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Minutes Of The Meeting

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

MONDAY, DECEMBER 8, 1997

8:15 a.m. ROLL CALL

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

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.

Also present were: Sally Ann Steuk, Assistant Attorney General; William Winsley, Assistant Executive Director; Tim Benedict, Compliance Administrator; David Rowland, Legal Affairs Administrator; and Robert Cole, Compliance Supervisor.

Mrs. Plant moved that the Board go into Executive Session for the purpose of conferring with the Assistant Attorney General regarding pending and imminent court matters and the investigation of complaints regarding licensees and registrants. The motion was seconded by Mr. 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.

9:45 a.m.

RES. 98-071 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board accept the proposed settlement in the matter of Crystal Edward White, R.Ph.; Warrensville Heights, Ohio. The motion was seconded by Mrs. Neuber and approved by the Board (Aye-8/Nay-0).

RES. 98-072 Mr. Hanna moved that the Board authorize the Assistant Attorney General to present counter proposals to the attorneys and respondents in the matters of Lincoln Professional Pharmacy; Evelyn Kay Hansen, R.Ph.; James N. King, R.Ph.; and Lisa J. Fielder, R.Ph. Mrs. Plant seconded the motion and it was approved by the Board (Aye-8/Nay-0).

RES. 98-073 The Assistant Executive Director, William T. Winsley, briefed the Board on the comments, both oral and written, received to date on the proposed amended and new rules that are scheduled for a 1:00 p.m. Chapter 119. public hearing. Following discussion, a draft of an amended version of Proposed Amended Rule 4729-1-01 was reviewed by the Board and approved for refileing with the Joint Committee on Agency Rule Review. The motion to refile the draft as follows was made by Mrs. Plant, seconded by Mr. Lamping, and approved (Aye-8/Nay-0).

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~~ BY advertising such notice, ONE TIME, in at least one newspaper of general circulation in the state of Ohio AT LEAST THIRTY DAYS PRIOR TO THE DATE SET FOR THE PUBLIC HEARING. ~~Such notice shall include:~~

(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.~~ BY PLACING SUCH NOTICE 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.

(B) The board shall furnish 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 AS FOLLOWS:

(1) BY MAILING 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.

(2) BY POSTING ON THE BOARD'S WORLD WIDE WEB HOME PAGE AND REMAINING THERE UNTIL THE PUBLIC HEARING RECORD IS CLOSED.

RES. 98-074 Staff then discussed the problem arising from an Inspector General's (United States Department of Health and Human Services) opinion requested by the Ohio Hospital Association. The opinion suggested that the system established legislatively in Ohio to replenish dangerous drugs used by Emergency Medical Systems in caring for patients when transporting them to hospitals for medical treatment could be viewed as an illegal kickback pursuant to Medicare laws and regulations. A copy of correspondence drafted by the Board's Legal Affairs Administrator, David Rowland, to be forwarded to the attorney issuing the opinion was presented to the Board for their approval. The Board complimented Mr. Rowland on his letter outlining the problem and approved the following letter being faxed to the appropriate parties.

D. McCARTY THORNTON
Chief Counsel to the Inspector General
HHS OFFICE OF THE INSPECTOR GENERAL
330 Independence Ave. S.W., Rm 5541
Washington, DC 20201

SENT BY FAX:
202/401-3197

RE: Advisory Opinion 97-6

Dear Mr. Thornton:

This agency has recently been apprised of Advisory Opinion 97-6 regarding the Inspector General's interpretation of 42 U.S.C. Section 1320a-7b(b) and the exchange of drugs from hospitals to emergency medical systems (EMS). This issue is crucially important for the health and welfare of Ohio citizens.

A rational and economical system for replenishing drugs used by EMS units when transporting patients in Ohio was established by the Ohio General Assembly in 1982. The legislation provided a mechanism whereby EMS units could legally obtain their drug stock from the hospital where the patient was transported on an exchange basis. The pertinent part of Section 4729.54 of the Ohio Revised Code is enclosed herewith. This procedure of replenishing drug stocks is not only cost-effective but is also in the best interest of the patients receiving emergency medical care. It is a pragmatic way of addressing the issue of supplying drugs to EMS units for use as needed. The system ensures that in-dated drugs are available at no cost to the EMS, and that a record of the administration of the drug to patients becomes a part of the patients' medical records at the hospital.

