todd David Riehl; Shelby, OH	03-1-22537
Suzanne Mariae Riep; Galloway, OH	03-1-22398
Rebecca Lynn Riley; Southgate, KY	03-1-22540
Heather Jade Rittenberger; N. Canton, OH	03-1-22462
Philip Andrew Ritzert; Cincinnati, OH	03-1-22605
Alan David Rogers; Pickerington, OH	03-1-22460
Kimberly Ann Ross; Columbus, OH	03-1-22357
Stacy Lee Rossman; Painesville, OH	03-1-22387
Teresa M. Rubio; Shaker Heights, OH	03-1-22552
Michelle Lynn Ruckman; Thornville, OH	03-1-22498
Osama Hassan Salouha; Medina, OH	03-1-22324
Julie Anne Sappenfield; Mason, OH	03-1-22297
Christy Sue Schlaechter; Columbus, OH	03-1-22228
Heather Joy Schneider; Louisville, OH	03-1-22581
Lori Marie Schuck; Monroe, MI	03-1-22529
Kathryn Allen Schueren; Middletown, OH	03-1-22533
Elizabeth Schulz; Toledo, OH	03-1-22452
Nancy Lynn Schwinnen; Delphos, OH	03-1-22255
Devona Lynn Nefetarri Sewell; Youngstown, OH	03-1-22508
Rehana Yasmin Sharif; Columbus, OH	03-1-22589
Jeffrey Allen Shick; Elida, OH	03-1-22336
Beth Ann Shively; Steubenville, OH	03-1-22443
Ryan D. Simms; Orrville, OH	03-1-22281
Ildiko Sipos; Lakewood, OH	03-1-21515
Holly Rebecca Sloan; Columbus, OH	03-1-22229
Billi Andrea Smith; Portsmouth, OH	03-1-22482
Traci Marie Smith; Hudson, OH	03-1-22495
Jennifer L. Snyder; Chillicothe, OH	03-1-22249
Matthew D. Soder; Wapakoneta, OH	03-1-22309
Kimberly A. Soliday; Sidney, OH	03-1-22454
Michelle Margaret Solnosky; Euclid, OH	03-1-22531
Tracy M. Soroka; Toledo, OH	03-1-22406
Donna J. Stadler; Cincinnati, OH	03-1-22522
Darla J. Stahl; Medina, OH	03-1-22261
Holly Lynn Steele; Columbus, OH	03-1-22207
Mary Stetzel; Fremont, OH	03-1-22409
Amber N. Stillings; Cary, NC	03-1-22578
Bernadette A. Stitak; Columbus, OH	03-1-22479
Nathan Paul Stockman; Columbus, OH	03-1-22372
Jerilynn Ann Straffon; Wellsville, OH	03-1-22296
Jeffrey Thomas Sweder; Struthers, OH	03-1-22301
Eric Alan Swope; Cygnet, OH	03-1-22520
Naser Taher; Parma, OH	03-1-20899
Saloni M. Tanna; Whitby, Ontario, Canada,	03-1-22541
Anna Tavlarios; Campbell, OH	03-1-22328
Christine Marie Taylor; Columbus, OH	03-1-22427
Steven Bruce Tennant; Toledo, OH	03-1-22559
Joseph C. Therrien; Hamilton, OH	03-1-22279
Kenneth Lowell Thompson; Bainbridge, OH	03-1-22507
Amy Truckor; Metamora, OH	03-1-22344
Denise Marie Trueman; Hamilton, OH	03-1-22320
Renee Jana Trusz; Warren, OH	03-1-22354
Nichole Renee Turner; Hamilton, OH	03-1-22521
Kendra Upholzer; Columbus, OH	03-1-22447
Krista A. Vallera; Wellsville, OH	03-1-22385
Lawrence Patrick Virgin; Cincinnati, OH	03-1-22518
Ruth A. Vogel; Paulding, OH	03-1-22215
Leah Nicole Von Restorff; Highland Heights, KY	03-1-22273

Brian Edward Wacht; Pulaski, PA	03-1-22584
Molly C. Walker; Cleves, OH	03-1-22539
Brent Michael Wallace; Hilliard, OH	03-1-22556
Denise Deon Warner; Oregon, OH	03-1-22331
Michael P. Wascovich; Elyria, OH	03-1-22379
Andrew E. Wasem; Johnstown, OH	03-1-22351
Christina Alicia Weisenberger; Hamilton, OH	03-1-22510
Brad Michael Welage; Cincinnati, OH	03-1-22415
Marisa Suzanne Welling; Cincinnati, OH	03-1-22544
John Byron Wellman Jr.; Wilmington, OH	03-1-22486
Elizabeth E. Wells; McClure, OH	03-1-22223
Regina Marie Wenning; Fort Recovery, OH	03-1-22442
Lisa Marie Weyman; Cincinnati, OH	03-1-22546
Monica Lynn Williams; Cincinnati, OH	03-1-22558
Stephen Paul Williams; Toledo, OH	03-1-22554
Shawn C. Wilt; Botkins, OH	03-1-22445
Jane A. Wissuchek; Cleveland Hts., OH	03-1-22404
Brian Curtis Yarberr; Indianapolis, IN	03-1-22304
Rochelle L. Yingling; Navarre, OH	03-1-22258
Joseph Arthur Young; Cincinnati, OH	03-1-22504
Jennifer J. Yuhaz; Youngstown, OH	03-1-22370
Shelby Ann Zickefoose; Claysville, PA	03-1-22396
Amy L. Zabler; Toledo, OH	03-1-22473

- RES. 98-037** Tim Benedict presented requests from two pharmacists for Board approval to serve as the responsible pharmacist at the same time for two terminal distributor of dangerous drugs licenses. Following discussion, Mrs. Neuber moved that the Board deny the request of R.Ph. Dale Lewis to serve as the responsible pharmacist for both Columbia St. Lukes (02-030550) and St. Vincent (02-0956150). The motion was seconded by Mr. Hanna and approved (Aye-8/Nay-0).
- RES. 98-038** Mr. Lamping moved that the request of R.Ph. Lawrence Brach to serve as the responsible pharmacist for both St. Lukes - Maumee (02-030550) and Fallen Timber Apothecary (02-0349050) be approved for ninety days beginning July 25, 1997. Mr. Maslak seconded the motion and it was approved (Aye-8/Nay-0).
- RES. 98-039** Staff reported that the application of Buckeye Health Center for a terminal distributor of dangerous drugs license was withdrawn by fax received August 26, 1997, and the original received September 2, 1997.
- RES. 98-040** The Board was informed by staff that the only easily accessible information regarding the National Notification Center was provided to them with their July 11, 1997 request to be added to the Board's Web HomePage. Following discussion, Mrs. Plant moved that a link to the Board's HomePage not be approved due to the fact that it is a commercial enterprise and includes only information under contract with a manufacturer or distributor. A review of the site reveals that it does not provide specific information regarding current recalls for reference purposes by health professionals or the public.

The Executive Director provided Board members with copies of correspondence from Keith J. Hochadel regarding his failure to appear at the adjudication hearing scheduled for the August Board meeting. Staff was directed to thank Mr. Hochadel for his letter and that it be placed in his file for future reference.

The Executive Director reported that the next meeting of the Ohio Tuberculosis Coalition is scheduled for September 19, 1997. Mr. Maslak stated that he would be able to attend and represent the Board.

David Rowland introduced the Board's new assistant attorney general - Peggy Trent, J.D. - to the Board. The Board welcomed her and expressed their pleasure at her decision to represent the citizens of the state of Ohio before the Board.

RES. 98-041 The Board then reviewed the Federation of Associations of Regulatory Boards' Attorney Certification Course in Professional Regulatory Law program. Following discussion, Mr. Repke moved that the new assistant attorney general attend the program and that she be reimbursed for all expenses pursuant to state laws and rules adopted by the Ohio Department of Administrative Services. The motion was seconded by Mr. Cavendish and approved (Aye-8/Nay-0).

1:30 p.m.

The meeting was recessed for lunch.

1:27 p.m.

The Board reconvened and was joined by NCS HealthCare representatives Suzanne Eastman, Vice-President, and Phil Pointer, and by the Board's Compliance and Enforcement Administrator, Tim Benedict. Mr. Benedict presented information regarding NCS HealthCare's nursing home Computer Order Entry System and Board staff's recommendations based on their review of the system in a long term care facility.

RES. 98-042 Mr. Rowland joined the meeting and presented additional information regarding the request for a continuance of the hearing in the matter of Elizabeth Murcia, R.Ph. by her attorney. The reason for the request was due to the fact that the attorney's case files were in his car when it was stolen and he cannot present his case without the files. A copy of the police report regarding the theft of his car was faxed to the Board office and will be made part of the case file. Mr. Maslak moved that the request be approved and the hearing continued. The motion was seconded by Mrs. Adelman and approved (Aye-8/Nay-0).

1:45 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 Charles Mohr, R.Ph.

3:16 p.m.

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

3:31 p.m.

Mr. Repke 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 Charles Mohr, R.Ph. The motion was seconded by Mrs. Plant and President Littlejohn conducted a roll call vote as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes..

4:25 p.m.

RES. 98-043 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved the Board adopt the following Order:

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 TO HEARING ON SEPTEMBER 8, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

CHARLES R. MOHR 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) Joann Predina, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Charles R. Mohr, Respondent
- (2) Doug Potts, Pharmacists Rehabilitation Organization, Inc.
- (3) Harold Schwartz, Pharmacists Rehabilitation Organization, Inc.
- (4) Lynn Mohr, Wife of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated January 17, 1997.
- (2) Exhibit 1A--Copy of three-page facsimile dated June 4, 1997, as follows: two-page letter from Charles R. Mohr dated February 13, 1997, and copy of Domestic Return Receipt No. P 083 486 967.
- (3) Exhibit 1B--Hearing Schedule letter dated June 10, 1997.
- (4)
- (5) Exhibit 3--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-940201-043, in the matter of Charles R. Mohr dated August 15, 1994.
- (6) Exhibit 4--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Charles R. Mohr dated September 16, 1993.

Respondent's Exhibits:

- (1) Exhibit A--Copy of the following: A1-Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Charles R. Mohr dated December 16, 1996.
- (2) Exhibit B--Copies of the following: B1-Letter from John M. Surso, M.D. dated August 4, 1997; B2-Drug Screen Collection Procedure of John M. Surso, M.D., not dated; B3-Letter from John M. Surso, M.D. dated September 15, 1995; and B4 through B24-Urine drug screen reports of Charles Mohr dated from December 2, 1994, through July 24, 1997.
- (3) Exhibit C--Copies of the following: C1 through C14-AA Attendance Verification sheets of Charles R. Mohr dated from June 1, 1994, through August 22, 1997; and C15-AA Attendance Verification Contact Phone Numbers.