The exchange system ensures availability of drugs to EMS units which would not otherwise have the ability to possess them if the system were determined to be illegal. Since small accounts are not usually cost-effective for drug wholesalers, most are reluctant or unwilling to open accounts below a certain threshold, thus making it extremely difficult for EMS units to obtain drugs. Moreover, small EMS units are typically operated by volunteer fire departments who do not have the funds to purchase drugs nor the administrative structure or ability to set up effective billing procedures. Thus, the impact of Advisory Opinion 97-6 will most likely be the creation of countless situations where EMS units are relegated to taxi cab status without the life-preserving drugs needed to transport patients to hospitals.

Under the current system in Ohio, all hospitals are free to engage in this practice, and ambulances are therefore able to take patients to the hospital which is most appropriate for the care of the patient, and without fear that they would not be able to replenish their drug stock. More importantly, ambulances will not have to be faced with the untenable decision of having to operate without the use of drugs necessary to the preservation of life or limb merely because they either have no supply for the drugs or they have no means of billing so as to recover their costs. Simply stated, if an ambulance cannot have its drug stock replenished, it would either shut down EMS service or necessitate another quagmire of billings to the patients and their insurance companies by yet another health care provider (assuming a drug stock could even be purchased).

There certainly could exist situations where a hospital intends for exchanges of drugs to be an enticement to do business, and such instances should properly be investigated as illegal kickbacks. However, it would be difficult if not impossible to envision such a situation where another hospital, not giving such enticements, would not take notice and therefore report such illegal activity for investigation by HHS. But to ban the system as illegal because of a remote possibility of kickbacks existing ignores the real importance and viability of the exchange system.

It is our understanding that hospitals in Ohio will no longer exchange drugs with EMS units, even though proper under Ohio law, effective January 1, 1998. We have received reports that some hospitals are already refusing to replace the drugs used by EMS units when transporting patients. Due to the urgency of the issue, the Board writes you now to implore you to place a six-month moratorium on enforcement of Advisory Opinion 97-6 and to review additional information, which we would gladly supply, or so as to enable Congress to address the issue. Further, we would be happy to meet with you personally to discuss the matter.

Sincerely,

OHIO STATE BOARD OF PHARMACY

David L. Rowland, J.D.
Legal Affairs Administrator

DLR/sb

Enclosure: Sub. S.B. 4 (parts pertinent to issue only)

cc: The Honorable Robert Ney; U.S. House of Representatives; Washington, DC 20515
John E. Callender, Senior Vice President; Ohio Hospital Association; 155 East Broad Street;
Columbus, OH 43215-3620
Dianne Farabi, Executive Director; Ohio Ambulance Association; 1161 Francisco Road;
Columbus, OH 43220
Barbara Galloway; Akron Beacon Journal; 2 South High Street; Columbus, OH 43215

RES. 98-075 William Winsley, Assistant Executive Director, presented and discussed the exam statistics resulting from the October 1997 window. Mrs. Plant moved that the names of the successful candidates be recorded in these minutes. Mr. Lamping seconded the motion and it was approved (Aye-8/Nay-0).

Douglas Lee Ackerman; Toledo, OH	03-1-22487
Anna M. Antoulinakis; Holiday, FL	03-1-22349
David R. Baker; Mentor, OH	03-1-22567
Adam Nicholas Bauman; Columbus, OH	03-1-22717
Scott David Beach; Bluffton, OH	03-1-22728
Michael Bradley Bell; Columbus, OH	03-1-22671
Alyssa Renae Blackburn; Columbus, OH	03-1-22585
Daniel Allen Borgner; Navarre, OH	03-1-22702
Deniece Ann Brown; Westerville, OH	03-1-22712
Diana Sue Clickner; Washington Court House, OH	03-1-22603
Jennifer Kay Clinger; Columbus, OH	03-1-22692
Carolyn A. Colegate; Cleves, OH	03-1-22563
Jayne L. Considine; Bethel Park, PA	03-1-22414
Jennifer Melane Cox; Wapakoneta, OH	03-1-22713
Mark David Crowe; Columbus, OH	03-1-22651
Annisa Mae Dudas; Circleville, OH	03-1-22703
Rosanwo Ibijoke Faderera; Solon, OH	03-1-22685
Amy Jo Feldman; Renton, WA	03-1-22672
Stacy Woltman Flynn; Milford Center, OH	03-1-22670
Lisa Arielle Fullerton; Lakewood, OH	03-1-22686
Jason Scott Grills; Dayton, OH	03-1-22687
David W. Hippy II; Columbus, OH	03-1-22714
Jessica Lynn Hoffman; Broadview Heights, OH	03-1-22412
Joel Thomas Horvat; Niles, OH	03-1-22548
Lana Lea Hunter; Amanda, OH	03-1-22707
Rebecca Lynn Janson; Cincinnati, OH	03-1-22570
Sheri A. Kalas; Farmdale, OH	03-1-22708
Scott Andrew Kimmins; Zanesville, OH	03-1-22668
Bridget M. King; Columbus, OH	03-1-22678
Anthony Ross Kitchen; Westlake, OH	03-1-22669
Ryan James Koski; Columbus, OH	03-1-22716
Danna Delene LaPrarie; Oregon, OH	03-1-22376
Hwa Lian Lau; Strongsville, OH	03-1-22500
Mercedes Ana Lira; Maple Heights, OH	03-1-22691
Marlaine L. Mance; Miami, FL	03-1-22592
Emily Edna Markwalder; Streetsboro, OH	03-1-22705
Tonya Rae Maxey; Cincinnati, OH	03-1-22501
Dana Sue McCulley; Columbus, OH	03-1-22602
Leslie Ann McIntosh; Lewis Center, OH	03-1-22657
Amy E. Miller; Malvern, OH	03-1-22313
Mark G. Nemenz; Palm Harbor, FL	03-1-22356
Glorimar Guzman Ortiz; Columbus, OH	03-1-22681
Julie M. Palte; Ottawa, OH	03-1-22700
Laurie Christine Papesh; Bainbridge Twp., OH	03-1-22689
Erin Sue Parlette; Gibsonburg, OH	03-1-22332
Heather Lynn Parry; Columbus, OH	03-1-22659
Kyle Steven Pavlak; Columbus, OH	03-1-22688
Christine Renee Petro; Canton, OH	03-1-22664
Raymond Charles Schmidt; Gahanna, OH	03-1-22359
John David Scott; Stow, OH	03-1-22155

Scott Robert Sendelbach; Tiffin, OH	03-1-22577
Andrew Adam Smith; North Canton, OH	03-1-22715
Chad E. Smith; Oak Hill, OH	03-1-22721
Tracy J. Smith; Cincinnati, OH	03-1-22431
Nahid Sohrabi; North Olmsted, OH	03-1-22312
Ayodele Adetokunbo Solaru; University Heights, OH	03-1-22696
Jason L. Swartz; Maineville, OH	03-1-22679
Kristi L. Taylor; Columbus, OH	03-1-22706
Steven Charles Taylor; North Lewisburg, OH	03-1-22699
Laurie Marie Ursich; Dayton, OH	03-1-22698
Donald George Weintz Jr.; Blue Ash, OH	03-1-22680
Kristen McFarland Williams; Grove City, OH	03-1-22652
Robert Anthony Wootton; Beavercreek, OH	03-1-22310

Mr. Winsley also reported on the meetings he and Tim Benedict attended to review approximately two thousand jurisprudence questions for the computer-adaptive Multi-State Jurisprudence Examination which is being developed by the National Association of Boards of Pharmacy and will be given for the first time in the Fall of 1998. The computer-adaptive exam will be a sixty-five question test on both federal and state laws and candidates will have two hours in which to complete the examination. The Federal Drug Law Examination (FDLE) will be discontinued when the new exam is administered. NABP intends to offer the examination on a monthly basis.

11:00 a.m.

Assistant Attorney General Sally Ann Steuk and Legal Affairs Administrator David Rowland joined the Board for the purpose of considering the investigation of charges or complaints against licensees and regulated individuals. Mr. Maslak moved that the Board go into Executive Session. The motion was seconded by Mr. Lamping and a roll call vote conducted by President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

11:05 a.m.

RES. 98-076

The Executive Session was concluded and the meeting opened to the public. The Board directed the Assistant Attorney General to draft settlement agreements in the matters of Lincoln Professional Pharmacy, Inc. and James N. King, R.Ph.; Columbus as agreed to by the Board for signatures by the appropriate parties. Hearings in these matters were continued until the settlement agreements have been signed and approved by all parties.

RES. 98-077

The Board refused to consider and accept counter proposals in the matter of Lisa Fielder, R.Ph.; Circleville and the hearing will commence as scheduled at 3:00 p.m.

Compliance Administrator Tim Benedict reported on the activities of the compliance and enforcement field staff during the first quarter of Fiscal Year 98.