- (4) Exhibit D--Copies of the following: D1-Letter from John Bukovesky, not dated; D2-Earnings statement of Charles R. Mohr dated August 15, 1997; D3a and D3b-Two-page letter from Kim K. Snodgrass dated August 14, 1997; D4-Letter from Marie L. Cowden dated August 6, 1997; D5a and D5b-Two-page letter from Rev. J. Norman Riley dated August 9, 1997; D6-Letter from Doug Potts dated August 10, 1997; D7-Letter from Albert Weinstein dated August 11, 1997; D8-Letter from Bernadette Skoula dated August 18, 1997; D9-Letter from Michael F. Cassidy, not dated; D11-Letter from Dave Tenley dated August 23, 1997; and D12-Letter from Theron R. Brayman dated August 22, 1997.
- (5)
- (6) Exhibit F--Copies of the following: F1 through F6-Eight certificates of continuing pharmaceutical education of Charles R. Mohr dated from August 2, 1993, through December 16, 1996.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that Charles R. Mohr submitted an Application for Examination as a Pharmacist on or about October 15, 1996.
- (2) Records further indicate that on or about August 15, 1994, the Board found the following to be fact:
 - (a) 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)
 - (c)
 - (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,

The Board concluded that Charles R. Mohr was 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. For these reasons, the Board revoked Charles R. Mohr's license, No. 03-2-15404, to practice pharmacy in the state of Ohio.

CONCLUSIONS OF LAW

- (1)
- (2)
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(b) through (2)(d) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2)(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 (2) of the Findings of Fact constitutes having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

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

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Repke and approved (Aye-5/Nay-4).

4:38 p.m. The meeting was recessed until Tuesday, September 9, 1997, at 8:00 a.m.

TUESDAY, SEPTEMBER 9, 1997

8:42 a.m. ROLL CALL

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

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

RES. 98-044 Mr. Benedict, Compliance Administrator, joined the Board to answer any questions the Board may have regarding written information provided on Monday concerning NCS HealthCare's proposed Computer Order Entry System. Following questions and discussion, Mr. Hanna moved that the system be approved by the Board as presented. The motion was seconded by Mrs. Adelman and approved (Aye-7/Nay-0/Abstain-1[Plant]).

RES. 98-045 The Board then considered the Westhaven Institutional Pharmacy's proposal for a Computer Order Entry System. Mr. Lamping moved that the system be approved. Mr. Hanna seconded the motion and it was approved (Aye-7/Nay-0/Abstain-1[Neuber]).

Mrs. Neuber moved that the Minutes of the August 11, 12, 13, 1997 meeting be approved as amended. The motion was seconded by Mr. Lamping and approved (Aye-8/Nay-0).

Mr. Winsley joined the Board for the purpose of continuing to review the latest drafts of proposed amended rules and new rule.

9:36 a.m.

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

11:25 a.m.

Board member Cavendish excused himself from the hearing due to previous commitments.

11:30 a.m.

The hearing was recessed until 1:30 p.m.

1:00 p.m.

RES. 98-046 The Board reconvened in Room 1914, 77 South High Street for the purpose of meeting with the following candidates for licensure by reciprocity. All members were present except for Mr. Cavendish.

ATKINSON, PAMELA J.	03-1-22663	MISSISSIPPI
BEAVER, II, JOHN M.	03-1-22704	WEST VIRGINIA
BROWN, BETHANNE	03-1-22654	INDIANA
CUSTER, CATHERINE A.	03-1-22299	PENNSYLVANIA
DEMARIA, CAMELITA R.	03-1-22675	NEW JERSEY
EZIDINMA, NDIDI P.	03-1-22667	COLORADO
FISHER, VICKI S.	03-1-22661	COLORADO
GOETZ, DIANA R.	03-1-22666	KENTUCKY
GOETZ, ROBERT J.	03-1-22660	KENTUCKY
GRGURINA, JAYANNE C.	03-1-22693	PENNSYLVANIA

HENSLEY, LISA H.	03-1-22635	TEXAS
HUDKINS, JOE	03-1-22642	INDIANA
KATT, KENNETH L.	03-1-22639	MICHIGAN
KIMMEL, ROBERT B.	03-1-22656	ARIZONA
MARTIN, KAREN J.	03-1-22683	MICHIGAN
MARTIN, STEVEN J.	03-1-22684	MICHIGAN
NAKASATO, SHARLENE K.	03-1-22677	NEVADA
PAXTON, ELIZABETH L.	03-1-22645	NEBRASKA
PERDUE, MICHAEL F.	03-1-22640	WEST VIRGINIA
PETERS, BRIAN N.	03-1-22701	INDIANA
PURCELL, JEANNINE M.	03-1-22665	KENTUCKY
SIERS, WILMA B.	03-1-22650	WEST VIRGINIA
SILVERMAN, PAUL A.	03-1-22644	MASSACHUSETTS
SORCE, MICHELE J.	03-1-22662	MASSACHUSETTS
TORRES, WILLIAM	03-1-22456	MASSACHUSETTS
UHLE, CONNIE S.	03-1-22641	NEW MEXICO

1:35 p.m.

Mr. Lamping moved that the candidates be approved and their licenses to practice pharmacy in Ohio be issued. The motion was seconded by Mr. Hanna and approved (Aye-7/-Nay-0).

1:45 p.m.

The Board reconvened in Room C-11, 65 South Front Street, Columbus, Ohio for the purpose of continuing to receive testimony and evidence in the matter of R.Ph. Mary Berk Mortus.

2:57 p.m.

Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on testimony that R.Ph. Jeff Rinda, a subpoenaed witness, would not appear before the Board.

3:13 p.m.

RES. 98-047

The Executive Session was concluded and the meeting opened to the public. The hearing was continued and Mrs. Plant moved that the hearing be recessed until 9:00 a.m., Wednesday morning in order to provide Mr. Rinda with the opportunity to respond to the Board's subpoena and appear. Mrs. Plant further moved that the Board file contempt charges in an appropriate court of law if Mr. Rinda does not appear at 9:00 a.m. The motion was seconded by Mrs. Adelman and approved (Aye-7/Nay-0).

3:15 p.m.

The hearing was recessed until Wednesday, September 10, 1997 at 9:00 a.m. Board members Sue Neuber and Nick Repke excused themselves from the meeting for the rest of the day to attend to personal business.

3:20 p.m.

The six remaining Board members were 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 Frederick Stephen Angelo's application to transfer his West Virginia license to the state of Ohio.

4:50 p.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 Frederick Stephen Angelo. The motion was seconded by Mr. Maslak and President Littlejohn conducted a roll call vote as follows: Adelman-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, and Plant-Yes.

5:00 p.m.

RES. 98-048 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-970529-044)

In The Matter Of:

FREDERICK STEPHEN ANGELO, R.Ph.

P.O. Box 2517
Weirton, West Virginia 26062
(D.O.B. 7/10/59)

INTRODUCTION

THE MATTER OF FREDERICK STEPHEN ANGELO CAME TO HEARING ON SEPTEMBER 9, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; AND RUTH A. PLANT, R.Ph.

FREDERICK STEPHEN ANGELO WAS REPRESENTED BY ROBERT J. D'ANNIBALLE, JR. AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) William Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Frederick Stephen Angelo, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated May 29, 1997.
- (2) Exhibit 1A--Hearing Request letter dated June 9, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated June 17, 1997.
- (4) Exhibit 2--Four-page National Association of Boards of Pharmacy® Official Application for Transfer of Pharmaceutic Licensure™ to the state of Ohio of Frederick Stephen Angelo notarized on March 13, 1997.
- (5) Exhibit 3--Pharmacist File Front Sheet of Fred S. Angelo showing original date of registration as September 27, 1983.
- (6) Exhibit 4--Summary Suspension Order/Notice of Opportunity for Hearing letter of Fred S. Angelo dated October 28, 1992.
- (7) Exhibit 5--Three-page Order of the State Board of Pharmacy, Docket No. D-921028-020, in the matter of Fred S. Angelo dated May 5, 1993.

Respondent's Exhibits:

- (1) Exhibit A--Seventy-four-page copy of Transcript of Proceedings in the matter of Fred S. Angelo before the Ohio State Board of Pharmacy on March 12, 1993.
- (2) Exhibit B--Three-page copy of Order of the State Board of Pharmacy, Docket No. D-921028-020, in the matter of Fred S. Angelo dated May 5, 1993.

- (3) Exhibit C--Three-page copy of Order in the Circuit Court of Brooke County, West Virginia, Case No. 94-F-05 & 06, of Frederick Angelo dated July 5, 1994.
- (4) Exhibit D--Three-page copy of Order in the Circuit Court of Brooke County, West Virginia, Case No. 94-F-05 & 06, of Frederick Angelo dated March 7, 1996.
- (5) Exhibit E--Copy of letter from Hayden M. Greenlief, not dated; copy of letter from Andrew DiFonzo dated February 20, 1996; copy of letter from Gary Heaston dated February 12, 1996; copy of letter from James Makricostas dated February 26, 1996; copy of letter from Mary L. Davis dated February 27, 1996; and copy of letter from James R. Lee dated May 2, 1996.
- (6) Exhibit F--Three pages of copies consisting of nine certificates of continuing pharmaceutical education of Fred S. Angelo dated from February 9, 1995, through November 4, 1996.
- (7) Exhibit G--Four-page copy of Consent Agreement before the West Virginia Board of Pharmacy of Fred S. Angelo dated July 25, 1996.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that on or about March 17, 1997, Frederick Stephen Angelo submitted an Official Application for Transfer of Pharmaceutic Licensure to the state of Ohio.
- (2) Records further indicate that Frederick Stephen Angelo was originally licensed to practice pharmacy in the state of Ohio, pursuant to reciprocity, on September 27, 1983. On or about October 28, 1992, the Board Summarily Suspended Frederick Stephen Angelo's license in accordance with Section 3719.121 of the Ohio Revised Code; and on or about May 5, 1993, the Board found the following to be fact:
 - (a) Frederick Stephen Angelo did, between July 4, 1991, and September 9, 1992, knowingly sell controlled substances in an amount greater than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Frederick Stephen Angelo sold without a prescription 8,375 dosage units of Acetaminophen with Codeine #4, a Schedule III controlled substance. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

The Board concluded that Frederick Stephen Angelo was guilty of unprofessional conduct in the practice of pharmacy and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Section 4729.16 of the Ohio Revised Code. For these reasons, the Board revoked Frederick Stephen Angelo's license, No. 03-2-15249, to practice pharmacy in the state of Ohio.

CONCLUSIONS OF LAW

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

ACTION OF THE BOARD

Pursuant to Section 4729.09 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the NABP Official Application For Transfer of Pharmaceutic Licensure submitted by Frederick Stephen Angelo.

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

MOTION CARRIED.

SO ORDERED.

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

5:30 p.m. The meeting was recessed until Wednesday, September 10, 1997, at 8:00 a.m.