Mr. Hanna reported that the Nursing Board Formulary Committee met in November, 1997 and that the issue of advanced practice nurses prescribing drugs off-label was discussed. It was noted that the Nursing Board would be looking closely at this issue in the near future.

11:30 a.m.

The Board recessed for lunch.

1:00 p.m.

The Board reconvened in Room 1914 and was joined by Assistant Attorney General Sally Ann Steuk and David Rowland, Legal Affairs Administrator. Mrs. Neuber moved that the Board go into Executive Session for the purpose of considering the investigation of charges or complaints against licensees and regulated individuals. The motion was seconded by Mr. Cavendish and a roll call vote conducted by President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

1:05 p.m.

RES. 98-078 The Executive Session was concluded and the meeting opened to the public. The Board directed staff to notify the attorney for Lisa J. Fielder, R.Ph.; Circleville, that their decision to not consider any counter offers to the proposed settlement agreement was final and that the hearing would be held as scheduled at 3:00 p.m.

RES. 98-079 The Board was informed that the Board's stipulations regarding a settlement in the matter of Evelyn K. Hansen, R.Ph. had been accepted by the appropriate parties and the hearing continued in the matter until all parties have signed the settlement agreement.

1:14 p.m.

The Board moved to Room 1919 for the purpose of conducting a Chapter 119. public hearing and receive written and oral testimony regarding proposals to amend nineteen Ohio Administrative Code rules and adopt one new rule. Evidence and testimony regarding compliance by the Board with the provisions of Revised Code Chapter 119. were entered into the record by the Executive Director as well as all written comments submitted to the Board prior to the hearing. The Board then heard oral testimony.

1:45 p.m.

All witnesses having testified, the public hearing was concluded and the record closed.

1:47 p.m.

RES. 98-080 The Board reconvened in Room 1914 for the purpose of continuing the business meeting. Mrs. Plant moved that the Board approve the North American Pharmacist Licensure Examination State Letter of Agreement for the 1998 examination testing windows. The motion was seconded by Mrs. Neuber and approved (Aye-8/Nay-0).

RES. 98-081 The next agenda item considered by the Board was a request that the Board modify their Order issued December 12, 1994 in the matter of Carol Noble, Ohio Pharmacist Identification Number 03-3-07286 to allow her to serve as a responsible pharmacist for the remaining years of probation. Mrs. Plant moved that the request be denied. Mrs. Neuber seconded the motion and the Board approved it (Aye-7/Nay-0/Abstain-1[Adelman]).

RES. 98-082 President Littlejohn reported that he has appointed the following Board members to participate in the accreditation visits by the American Council on Pharmaceutical Education:

Ohio Northern University - April 20-22, 1998 - John Hanna
Ohio State University - April 22-24, 1998 - Robert Cavendish

Tim Benedict reported that the State Medical Board Prescribing Committee is in the process of preparing final drafts of amended rules regarding weight loss programs. A public hearing will be held on the proposals early next year. Copies of the proposals are to be forwarded to all Board members when received by the Pharmacy Board office.

RES. 98-083 The Board then considered a request that a reciprocity candidate who had planned on attending the November hearing, which was cancelled by the Board, be provided with the opportunity to appear before the Board prior to the January 1998 hearing. The candidate was not able to attend the hearing this month due to her attendance at the Midyear meeting of the American Society of Health-System Pharmacists. Mrs. Plant moved that the request be denied. The motion was seconded by Mrs. Neuber and approved (Aye-8/Nay-0).

3:00 p.m.

RES. 98-084 Mr. Lamping left for personal business and the Board was joined by Assistant Attorney General Sally Ann Steuk and Compliance Agent Chris Reed for the purpose of conducting an adjudication hearing in the matter of Lisa J. Fielder, R.Ph.; Circleville. Prior to commencing the hearing, the attorney for the respondent announced that the Board's stipulations for a consent agreement in the matter had been accepted by his client and that the hearing is not necessary. The hearing was continued in this matter until the settlement agreement has been signed and approved by all parties.

Mr. Littlejohn reported on the AACP/NABP District IV annual meeting held in Southfield, Michigan November 7-9, 1997. Also in attendance at this meeting at their own expense were Board members Diane Adelman, John Hanna, Paul Lamping, and Ruth Plant.

3:30 p.m.

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

4:15 p.m.

RES. 98-085

The Executive Session was concluded and the meeting opened to the public. Mr. Maslak moved that the Board authorize Assistant Attorney General Sally Ann Steuk to offer the conditions outlined by the Board during the Executive Session in a settlement in the matter of Michael David Connell, R.Ph. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-4/Nay-3).