WEDNESDAY, SEPTEMBER 10, 1997

8:20 a.m. ROLL CALL

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

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

The Executive Director distributed additional material to the Board members regarding the issue of continuing competency assessment for their information and use.

8:30 a.m.

Board member Suzanne L. Neuber arrived and joined the meeting. Staff reported on the status of legislation pending before both the Ohio General Assembly and Congress. Agenda items not requiring formal action by the Board were also considered.

9:00 a.m.

Sherry Maxfield, Chief of the Health and Human Services section of the Attorney General's Office, and David Rowland, Legal Affairs Administrator for the Board, appeared to notify the Board that Peggy Trent had decided to decline the position as the Board's new assistant attorney general.

9:19 a.m.

The Board was joined by Assistant Attorney General Mary Hollern for the purpose of continuing the adjudication hearing in the matter of R.Ph. Mary Berk Mortus pursuant to the provisions of Chapters 119. and 4729. of the Ohio Revised Code.

11:20 a.m.

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

11:45 a.m.

The Board reconvened and was joined by Assistant Attorney General Mary Hollern for the purpose of considering the matter of R.Ph. David P. Sano, Alliance, Ohio pursuant to the provisions of Chapters 119. and 4729. of the Ohio Revised Code.

12:01 p.m.

All testimony and evidence having been introduced, the record was closed and Mrs. Plant 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 R.Ph. Mary Berk Mortus and during the creation of the record in the matter of R.Ph. David P. Sano. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

12:25 p.m.

RES. 98-049 The Executive Session was concluded and Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-970609-045)

In The Matter Of:

DAVID P. SANO, R.Ph.
3660 Rambo Avenue
Alliance, Ohio 44601
(R.Ph. No. 03-3-05514)

INTRODUCTION

THE MATTER OF DAVID P. SANO CAME ON FOR CONSIDERATION ON SEPTEMBER 10, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

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

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated June 9, 1997.
- (2) Exhibit 1A--Letter from David P. Sano dated June 16, 1997.

- (3) Exhibit 1B--Pharmacist File Front sheet of David P. Sano showing original date of registration as August 4, 1953; and Renewal Application for Pharmacist License, No. 03-3-05514, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of David P. Sano dated July 8, 1996.
- (4)
- (5)
- (6)
- (7) Exhibit 4-- Record-Copy of four-page table of prescription information starting with prescription number 335129 filled on April 10, 1993, and ending with prescription number 415602 filled on July 16, 1996.
- (8) Exhibit 5-- Copy of prescription number C415602.
- (9) Exhibit 5A-- Copy of prescription number C389519.
- (10) Exhibit 5B-- Copy of prescription number 383142.
- (11) Exhibit 5C-- Copy of prescription number 370690.
- (12) Exhibit 5D-- Copy of prescription number C368691.
- (13) Exhibit 5E-- Copy of prescription number C350127.
- (14) Exhibit 6-- Copy of notarized statement of Andres Lao, Jr., M.D. dated January 7, 1997.
- (15) Exhibit 7-- Copy of prescription number 351212.
- (16)
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- (28)
- (29)
- (30)
- (31)
- (32)

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) On June 9, 1997, David P. Sano was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of June 13, 1997, David P. Sano received the letter of June 9, 1997, informing him of the allegations against him, and his rights.
- (3) David P. Sano set forth his contentions in writing by letter dated June 16, 1997, and did not request a hearing in this matter.
- (4) Records of the Board indicate that David P. Sano was originally licensed to practice pharmacy in the state of Ohio on August 4, 1953, pursuant to examination.

- (5) David P. Sano did, on or about August of 1995, through September of 1996, knowing that a felony had been or was being committed, fail to report such information to law enforcement authorities, to wit: David P. Sano knew that Keith Hochadel, a pharmacist who worked with him at Mt. Union Square Pharmacy, had been committing felony drug abuse offenses; however, Mr. Sano failed to report such conduct. When confronted by a Board agent regarding his failure to report, David P. Sano indicated no explanation other than that he was wrong for not having done so. Such conduct is in violation of Section 2921.22 of the Ohio Revised Code.

- (6)

(7)

(8)

(9)

CONCLUSIONS OF LAW

- (1)
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) through (9) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) and (6) through (9) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 9, 1997.

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. Sano:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-05514, held by David P. Sano effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-05514, held by David P. Sano effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-05514, held by David P. Sano effective as of the date of the mailing of this Order.

Pursuant to paragraph (E) of Rule 4729-9-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby requires that David P. Sano may not make application to the Board for issuance of a new license for thirty (30) years.

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

receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 98-050 Mrs. Plant then moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-970327-035)

In The Matter Of:

MARY BERK MORTUS, R.Ph.
9387 Huntington Park Drive
Strongsville, Ohio 44136
(R.Ph. No. 03-2-09832)

INTRODUCTION

THE MATTER OF MARY BERK MORTUS CAME TO HEARING ON SEPTEMBER 9, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARY BERK MORTUS 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) Keith E. Maitland, R.Ph., Bay Pharmacy
- (2) Mary Berk Mortus, R.Ph., Respondent
- (3) Joann Predina, R.Ph., Ohio State Board of Pharmacy
- (4) Jeffrey E. Rinda, R.Ph., Pharmacists Rehabilitation Organization, Inc.

Respondent's Witnesses:

- (1) Mary Berk Mortus, R.Ph., Respondent
- (2) Ronald Mortus, R.Ph., Husband of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated March 27, 1997.
- (2) Exhibit 1A--Hearing Request letter dated April 22, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated April 29, 1997.
- (4) Exhibit 1C--Pharmacist File Front Sheet of Mary Berk Mortus showing original date of registration as July 26, 1971; Renewal Application for Pharmacist License, No. 03-2-09832, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Mary M. Berk Mortus dated July 5, 1996; and Change of Employment form of Mary B. Mortus dated March 31, 1997.
- (5) Exhibit 1D--Hearing Schedule letter dated May 20, 1997.
- (6) Exhibit 1E--Copy of letter from Jeffrey E. Rinda dated September 8, 1997.
- (7) Exhibit 2--Copy of Lakewood Hospital Emergency Department report of regarding Mary Mortus dated July 7, 1994; and copy of two-page Emergency Treatment Record of Mary Mortus dated July 7, 1994.
- (8) Exhibit 3--Copy of urine drug screen report of Mary Mortus dated July 8, 1994; and copy of two-page Blood Chemistry Discharge Report of Mary M. Berk Mortus dated July 8, 1994.
- (9) Exhibit 4--Copy of two-page Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Mary Mortus dated September 20, 1994.
- (10) Exhibit 5--Two-page copy of Lakewood Hospital Program Contract entered into on September 20, 1994, by Mary Mortus.
- (11) Exhibit 6--Copy of two-page urine drug screen report of Mary Mortus dated October 23, 1995.
- (12) Exhibit 7--Copy of Lakewood Hospital Blood and Urine Chemistry Discharge Report of Mary M. Berk Mortus dated December 29, 1995; and copy of Lakewood Hospital Authorization for Release of Information from Lakewood Hospital of Mary B. Mortus dated March 5, 1996.
- (13) Exhibit 8--Copy of front and back of pocket card stating "Know Your Limit - Where Should You 'Draw the Line' On Drinking If You Plan To Drive."
- (14) Exhibit 9--Copy of letter from Keith E. Maitland dated January 4, 1996.
- (15) Exhibit 10--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Mary B. Mortus dated March 18, 1996.
- (16) Exhibit 11--Letter from Keith E. Maitland dated March 19, 1996.
- (17) Exhibit 12--Copies of eleven pages consisting of ten urine drug screens of Mary Mortus dated from January 4, 1995, through April 9, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of letter from George J. Lemke dated September 5, 1997.
- (2) Exhibit B--Copy of letter from Jeffrey E. Rinda dated September 4, 1997.
- (3) Exhibit C--Copy of three-page letter from Cynthia Downing dated August 28, 1997; and copy of Earthrise Recovery Services, Inc. Authorization for Release of Information of Mary Mortus dated April 9, 1997.
- (4) Exhibit D--Copy of letter from Melanie A. Stephenson dated August 24, 1997.
- (5) Exhibit E--Copy of letter from Carol M. Noble dated August 31, 1997.
- (6) Exhibit F--Copy of letter from Michael R. Sammon dated August 21, 1997.
- (7) Exhibit G--Copy of two-page letter from Wilma Britt, not dated.
- (8) Exhibit H--Copy of letter from Antoinette Leirer dated September 7, 1997.
- (9) Exhibit I--Copy of letter from Cynthia Downing dated April 19, 1996.
- (10) Exhibit J--Copy of two-page letter from Ray Isackila dated May 6, 1996.
- (11) Exhibit K--Copy of letter from Cynthia Downing dated May 17, 1996.
- (12) Exhibit L--Copy of letter from Cynthia Downing dated September 28, 1994.
- (13) Exhibit M--Two-page copy of Lakewood Hospital Program Contract entered into on September 20, 1994, by Mary Mortus; and copy of Authorization for Release of Information from Pharmacists Rehabilitation Organization, Inc. of Mary Mortus dated September 20, 1994.

- (14) Exhibit N--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Mary Mortus dated September 20, 1994.
- (15) Exhibit O--Two-page copy of Shepherd Hill Hospital Recovery Plan of Mary Mortus dated September 16, 1994.
- (16) Exhibit P--Copy of list of continuing education programs dated from December 8, 1996, through March 21, 1997.
- (17) Exhibit Q--Copy of two-page list of continuing education programs dated from September 29, 1993, through June 26, 1996.
- (18) Exhibit R--Copies of forty-two pages of AA attendance verification sheets of Mary Mortus dated from September 16, 1994, through August 27, 1997.
- (19) Exhibit S--Copies of seventy pages consisting of sixty-eight urine drug screen reports of Mary Mortus dated from October 14, 1994, through August 28, 1997.
- (20) Exhibit T1 through T4--Four-page facsimile from Cynthia Downing dated September 9, 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 of Pharmacy indicate that Mary Berk Mortus was originally licensed in the state of Ohio on July 26, 1971, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Mary Berk Mortus is addicted to or abusing liquor or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy within the meaning of Section 4729.16(A)(3) of the Ohio Revised Code, to wit: Mary Berk Mortus has admitted to a Board agent that she has a seven-year history of alcohol use which increased to "problematic drinking" during 1992-1993; Mary Berk Mortus has indicated that she has been drinking to escape problems attendant to the practice of pharmacy, e.g. working too many hours due to "scheduling problems" and becoming physically exhausted. Further, Mary Berk Mortus admitted herself to a two-week inpatient treatment program, followed by an aftercare program for her alcohol abuse problems in July, 1994, after having been subjected to disciplinary action by her employer, Lakewood Hospital, for having ingesting enough alcohol to test 0.1 blood-alcohol level; and, Mary Berk Mortus' employment with Lakewood Hospital was terminated subsequent to December 28, 1995, for having violated her PRO (Pharmacists' Rehabilitation Organization) contract by drinking alcohol, practicing pharmacy, and substituting water for urine when giving urine and blood samples for analysis. On March 27, 1996, Mary Berk Mortus had a meeting with a Board agent at which time she smelled of an alcoholic beverage.

CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, without strict probationary compliance, as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusion of Law, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-2-09832, held by Mary Berk Mortus on probation for five years, effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (A) Mary Berk Mortus must enter into a new contract, after the effective date of this Order, with a limited treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office within one month from the effective date of this Order. The contract must provide that:
- (1) Random, **observed** urine samples shall be provided to, and conducted in, a certified Ohio Department of Alcohol and Drug Addiction Service (ODADAS) facility at least once a month for the first two contract years, and once every three months for the remaining three contract years. Each urine screen must comply to the following standards:
 - (i) Samples must be collected within six (6) hours of random notification and notification must be made personally by the intervenor to Mary Berk Mortus. Leaving a message on an answering machine or with another individual is not acceptable.
 - (ii) Chain of custody must be maintained and documented for each sample/screen.
 - (iii) Reports must include testing the sample for alcohol and must also report testing for specific gravity or creatinine as the dilutional standard.
 - (iv) Sample analysis and reports must be completed within forty-eight (48) hours from the urine collection time.
 - (2) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required and such meetings shall be documented.
 - (3) The intervener/sponsor shall provide copies of all urine screens, in compliance with paragraph (A)(1) above, to the Ohio Board of Pharmacy quarterly; due January 10, April 10, July 10, and October 10; of each year of probation.
 - (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Mary Berk Mortus must submit quarterly progress reports to the Board; due January 10, April 10, July 10, and October 10; of each year of probation, that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract.
 - (2) Copies of AA meeting attendance verification.
 - (3) A written description of her progress towards recovery and what she has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of Mary Berk Mortus is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.

- (2) Mary Berk Mortus may not serve as a responsible pharmacist.
- (3) Mary Berk Mortus must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (4) Mary Berk Mortus must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (5) Mary Berk Mortus must abide by the rules of the Ohio State Board of Pharmacy.
- (6) Mary Berk Mortus must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Neuber and approved (Aye-7/Nay-0/Abstain-1[Cavendish]).

12:30 p.m.

The Board recessed for lunch. Board member Ruth Plant excused herself from the remainder of the meeting and left to attend to personal business.

2:05 p.m.

The Board reconvened in Room C-11, 65 South Front Street for the purpose of continuing their business meeting.

The Board was joined by Legal Affairs Administrator David Rowland and Mr. Lamping moved that the Board go into Executive Session for the purpose of considering the investigation of charges or complaints against a licensee or registrant. The motion was seconded by Mrs. Neuber and a roll call vote was conducted by President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, and Repke-Yes.

2:18 p.m.

RES. 98-051 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board issue the following Cease and Desist Orders:

CEASE & DESIST

PCI Prescription Care, Inc.
c/o Cynthia Ann Pruett Pile, R.Ph.
5445 La Sierra Drive, Suite 450
Dallas, Texas 75231

Dear Ms. Pile:

The Ohio State Board of Pharmacy has evidence which indicates that PCI Prescription Care, Inc., has dispensed via mail prescription medication to patients who reside in the state of Ohio. Be advised that Section 4729.551 of the Ohio Revised Code states as follows:

Each person, whether located within or outside this state, who sells dangerous drugs at retail for delivery or distribution to persons residing in this state, shall be licensed as a terminal distributor of dangerous drugs pursuant to sections 4729.54 and 4729.55 of the Revised Code.

The Board of Pharmacy may enter into agreements with other states, federal agencies, and other entities to exchange information concerning the licensing and inspection of terminal distributors of dangerous drugs who are located within or outside this state and to investigate any alleged violations of the laws and rules governing the legal distribution of drugs by such persons.

You are hereby advised that, pursuant to Section 4729.51(C) of the Ohio Revised Code, selling prescription drugs at retail in this state without being properly licensed to do so is a felony of the third degree, and a corporation could be fined up to \$15,000. per sale. If identified, an individual making such sale, either personally or on behalf of the corporation, could be fined up to \$10,000. and/or imprisoned for a period up to five years.

If your company intends to make additional sales into this state, you should contact this Board for appropriate licensing information. Otherwise, you are hereby advised to cease making sales into this state, and desist from any further violations of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

cc: Mary L. Hollern, Ohio Assistant Attorney General
D. E. A.; U.S. Dept. of Justice; Washington, DC 20537
Bob Wimberly, D. E. A.; 1880 Regal Row; Dallas, Texas 75235
Carol Fisher, R.Ph., Texas State Board of Pharmacy; William P. Hobby Building,
Ste. 3-600; 333 Guadalupe Street, Box 21; Austin, Texas 78701-3942
Hospital Administrator, Jewish Hospital of Cincinnati; 3200 Burnet Avenue; Cincinnati,
Ohio 45229

CEASE & DESIST

Transworld Home Healthcare, Inc.
d.b.a. Respiflow Pharmacy
c/o Jim Upchurch, R.Ph.
8400 Bay Meadows Way, Suite 3
Jacksonville, Florida 32256

Dear Mr. Upchurch:

The Ohio State Board of Pharmacy has evidence which indicates that Transworld Home Healthcare, Inc. d.b.a. Respiflow Pharmacy has dispensed via mail prescription medication to patients who reside in the state of Ohio. Be advised that Section 4729.551 of the Ohio Revised Code states as follows:

Each person, whether located within or outside this state, who sells dangerous drugs at retail for delivery or distribution to persons residing in this state, shall be licensed as a terminal distributor of dangerous drugs pursuant to sections 4729.54 and 4729.55 of the Revised Code.

The Board of Pharmacy may enter into agreements with other states, federal agencies, and other entities to exchange information concerning the licensing and inspection of terminal distributors of dangerous drugs who are located within or outside this state and to investigate any alleged violations of the laws and rules governing the legal distribution of drugs by such persons.

You are hereby advised that, pursuant to Section 4729.51(C) of the Ohio Revised Code, selling prescription drugs at retail in this state without being properly licensed to do so is a felony of the third degree, and a corporation could be fined up to \$15,000. per sale. If identified, an individual making such sale, either personally or on behalf of the corporation, could be fined up to \$10,000. and/or imprisoned for a period up to five years.

If your company intends to make additional sales into this state, you should contact this Board for appropriate licensing information. Otherwise, you are hereby advised to cease making sales into this state, and desist from any further violations of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

cc: Mary L. Hollern, Ohio Assistant Attorney General

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

RES. 98-052 Mrs. Neuber moved that the Board propose to amend the following Ohio Administrative Code rules as follows:

4729-1-01 Public hearing notice OF HEARING TO CONSIDER PROPOSED RULE CHANGES.

- (A) Reasonable public notice, as required by section 119.03 of the Revised Code, shall be as follows:
- (A) (1) ~~The board shall give public notice at least thirty days prior to the date set for the public hearing by advertising~~ BY PLACING such notice in at least one newspaper of general circulation in the state of Ohio. ~~Such notice shall include:~~ ON THE BOARD'S WORLD WIDE WEB HOME PAGE AT LEAST THIRTY DAYS PRIOR TO THE DATE SET FOR THE PUBLIC HEARING, AND REMAINING THERE UNTIL THE PUBLIC HEARING RECORD IS CLOSED.
- (1) ~~A statement of the board's intention to consider the adoption, amendment, or rescission of a rule;~~
- (2) ~~A synopsis of the proposed rule, amendment, or rule to be rescinded or a general statement of the subject matter to which the proposed rule, amendment, or rescission relates;~~ BY MAILING OR FAXING SUCH NOTICE, ONE TIME, TO ALL SUBSCRIBERS ON THE BOARD'S SUNSHINE NOTICE MAILING LIST AT LEAST THIRTY DAYS PRIOR TO THE DATE SET FOR THE PUBLIC HEARING.
- (3) ~~A statement of the reason or purpose for adopting, amending, or rescinding the rule;~~ BY MAILING OR FAXING SUCH NOTICE, ONE TIME, TO ALL PERSONS WHO HAVE REQUESTED THE BOARD TO PROVIDE NOTIFICATION OF ANY PROPOSED RULE CHANGES AT LEAST THIRTY DAYS PRIOR TO THE DATE SET FOR THE PUBLIC HEARING.
- (4) ~~The date, time, and place of the hearing on the proposed action.~~
- (B) The board shall furnish A COPY OF the ~~public notice required under section 119.03 of the Revised Code and as described in paragraph (A) of this rule~~ FULL TEXT OF THE PROPOSED RULES to any person who requests SUCH in writing a copy of such notice and who pays a reasonable fee, not to exceed the cost of copying and mailing.
- (C) THE FULL TEXT OF THE PROPOSED RULES SHALL BE POSTED ON THE BOARD'S WORLD WIDE WEB HOME PAGE AND REMAIN THERE UNTIL THE PUBLIC HEARING RECORD IS CLOSED.

4729-5-01 Definitions.

As used in Chapter 4729. of the Revised Code:

- (A) To "practice pharmacy" is as defined in division (B) of section 4729.02 of the Revised Code.
- (B) The term "dispense" means the final association of a drug with a particular patient pursuant to the prescription, drug order, or other lawful order of a ~~practitioner~~ PRESCRIBER and the professional judgment of and the responsibility for: interpreting, preparing, compounding, labeling, and packaging a specific drug.
- (C) "Compound" means the professional judgment of a pharmacist associated with the measuring and mixing of one or more drugs, and also includes the reconstitution of a drug by the measuring and mixing of a diluent, pursuant to a prescription.
- (D) "Interpret prescriptions" means the professional judgment of a pharmacist when reviewing a prescription order of a ~~practitioner~~ PRESCRIBER for a patient.
- (E) "To participate in drug selection" means selecting and dispensing a drug product pursuant to sections 4729.38 and 4729.381 of the Revised Code.
- (F) "To participate with ~~practitioners~~ PRESCRIBERS in reviews of drug utilization" means monitoring the appropriate use of drugs through communication with the ~~practitioner(s)~~ PRESCRIBER(S) involved.
- (G) "Pharmacist" means an individual who holds a current pharmacist identification card pursuant to section 4729.08 or 4729.09 of the Revised Code; or, pursuant to section 4729.12 of the Revised Code ~~and, where applicable, has met the continuing pharmacy education requirements in accordance with Chapter 4729-7 of the Administrative Code.~~
- (H) "Original prescription" means the prescription issued by the ~~practitioner~~ PRESCRIBER in writing, an oral or electronically transmitted prescription recorded in writing by the pharmacist, or a prescription transmitted by use of a facsimile machine, each of which is pursuant to rule 4729-5-30 of the Administrative Code.
- (I) "Personal supervision" means a pharmacist shall be physically present in the pharmacy and provide personal review and approval of all professional pharmaceutical activities.
- (J) "Preprinted order" is defined as a patient-specific, definitive set of drug treatment directives to be administered to an individual patient who has been examined by a ~~practitioner~~ PRESCRIBER and for whom the ~~practitioner~~ PRESCRIBER has determined that the drug therapy is appropriate and safe when used pursuant to the conditions set forth in the preprinted order. Preprinted orders may be used only for inpatients in an institutional facility as defined in Chapter 4729-17 of the Administrative Code.
- (K) "Standing order" will mean the same as the term "protocol".
- (L) "Protocol" is defined as:
 - (1) A definitive set of treatment guidelines that include definitive orders for drugs and their specified dosages which have been authorized by a ~~practitioner~~ PRESCRIBER as defined in rule 4729-5-15 of the Administrative Code and have been approved by the board of pharmacy to be used by certified or licensed health care professionals when providing limited medical services to individuals in an emergency situation when the services of a ~~practitioner~~ PRESCRIBER are not immediately available; or

- (2) A definitive set of treatment guidelines that include definitive orders for drugs and their specified dosages which have been authorized by a ~~practitioner~~ PRESCRIBER as defined in rule 4729-5-15 of the Administrative Code and have been approved by the board of pharmacy to be used by certified or licensed health care professionals when administering biologicals or vaccines to individuals for the purpose of preventing diseases.

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

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

- (M) "Prescriber" means any person authorized by the Revised Code to prescribe dangerous drugs as part of their professional practice.
- (N) "Positive identification" means a method of identifying an individual who prescribes, administers, or dispenses a dangerous drug. Such method may include a password access to a mechanical or automated system, but must also include a physical means of identification such as, but not limited to, the following:
- (1) A manual signature on a hard-copy record;
 - (2) A magnetic card reader;
 - (3) A bar code reader;
 - (4) A thumbprint reader or other biometric method; or
 - (5) A daily printout of every transaction that is verified and manually signed within twenty-four hours by the individual who prescribed, administered, or dispensed the dangerous drug. The printout must be maintained for three years and made available on request to those individuals authorized by law to review such records.
- (O) "Certified ~~diabetic~~ DIABETES educator", as used in Chapters 3719. and 4729. of the Revised Code, means a person who has been certified to conduct diabetes education by the "National Certification Board for Diabetes Educators (NCBDE)".

4729-5-02 Identification card; ~~photograph~~ and signature.

Each pharmacist and pharmacy intern, to whom an identification card or renewal identification card has been issued, shall immediately sign ~~and affix a recent photograph~~ to such identification card.

4729-5-15 ~~Practitioner~~ PRESCRIBER.

- (A) For purposes of division (BB) of section 3719.01 and division (H)(1) of section 4729.02 of the Revised Code, the following persons, maintaining current licenses and in good standing, licensed pursuant to Chapters 4715., 4725., 4731., and 4741. of the Revised Code, are authorized by law to write prescriptions for drugs or dangerous drugs in the course of their professional practice:
- (1) Chapter 4715. of the Revised Code: dentist.
 - (2) Chapter 4725. of the Revised Code: optometrist, if that person holds a current "therapeutic pharmaceutical agents certificate" as defined in division (H) of section 4725.01 of the Revised Code.

- (3) Chapter 4731. of the Revised Code: doctor of medicine, doctor of osteopathic medicine and surgery, and doctor of podiatry.
- (4) Chapter 4741. of the Revised Code: doctor of veterinary medicine.
- (B) Those persons pursuing an approved internship, residency, or fellowship program in this state are authorized to write prescriptions only when acting within their scope of employment in the hospital(s) or institution(s). Approved internship and residency programs are those accredited by the "Accreditation Council for Graduate Medical Education (ACGME)" or the "American Osteopathic Association (AOA)". Approved clinical fellowships are those at institutions which have a residency program in the same or a related clinical field which is accredited by the ACGME or the AOA.
- (C) A non-resident ~~practitioner~~ PRESCRIBER whose license is current and in good standing and who is authorized to issue prescriptions for drugs in the course of their professional practice in a state other than Ohio is authorized to write prescriptions in that state for drugs to be dispensed in the state of Ohio.
- (D) An advanced practice nurse approved pursuant to section 4723.56 of the Revised Code may, by written or oral prescription, prescribe those drugs which have been approved by the formulary committee for advanced practice nurses and that are included in the collaborative protocol established for that advanced practice nurse pursuant to section 4723.56 of the Revised Code.

4729-5-16 Labeling of drugs dispensed on prescription.

- (A) No drug may be dispensed on prescription unless a label is affixed to the container in which such drug is dispensed and such label includes:
 - (1) The name and address of the pharmacy as it appears on the terminal distributor of dangerous drugs license;
 - (2) The name of the patient for whom the drug is prescribed; or, if the patient is an animal, the name of the owner and the species of the animal;
 - (3) The name of the ~~prescribing practitioner~~ PRESCRIBER;
 - (4) Directions for use of the drug;
 - (5) The date of dispensing;
 - (6) Any cautions which may be required by federal or state law;
 - (7) The serial number of the prescription;
 - (8) The name or initials of the pharmacist;
 - (9) The proprietary name, if any, or the generic name and the name of the distributor of the drug dispensed; and the strength, if more than one strength of the drug is marketed. The dispensing pharmacist may omit the name and strength of the drug only if the prescriber specifically requests omission in writing in the case of a written prescription, or verbally in the case of an orally transmitted prescription;
 - (10) The quantity of drug dispensed.
- (B) The term "affix" means the prescription label must be attached or fastened to the container.

- (C) At least the prescription number and the name of the patient must be placed on all prescription containers too small to bear a complete prescription label and dispensed in a container bearing a complete prescription label. THE LABEL BEARING ONLY THE PRESCRIPTION NUMBER AND THE NAME OF THE PATIENT DOES NOT NEED TO BE APPLIED TO ANY PRODUCT WHOSE FUNCTION WOULD BE IMPAIRED BY SUCH A LABEL. IN ALL CASES, A COMPLETE PRESCRIPTION LABEL MEETING THE REQUIREMENTS OF PARAGRAPH (A) OF THIS RULE MUST BE APPLIED TO THE CONTAINER IN WHICH SUCH PRODUCT IS DISPENSED.
- (D) This rule does not apply to drugs which are dispensed ~~by an institutional facility pharmacy for use by patients and a health care facility pharmacy for use by in-patients~~ INPATIENTS OF AN INSTITUTIONAL facility whereby the drug is not in the possession of the ultimate user prior to administration. Such drugs shall be labeled in accordance with rule 4729-17-10 of the Administrative Code.

4729-5-18 Patient profiles.

All pharmacies shall maintain a patient profile system which shall provide for immediate retrieval of information regarding those patients who have received prescriptions from that pharmacy.

- (A) The dispensing pharmacist shall be responsible for ensuring that a reasonable effort has been made to obtain, record, and maintain at least the following records:
- (1) The patient's data record, which ~~shall~~ SHOULD consist of, but is not limited to, the following information:
- (a) Full name of the patient for whom the drug is intended;
 - (b) Address and telephone number of the patient;
 - (c) Patient's date of birth or age;
 - (d) Patient's gender;
 - (e) A list of ~~appropriate and~~ current patient specific data consisting of at least the following:
 - (i) Known drug-related allergies,
 - (ii) Previous drug reactions,
 - (iii) History of or active chronic conditions or disease states,
 - (iv) Other drugs, including over the counter drugs USED ON A ROUTINE BASIS, or devices ~~obtained from that pharmacy~~;
 - (f) The pharmacist's comments relevant to the individual patient's drug therapy, including any other information peculiar to the specific patient or drug;
 - (g) Any information that is given to the pharmacist by the patient or caregiver to complete the patient data record shall be presumed to be accurate, unless there is reasonable cause to believe the information is inaccurate.
- (2) The patient's drug therapy record, which shall contain at least the following information for all of the prescriptions that were filled at the pharmacy within the last twelve months showing:

- (a) Name of the drug or device;
- (b) Prescription number;
- (c) Name and strength of drug;
- (d) Quantity dispensed;
- (e) Date dispensed;
- (f) Name of the ~~prescribing practitioner~~ PRESCRIBER.

- (B) The patient profile shall be maintained for a period of not less than one year from the date of the last entry in the profile record. This record may be a hard copy or a computerized form.

4729-5-20 Prospective drug utilization review.

- (A) Prior to dispensing any prescription, a pharmacist shall review the patient profile for the purpose of identifying:
- (1) Over-utilization or under-utilization;
 - (2) Therapeutic duplication;
 - (3) Drug-disease state contraindications;
 - (4) Drug-drug interactions;
 - (5) Incorrect drug dosage or duration of drug treatment;
 - (6) Drug-allergy interactions;
 - (7) Abuse/misuse.
- (B) Upon recognizing any of the above, a pharmacist, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include consulting with the ~~prescribing practitioner~~ PRESCRIBER and/or counseling the patient.
- (C) Prospective drug utilization review shall be performed using predetermined standards consistent with any of the following:
- (1) Peer-reviewed medical literature (that is, scientific, medical, and pharmaceutical publications in which original manuscripts are rejected or published only after having been critically reviewed by unbiased independent experts);
 - (2) American hospital formulary service drug information;
 - (3) United States pharmacopeia drug information;
 - (4) American medical association evaluations.

4729-5-22 Patient counseling.

- (A) A pharmacist or ~~his~~ THE PHARMACIST'S designee shall personally offer to counsel the patient or caregiver whenever any prescription, new or refill, is dispensed. In this situation, when counseling is refused, THE PHARMACIST SHALL ENSURE THAT such refusal ~~shall be~~ IS documented by the pharmacist IN THE PRESENCE OF THE PATIENT OR THE PATIENT'S CAREGIVER. ~~The offer to counsel shall not be required if, in the professional judgment of the pharmacist, such counseling would be detrimental to the patient's well being.~~ If the patient or caregiver is not physically present, the offer to counsel shall be made by telephone or in writing on a separate document and shall accompany the prescription. A written offer to counsel shall include the hours a pharmacist is available and a telephone number where a pharmacist may be reached. The telephone service must be available at no cost to the pharmacy's primary patient population.
- (B) A pharmacist, or an intern under the personal supervision of a pharmacist, shall counsel the patient or caregiver. Such counseling may include, but is not limited to, the following:
- (1) The name and description of the drug;
 - (2) The dosage form, dose, route of administration, and duration of drug therapy;
 - (3) The intended use of the drug and the expected action ~~when communicated to the pharmacist;~~
 - (4) Special directions and precautions for preparation, administration, and use by the patient;
 - (5) Common ~~severe side or~~ adverse effects or interactions and therapeutic contraindications that may occur, including possible methods to avoid them, and the action required if they occur;
 - (6) Techniques for self-monitoring drug therapy;
 - (7) Proper storage;
 - (8) Prescription refill information;
 - (9) Action to be taken in the event of a missed dose; and
 - (10) The pharmacist's comments relevant to the individual's drug therapy, including other information peculiar to the specific patient or drug.
- (C) Other forms of drug therapy information may be used when appropriate to supplement the counseling by the pharmacist. Examples of forms that may be used include, but are not limited to, drug product information leaflets, pictogram labels, and video programs.
- (D) Patient counseling shall not be required for inpatients of an institutional facility as defined in rule 4729-17-01 of the Administrative Code ~~or for inpatients of a health care facility as defined in rule 4729-17-05 of the Administrative Code.~~
- (E) A pharmacist shall not be required to counsel a patient or caregiver when the patient or caregiver refuses the offer of counseling or does not respond to the written offer to counsel.

4729-5-24 Prescription copy.

- (A) A pharmacist may transfer a copy of a prescription; a pharmacist may refill a copy of a prescription; such actions must be in accordance with the following:
- (1) Copies of prescriptions shall be transferred only between pharmacists; copies of prescriptions for controlled substances pursuant to sections 3719.41, 3719.43, and 3719.44 of the Revised Code shall be communicated directly between two pharmacists and shall be transferred only one time. HOWEVER, PHARMACIES ELECTRONICALLY SHARING A REAL-TIME, ON-LINE DATABASE MAY TRANSFER A CONTROLLED SUBSTANCE PRESCRIPTION UP TO THE MAXIMUM NUMBER OF REFILLS PERMITTED BY LAW AND THE PRESCRIBER'S AUTHORIZATION PURSUANT TO PARAGRAPH (A)(4) OF THIS RULE.
 - (2) The copy transferred shall be an exact duplicate of the original prescription except that it shall also include:
 - (a) Serial prescription number assigned to the prescription;
 - (b) Name and address (and "D.E.A." number for controlled substance prescriptions) of the pharmacy transferring the copy;
 - (c) Date of issuance of the prescription;
 - (d) Date of original dispensing of the prescription;
 - (e) Original number of refills;
 - (f) Date of last refill;
 - (g) Number of valid refills remaining; and
 - (h) The name of the transferring pharmacist.
 - (3) Copies transferred for non-refillable prescriptions shall be marked on the face of the prescription or orally noted by the transferring pharmacist "For Information Purposes Only" and are not valid prescriptions for the dispensing of drugs.
 - (4) The pharmacist transferring a copy of a prescription must:
 - (a) Cancel the original prescription by writing the word "void" on the face of the prescription IN SUCH A WAY AS TO AVOID DESTROYING ANY OF THE ORIGINAL INFORMATION CONTAINED ON THE PRESCRIPTION;
 - (b) Record on the reverse side of the original written prescription:
 - (i) Date of transfer;
 - (ii) His/her signature; and
 - (iii) When transferring an oral prescription, the name and address (and "D.E.A." number for controlled substance prescriptions) and name of the pharmacist at the receiving pharmacy.

- (c) Except, if an automated data processing system is being used as an alternate system of recordkeeping for prescriptions pursuant to rules 4729-5-27 and 4729-5-28 of the Administrative Code, copies of prescriptions may be transferred by a pharmacist if the prescription record in the system is invalidated to prevent further dispensing at the original site. The prescription record in the system must contain the date of transfer, name of pharmacist making transfer, and the name and address of the pharmacy receiving the copy. Also, original written prescriptions for controlled substances must be cancelled as required in paragraphs (A)(4)(a) and (A)(4)(b) of this rule.
 - (5) The pharmacist receiving a copy of a prescription must:
 - (a) Exercise reasonable diligence to determine validity of the copy;
 - (b) Reduce an oral prescription to writing by recording all of the information transferred (must include all information required in paragraph (A)(2) of this rule) and write the word "transfer" on the face of the prescription;
 - (c) Record date of transfer on the face of the prescription.
- (B) A prescription copy may be transferred between two pharmacies if the two pharmacies are accessing the same prescription records in a centralized database or pharmacy computers linked in any other manner. The computerized systems must satisfy all information requirements of paragraphs (A)(2) and (A)(4)(c) of this rule. This shall include invalidation of the prescription record in the system to prevent further dispensing at the original site and, if a controlled substance prescription, the cancelling of the original written prescription as required in paragraphs (A)(4)(a) and (A)(4)(b) of this rule. A system must be in place that will allow only authorized access to these computerized prescription records by a pharmacist and indicate on the prescription record when and by whom such access was made.
- (C) A prescription copy may be transferred between two pharmacists by the use of a facsimile machine. This facsimile may be considered to be a copy of a prescription if all information requirements of paragraph (A) of this rule, including invalidation of the original prescription or computer records, are met. A system must be in place that will show on the facsimile positive identification of the transferring and receiving pharmacists which must become a part of the prescription record. Facsimile copies must be recorded in writing pursuant to section 4729.37 of the Revised Code, or stored in such a manner that will allow retention of the prescription record for three years from the date of the last transaction.
- (D) Information on a prescription is the property of the patient and is intended to authorize the dispensing of a specific amount of medication for use by the patient. Original copies of prescriptions shall be maintained by pharmacies for the purpose of documenting the dispensing of drugs to a particular patient.
 - (1) In the event that the pharmacy is not able to provide the medication when needed by the patient pursuant to an authorized refill, the pharmacist shall, upon the request of the patient, transfer the prescription information to the pharmacy designated by the patient.
 - (2) No pharmacy shall refuse to transfer information about a previously dispensed prescription to another pharmacy when requested by the patient. Prescription information shall be transferred in accordance with this rule as soon as possible in order to assure that the patient's drug therapy is not interrupted.

4729-5-30 Manner of issuance of prescription.

- (A) A prescription, to be effective, must be issued for a legitimate medical purpose by an individual ~~practitioner or advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ PRESCRIBER acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription and the person knowingly dispensing such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law.
- (B) All prescriptions shall be dated as of and signed on the day when issued, and shall bear the full name and address of the patient.
- (C) All written prescriptions issued by a ~~practitioner or advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ PRESCRIBER shall bear the full name and address of the prescriber and shall be manually signed by the prescriber in the same manner as he/she would sign a check or legal document.
- (D) An original signed prescription (for other than a schedule II controlled substance except as noted in PARAGRAPH (N) OF THIS RULE AND rules 4729-17-09 and 4729-19-02 of the Administrative Code) may be transmitted as an "other means of communication" to a pharmacist by the use of a facsimile machine only by a ~~practitioner, PRESCRIBER OR the practitioner's PRESCRIBER'S agent, or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code.~~ Such a facsimile shall only be valid as a prescription if a system is in place that will allow the pharmacist to maintain the facsimile as a part of the prescription record including the positive identification of the ~~practitioner PRESCRIBER and his/her agent or of the advanced practice nurse,~~ as well as positive identification of the origin of the facsimile. The pharmacist must record the prescription in writing pursuant to section 4729.37 of the Revised Code or store the facsimile copy in such a manner that will allow retention of the prescription record for three years from the date of the last transaction. The original signed prescription from which the facsimile is produced shall not be issued to the patient. The original signed prescription must remain with the patient's records at the prescriber's office or the institutional facility where it was issued. A facsimile of a prescription received by a pharmacist in any manner other than transmission directly from the ~~practitioner, PRESCRIBER OR the practitioner's PRESCRIBER'S agent, or the advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ shall not be considered a valid prescription, except as a copy of a prescription pursuant to rule 4729-5-24 of the Administrative Code.
- (E) All prescriptions shall specify the number of times or the period of time for which the prescription may be refilled. A prescription marked "Refill P.R.N." or some similar designation is not considered a valid refill authorization.
- (F) Prescriptions for dangerous drugs may not be dispensed for the first time beyond six months from the date of issuance by a ~~practitioner or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ PRESCRIBER.
- (G) Prescriptions for dangerous drugs and controlled substances in schedule V may not be authorized for refill beyond one year from the date of issuance. Prescriptions for controlled substances in schedules III and IV shall be authorized for refill only as permitted by section 3719.05 of the Revised Code. Prescriptions for controlled substances in schedule II may not be refilled.

- (H) A prescription may be refilled only as expressly authorized by the ~~practitioner or the advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ PRESCRIBER, either in writing or orally. If no such authorization is given, the prescription may not be refilled.
- (I) The drug(s) in a compounded prescription or drug product shall be identified by the product trade name or generic name.
- (J) No prescription shall be coded in such a manner that it cannot be dispensed by any pharmacy of the patient's choice. A "coded prescription" is one which bears letters, numbers, words or symbols, or any other device used in lieu of the name, quantity, strength and directions for its use, other than those normal letters, numbers, words, symbols, or other media recognized by the profession of pharmacy as a means of conveying information by prescription. No symbol, word, or any other device shall be used in lieu of the name of said preparation.
- (K) The agent of a ~~practitioner~~ PRESCRIBER who transfers a facsimile of an original prescription or transmits an oral prescription or authorization of a refill for a dangerous drug must identify themselves by full name and the pharmacist shall make a record of the ~~practitioner's~~ PRESCRIBER'S agent on the original prescription and, if used, on the alternate system of recordkeeping.
- (L) When forms are used that create multiple copies of a prescription issued to a patient by a ~~practitioner or an advanced practice nurse approved pursuant to section 4723.56 of the Revised Code~~ PRESCRIBER, the original prescription which also bears the actual signature of the prescriber must be issued to the patient for dispensing by a pharmacist.
- (M) A pharmacist may accept, without further verification of the prescriber's identity required, a prescription that has been transmitted by means of a board approved automated paperless system. The system shall require positive identification of the prescriber as defined in rule 4729-5-01 of the Administrative Code as well as the full name of any authorized agent of the prescriber who transmits the prescription.
- (N) A SCHEDULE II CONTROLLED SUBSTANCE PRESCRIPTION FOR A NARCOTIC SUBSTANCE ISSUED FOR A PATIENT ENROLLED IN A HOSPICE MAY BE TRANSMITTED BY THE PRESCRIBER OR THE PRESCRIBER'S AGENT TO THE PHARMACY BY FACSIMILE. THE ORIGINAL PRESCRIPTION MUST INDICATE THAT THE PATIENT IS A HOSPICE PATIENT. THE FACSIMILE TRANSMISSION MUST MEET ALL OF THE REQUIREMENTS IN PARAGRAPH (D) OF THIS RULE FOR SUCH A PRESCRIPTION.

4729-9-01 Definitions.

- (A) "Dangerous drug," as defined in division (D)(1) of section 4729.02 of the Revised Code, means any drug or drug product whose commercial package bears a label containing the legend "Caution: Federal Law Prohibits Dispensing Without Prescription" or "Caution: Federal Law Restricts This Drug To Use By Or On The Order Of A Licensed Veterinarian" or any similar restrictive statement.
- (B) A dangerous drug is adulterated if beyond the expiration date as stated by the manufacturer, packer, or distributor in its labeling or if it is not stored or dispensed according to the requirement of the federal act as indicated in the product labeling.
- (C) "Psychiatric outpatient facility" means a facility where psychiatric evaluation and treatment is provided on an outpatient basis.

- (D) "Registered" and "licensed", as used in Chapters 3719. and 4729. of the Revised Code, have the same meaning. "Registered" and "licensed" mean that an individual or facility has met the initial qualifications for registration and licensure with the board of pharmacy and, if they are still actively practicing pharmacy or distributing drugs, have complied with annual renewal procedures, including payment of applicable fees.
- (E) "Revoke", as used in Chapters 3719. and 4729. of the Revised Code, means to take action against a license which renders such license void and such license may not be reissued. "Revoke" is an action which is permanent against the license and licensee ~~except that after twelve months or such period of time as the individual board order may require, a licensee whose license has been revoked may make application to the board for issuance of a new license. A pharmacist whose license has been revoked must pass any examination required by the board prior to the issuance of any new license.~~
- (F) "Suspend", as used in Chapters 3719. and 4729. of the Revised Code, means to take action against a license which renders such license without force and effect for a period of time as determined by the board of pharmacy. The board may require that an individual whose license has been suspended may not be employed by or work in a facility licensed by the board of pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (G) "Place on probation", as used in Chapter 4729. of the Revised Code, means to take action against a license which suspends the sanctions imposed by the board of pharmacy during a period of good behavior for a period of time and under such conditions as determined by the board of pharmacy.
- (H) "Refuse to grant or renew", as used in Chapter 4729. of the Revised Code, means to deny original or continued licensure for a period of at least twelve months. After twelve months or such period of time as the individual board order may require, a pharmacist, a pharmacy intern, a terminal distributor of dangerous drugs, a wholesale distributor of dangerous drugs, a wholesaler of controlled substances, a manufacturer of controlled substances, or an individual or facility who desires to attain such status by licensure, and whose license the board of pharmacy has refused to grant or renew, may make application to the board for issuance of a new license. A pharmacist, or an individual who desires to attain such status by licensure, whose license the board of pharmacy has refused to grant or renew must meet any requirements established by the board or must pass any examination required by the board.
- (I) "CAMPUS", AS USED TO DESCRIBE A TYPE OF TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE ISSUED PURSUANT TO DIVISION (E) OF SECTION 4729.51 OF THE REVISED CODE, SHALL MEAN AN ESTABLISHMENT OR PLACE CONSISTING OF MULTIPLE BUILDINGS WHERE DANGEROUS DRUGS ARE STORED THAT ARE LOCATED ON A CONTIGUOUS PLOT OF LAND. ALL SUCH BUILDINGS AND STOCKS OF DANGEROUS DRUGS SHALL BE UNDER COMMON OWNERSHIP AND CONTROL.

4729-9-05 Security requirements.

- (A) All registrants shall provide effective and approved controls and procedures to guard against theft and diversion of dangerous drugs. In order to determine whether a registrant has provided effective and approved controls against diversion, the board of pharmacy shall use the security requirements set forth in Regulation RULE 4729-9-11 as standards for the physical security controls and operating procedures necessary to prevent diversion. ~~Materials and construction which will provide a structural equivalent to the physical security controls set forth in Regulation 4729-9-11 may be used in lieu of the materials and construction described in those sections:~~

- (B) Substantial compliance with the standards set forth in ~~Regulation~~ RULE 4729-9-11 may be deemed sufficient by the board of pharmacy after evaluation of the overall security system and needs of the applicant or registrant. In evaluating the overall security system of a registrant or applicant, the board of pharmacy may consider any of the following factors, as they deem relevant, for strict compliance with security requirements:
- (1) The type of activity conducted;
 - (2) Type and form of dangerous drugs handled;
 - (3) Quantity of dangerous drug handled;
 - (4) Location of the premises and the relationship such location bears on security needs;
 - (5) Type of building construction comprising the facility and the general characteristics of the building or buildings;
 - (6) Type of vaults, safes, and secure enclosures or other storage system (e.g.- automatic storage and retrieval system) used;
 - (7) Type of closures on vaults, safes, and secure enclosures;
 - (8) Adequacy of key control systems and/or combination lock control systems;
 - (9) Adequacy of electric detection and alarm systems, if any, including use of supervised transmittal lines and standby power sources;
 - (10) Extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;
 - (11) Adequacy of supervision over employees having access to manufacturing and storage areas;
 - (12) Procedures for handling business guests, visitors, maintenance personnel, and non-employee service personnel;
 - (13) Availability of local police protection or of the registrant's or applicant's security personnel, and;
 - (14) Adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of dangerous drugs in its operation.
- (C) When physical security controls become inadequate as a result of a significant increase in the quantity of dangerous drugs in the possession of the registrant during normal business operation, the physical security controls shall be expanded and extended accordingly.
- (D) Any registrant or applicant desiring to determine whether a proposed security system substantially complies with, or is the structural equivalent of, the requirements set forth in ~~Regulation~~ RULE 4729-9-11 may submit any plans, blueprints, sketches, or other materials regarding the proposed security system to the board of pharmacy.

- (E) ~~Approved physical security controls of locations registered under sections 4729.53 and 4729.55, Revised Code, on July 1, 1976, shall be deemed to comply substantially with the standards set forth in Regulation 4729-9-11.~~
- (F) The state board of pharmacy shall be notified of any new facilities, work or storage areas to be constructed or utilized for dangerous drugs or OF any changes in operation of the registrant before being used or implemented.

4729-9-06 Disposal of dangerous drugs which are controlled substances.

- (A) Any person legally authorized under Chapters 3719. and 4729. OF THE REVISED CODE to possess dangerous drugs which are controlled substances may dispose of such drugs by the following procedure:
- (1) If the person is a registrant or practitioner required to keep records pursuant to Chapters 3719. and 4729.; OF THE Revised Code, the responsible pharmacist or practitioner shall send the state board of pharmacy a list of the dangerous drugs which are controlled substances containing the name and quantity to be disposed of.
 - (2) If the person is not a registrant or practitioner, he shall submit to the board of pharmacy a letter stating:
 - (a) The name and address of the person possessing the dangerous drugs which are controlled substances to be disposed of;
 - (b) The name and quantity of each controlled ~~substances~~ SUBSTANCE; and
 - (c) How the applicant obtained the controlled substances; and
 - (d) The name, address, and registration number of the person who possessed the controlled substances prior to the applicant, if known.
- (B) The executive director shall authorize and instruct the applicant to dispose of the dangerous drugs which are controlled substances in one of the following manners:
- (1) By transfer to persons registered under Chapters 3719. and 4729.; OF THE Revised Code, and authorized to possess the controlled substances;
 - (2) By destruction in the presence of a board of pharmacy officer, agent, or inspector or other authorized person; or
 - (3) By such other means as the board of pharmacy may determine to assure that the controlled substances do not become available to unauthorized persons.
- (C) In the event that a registrant is required regularly to dispose of dangerous drugs which are controlled substances, the executive director may authorize the registrant to dispose of such controlled substances, in accordance with paragraph (B)(1) of this ~~regulation~~ RULE, without prior approval of the board of pharmacy in each instance on the condition that the registrant keep records of such disposals and file periodic reports with the board of pharmacy summarizing the disposals made by the registrant. In granting such authority, the executive director may place ~~such~~ conditions ~~as he deems proper~~ on the disposal of dangerous drugs which are controlled substances, including BUT NOT LIMITED TO the method of disposal and the frequency and detail of reports.

4729-9-08 Change in description of terminal OR WHOLESALE dangerous drug facility.

For the purpose of ~~section~~ SECTIONS 4729.51(E); AND 4729.52(D) OF THE Revised Code, any change in the ownership, business or trade name, or address of a terminal OR WHOLESALE distributor of dangerous drugs requires a new application and license.

4729-9-09 Security of prescription blanks and D.E.A. controlled substance order forms.

For the purpose of aiding compliance with section ~~4729.61~~ 2925.23 of the Revised Code, a practitioner, responsible pharmacist, or responsible person shall provide security and control for their prescription blanks and D.E.A. controlled substance order forms by limiting their availability only to authorized persons.

4729-9-13 Distributor of dangerous drug samples.

No manufacturer, manufacturer's representative, or wholesale dealer in pharmaceuticals may furnish a sample of a drug of abuse AS DEFINED IN SECTION 3719.011 OF THE REVISED CODE to a practitioner unless requested by the practitioner and unless the company is registered as a wholesale distributor of dangerous drugs and maintains a record of such distribution which will be available to the state board of pharmacy.

4729-9-18 Posting AVAILABILITY of terminal, wholesale, or manufacturer license.

Each entity possessing a current license as a terminal distributor of dangerous drugs, wholesale distributor of dangerous drugs wholesaler of controlled substances, or manufacturer of controlled substances shall ~~post~~ MAINTAIN such license in a ~~conspicuous~~ READILY AVAILABLE place in the principal location of such business; ~~except a terminal distributor of dangerous drugs license issued for the contingency and emergency drug supply pursuant to rule 4729-17-06 of the Administrative Code.~~

4729-17-04 Records; institutional facility pharmacy.

The pharmacist-in-charge shall be responsible for maintaining the following records:

- (A) A record of all drugs purchased, the quantity received, and the name, address, and wholesale distributor registration number of the person from whom the drugs were purchased.
- (B) All drug orders and dispensing records for drugs for patients. Such drug orders and dispensing records may be microfilmed or retained by any process providing an exact duplicate of the original order. In addition, if an alternate recordkeeping system is utilized these records may be stored on electronic, magnetic, light, laser, or optic media. Any such storage media must meet industry standards for quality and have stability for a period of at least three years. Records on an automated data processing system, or subsequent storage of such records, must be readily retrievable (via CRT display or hard-copy printout), within seventy-two hours. Records of drugs dispensed shall include, but is not limited to, the name, strength, and quantity of drugs dispensed; the date of dispensing; the name of the inpatient to whom, or for whose use, the drug was dispensed; and positive identification of the dispensing pharmacist. Records of drugs dispensed for outpatients shall be maintained pursuant to rule ~~4729-5-17~~ 4729-5-27 of the Administrative Code.
- (C) A record of all drugs compounded or repackaged for use only within the institution, which shall include at least the following:
 - (1) Name of drug, strength, and dosage form;
 - (2) Manufacturer's or distributor's control number;

- (3) Manufacturer's or distributor's name, if a generic drug is used;
 - (4) Pharmacy control number;
 - (5) Manufacturer's or distributor's expiration date;
 - (6) The pharmacy's expiration date or beyond-use date;
 - (7) Positive identification of the registered pharmacist responsible for the compounding or repackaging of the drug.
- (D) A record of the distribution of dangerous drugs to other areas of the institution for administration or use as described in paragraph (B) of rule 4729-17-03 of the Administrative Code, which shall include at least the following:
- (1) The name, strength, dosage form, and amount of drug distributed;
 - (2) The area receiving the drug;
 - (3) The date distributed;
 - (4) Positive identification of the individual receiving the drug if it is a controlled substance;
 - (5) The area of the institution receiving the dangerous drug shall make a record of all such drugs administered to patients. Such records shall include at least the following:
 - (a) Name of the patient;
 - (b) Name, dosage form, and strength when applicable of the drug;
 - (c) Date and time the drug was administered;
 - (d) Quantity administered;
 - (e) Positive identification of the personnel administering the drug.
- (E) All records shall be maintained for a period of three years in a readily retrievable manner; pursuant to section 4729.37 of the Revised Code.

4729-17-09 Drug orders for patients of an institutional facility.

- (A) Drugs shall be dispensed by a pharmacist for inpatients pursuant to an original ~~written PATIENT-SPECIFIC order issued by a prescriber, or a direct carbonized copy or a facsimile of such order.~~
- (1) Oral orders issued by a prescriber for inpatients of an institutional facility may be transmitted to a pharmacist by personnel authorized by, and in accordance with, written policies and procedures of the facility. Such orders shall be recorded by the pharmacist, noting the full name(s) of the authorized personnel transmitting the order. Oral orders issued by a prescriber and transmitted by authorized personnel shall be ~~countersigned~~ VERIFIED by the prescriber USING POSITIVE IDENTIFICATION within ~~the allotted~~ A REASONABLE time AND AS required by the written policies and procedures OF THE FACILITY.

- (2) Drug orders for inpatients of an institutional facility ~~transferred~~ TRANSMITTED to a pharmacist by use of a facsimile machine TO FACSIMILE MACHINE TRANSFER shall be transmitted by personnel authorized by, and in accordance with, written policies and procedures of the facility. The pharmacist receiving the facsimile shall have in place written policies and procedures allowing only authorized personnel access to the drug order facsimile. The pharmacist shall maintain the facsimile showing ~~positive identification of the person authorized to transmit the order and~~ the origin of the order as a part of the drug order record. ~~In an institutional facility, this~~ THIS facsimile must be maintained if it is the only record showing the pharmacist responsible for dispensing the drug.
- (3) Drug orders for inpatients of an institutional facility transmitted to a pharmacist by use of a BOARD APPROVED paperless automated data processing system may be considered an original order for the dispensing of drugs, ~~only if a prescriber has input the order into the system.~~ Access to such system for ~~inputting~~ ENTERING AND TRANSMITTING original orders shall be restricted to ~~prescribers in accordance with written policies and procedures of the facility~~ LICENSED HEALTH CARE PRACTITIONERS USING POSITIVE IDENTIFICATION. IF THE LICENSED HEALTH CARE PRACTITIONER ENTERING THE ORDER INTO THE SYSTEM IS NOT THE PRESCRIBER, THERE SHALL BE A SYSTEM IN PLACE REQUIRING THE POSITIVE IDENTIFICATION OF THE PRESCRIBER FOR EACH ORDER WHICH SHALL BE AVAILABLE IN A READILY RETRIEVABLE FASHION. With such a system, the institutional pharmacy director or ~~designated~~ RESPONSIBLE pharmacist shall have in place written policies and procedures allowing only authorized personnel in the pharmacy access to the drug orders.
- (B) All orders for drugs for inpatients shall include, but are not limited to, at least the following:
- (1) Name of patient;
 - (2) Name, strength, and dosage form of drug;
 - (3) Directions for use, including route of administration if other than oral;
 - (4) Date prescribed; and
 - (5) Prescriber's positive identification.
- (C) Drugs shall be dispensed for outpatients pursuant to an original ~~written~~ order of a prescriber ~~or an order transmitted by a prescriber to a pharmacist.~~ All orders for the dispensing of drugs to outpatients shall, at a minimum, ~~contain all of the items required by~~ CONFORM TO rule 4729-5-30 of the Administrative Code, shall be labeled in accordance with rule 4729-5-16 of the Administrative Code, and THE records SHALL BE maintained in accordance with rule ~~4729-5-17~~ 4729-5-27 of the Administrative Code.
- (D) An original signed prescription for a schedule II controlled substance prepared in accordance with federal and state requirements and issued for a resident in a long term care facility may be transmitted by the prescriber or the prescriber's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription and shall be received and maintained as in paragraph (D) of rule 4729-5-30 of the Administrative Code. The original signed prescription must remain with the patient's records at either the prescriber's office or the long term care facility.

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

2:30 p.m.

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

5:45 p.m.

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

5:55 p.m.

RES. 98-053 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-961203-020)

In The Matter Of:

DAVID SCOTT BLAZY, R.Ph.

14516 Williams Street

Maple Heights, Ohio 44137

(R.Ph. No. 03-1-17436)

INTRODUCTION

THE MATTER OF DAVID SCOTT BLAZY CAME TO HEARING ON SEPTEMBER 10, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID SCOTT BLAZY WAS REPRESENTED BY MICHAEL E. BANTA, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Joseph Miskevics, Revco (CVS) Loss Prevention
- (2) Detective Greg Whitney, Cleveland Police Department, Narcotics Unit
- (3) Lynn Mudra, Ohio State Board of Pharmacy
- (4) James Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) David Scott Blazy, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated December 3, 1996.
- (2) Exhibit 1A--Request for Hearing letter dated January 2, 1997.

- (3) Exhibit 1B--Hearing Schedule letter dated January 3, 1997.
- (4) Exhibit 1C--Addendum Notice dated May 15, 1997.
- (5) Exhibit 1D--Continuance Request letter dated May 29, 1997.
- (6) Exhibit 1E--Hearing Schedule letter dated June 3, 1997.
- (7) Exhibit 1F--Hearing Schedule letter dated June 5, 1997.
- (8) Exhibit 1G--Continuance Request letter dated July 30, 1997.
- (9) Exhibit 1H--Hearing Schedule letter dated August 5, 1997.
- (10) Exhibit 1I--Pharmacist File Front sheet of David Scott Blazy showing original date of registration as July 29, 1988; and Renewal Application for Pharmacist License, No. 03-1-17346, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of David Scott Blazy dated July 22, 1996.
- (11) Exhibit 2--Olympus microcassette tape recorded interview of David Blazy taken on December 3, 1996.
- (12) Exhibit 3--Copy of three-page handwritten statement of David Blazy dated November 22, 1996.
- (13) Exhibit 4--Three-page handwritten statement of Bennie J. Gentry signed and notarized on November 26, 1996.
- (14) Exhibit 4A--Handwritten statement of Deborah Harris signed and notarized on November 26, 1996.
- (15) [REDACTED]
- (16) [REDACTED]
- (17) [REDACTED]
- (18) Exhibit 7--Sealed Record--Ten-page Revco Prescription Access Link Patient Medical Profile dated from January 1, 1996, to November 22, 1996, beginning with prescription number 1803-172838.
- (19) Exhibit 8--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Stadol NS dated January 31, 1997.
- (20) Exhibit 9--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Valium 5mg dated January 31, 1997.
- (21) Exhibit 10--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Valium 10mg dated January 31, 1997.
- (22) Exhibit 11--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Vicodin ES dated January 31, 1997.
- (23) Exhibit 12--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Vicodin dated January 31, 1997.
- (24) Exhibit 13--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Hydrocodone 5mg/APAP 500mg dated January 31, 1997.
- (25) Exhibit 14--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Hydrocodone 7.5mg/APAP 750mg dated January 31, 1997.
- (26) Exhibit 15--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Diazepam 5mg dated January 31, 1997.
- (27) Exhibit 16--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1106 for Diazepam 10mg dated January 31, 1997.
- (28) Exhibit 17--Letter from Wayne Korte dated February 7, 1989; and copy of handwritten statement of David Blazy dated January 28, 1989.
- (29) [REDACTED]

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the Board indicate that David Scott Blazy was originally licensed to practice pharmacy in the state of Ohio on July 29, 1988. On December 3, 1996, David Scott Blazy's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) David Scott Blazy did, [REDACTED]
- (3) David Scott Blazy did, [REDACTED]
- (4) David Scott Blazy did, on or about November 15, 1996, and again on November 22, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco Discount Drug Center #1803, 7965 Euclid Avenue, Cleveland, Ohio, beyond the express or implied consent of the owner, to wit: on each date, David Scott Blazy stole 4 bottles of Stadol Nasal Spray, a dangerous drug; on November 15 David Scott Blazy stole an unknown quantity of Hydrocodone with APAP; and, on November 22 David Scott Blazy stole 100 units of Vicodin ES, schedule III controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) David Scott Blazy did, [REDACTED]
- (6) David Scott Blazy did, on or about November 15, 1996, sell at retail dangerous drugs when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Scott Blazy sold 4 bottles of Stadol Nasal Spray without a prescription and not for a legitimate medical purpose to John Brown. Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code.
- (7) David Scott Blazy did, on or about November 22, 1996, sell at retail dangerous drugs when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Scott Blazy sold 4 bottles of Stadol Nasal Spray without a prescription and not for a legitimate medical purpose to John Brown. Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code.

- (8) David Scott Blazy did, from June 28, 1995, through November 26, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #1106, 6512 Franklin Blvd., Cleveland, Ohio, beyond the express or implied consent of Revco, to wit: David Scott Blazy stole the following drugs from his place of employment while engaged in the practice of pharmacy:

<u>Drug</u>	<u>Quantity</u>
Stadol Nasal Spray 2.5ml	56
Valium 5mg	345
Valium 10mg	543
Vicodin ES	2,846
Vicodin	637
Hydrocodone 5mg/APAP 500mg	3,038
Hydrocodone 7.5mg/APAP 750mg	3,245
Diazepam 5mg	990
Diazepam 10mg	1,861

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

- (9) David Scott Blazy did, [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (9) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), (3), (5) through (7), and (9) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of Chapter [REDACTED] 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 December 3, 1997.

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

- (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. 03-1-17436, held by David Scott Blazy 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. 03-1-17436, held by David Scott Blazy effective as of the date of the mailing of this Order.

Pursuant to paragraph (E) of Rule 4729-9-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby requires that David Scott Blazy may not make application to the Board for issuance of a new license for thirty (30) years.

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

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

MOTION CARRIED.

SO ORDERED.

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

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

PER DIEM	<u>09/08</u>	<u>09/09</u>	<u>09/10</u>	<u>Total</u>
Adelman	1	1	1	3
Cavendish	1	1	1	3
Hanna	1	1	1	3
Lamping	1	1	1	3
Littlejohn	1	1	1	3
Maslak	1	1	1	3
Neuber	1	1	1	3
Plant	1	1	1	3
Repke	1	1	1	3

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

6:00 p.m. Mr. Maslak moved that the meeting be adjourned. Mrs. Adelman seconded the motion and it was approved (Aye-7/Nay-0).

Amonte B. Littlejohn, President

Date

Franklin Z. Wickham, Executive Director