Board member Suzanne Neuber announced that the Recruitment Committee would meet in the Board library immediately after the meeting is recessed to review progress to date in attracting viable candidates for the position of Executive Director, finalize arrangements for reviewing completed application packets, and scheduling interviews.

4:18 p.m. The Board recessed the meeting until Tuesday, December 9, 1997 at 9:00 a.m.

TUESDAY, DECEMBER 9, 1997

9:13 a.m. ROLL CALL

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

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

RES. 98-086

The Executive Director reported that the following settlement agreement in the matter of Kmart had been signed by the President and was effective as of December 8, 1997:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-961217-022)

In the Matter of:

KMART PHARMACY #4169
2600 Lincoln Way E.
Massillon, Ohio 44646
(Terminal Distributor No. 02-0149300)

This Settlement Agreement is entered into by and between Kmart Pharmacy #4169 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.

Kmart Pharmacy #4169 enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Kmart Pharmacy #4169 is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against Kmart Pharmacy #4169, and in order to obviate the need to conduct an administrative hearing to consider disciplinary sanctions

against Kmart's license, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings. Kmart Pharmacy #4169 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

- (1) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew, or impose a monetary penalty on any terminal distributor of dangerous drugs for violation of any of the enumerated grounds.
- (2) Kmart Pharmacy #4169 did, from December, 1992, through June, 1993, fail to provide effective and approved controls and procedures to guard against theft and diversion of dangerous drugs, to wit: when thefts of controlled substances were reported by the practicing pharmacists to Kmart security and district managers on a monthly basis, Kmart Pharmacy #4169 did nothing to change its controls and/or procedures to prevent further thefts or losses. Such conduct is in violation of Rule 4729-9-05(A) of the Ohio Administrative Code.
- (3) Kmart Pharmacy #4169 did, from December, 1992, through June, 1993, fail to notify the Board of Pharmacy, the Drug Enforcement Administration (DEA), and local law enforcement authorities pursuant to Section 2921.22 of the Ohio Revised Code upon discovery of the theft or significant loss of controlled substances, to wit: knowing that the following thefts and/or significant losses of controlled substances had occurred, and though the practicing pharmacists reported to Kmart district managers, Kmart Pharmacy #4169 did not report them:

<u>Drug</u>	<u>Shortage</u>
Demerol 50mg	1
Oxycodone with APAP 5mg	9
Oxycodone with ASA 5mg	1
Ritalin 5mg	115
Methylphenidate 5mg	27
Methylphenidate 10mg	29
Methylphenidate 20mg	110
Ritalin SR 20mg	1

Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code, and if proven constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Kmart Pharmacy #4169 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

Kmart Pharmacy #4169 agrees to the imposition of a monetary penalty of three thousand dollars (\$3,000.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Kmart Pharmacy #4169 appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Kmart Pharmacy #4169 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Kmart Pharmacy #4169 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Kmart Pharmacy #4169 agrees that should the Board reject this Agreement and if this case proceeds to hearing, it will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

/s/ Catherine M. Polley
Representative on behalf of Kmart Pharmacy #4169

/d/ 10-31-97
Date of Signature

/s/ Michael J. Holleran
Michael J. Holleran, Attorney for Respondent

/d/ 11/18/97
Date of Signature

/s/ Amonte B. Littlejohn
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy

/d/ 12/8/97
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 12-9-97
Date of Signature

RES. 98-087 The Executive Director requested that an applicant for licensure by reciprocity, Stephanie Jo Bodnar, be permitted to appear at the reciprocity hearing at 1:00 p.m. and the office issue her license to practice in Ohio when the official application has been received. A copy of Miss Bodnar's completed application had been faxed to the Board office and reviewed by staff who determined that she does qualify for licensure by reciprocity. Mr. Maslak moved that Ms. Bodnar be permitted to attend the hearing and that the Board office issue her license to practice upon receipt of the Official application and fee. The motion was seconded by Mrs. Plant and approved (Aye-7/Nay-0).

9:15 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk and the hearing in the matter of Kenneth Donald Daniels was opened by President Littlejohn.

9:20 a.m.

Board member John Hanna arrived and joined the meeting.

9:28 a.m.

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

RES. 98-088 Tim Benedict presented two requests for Board approval to serve as the responsible pharmacist at the same time for two terminal distributor of dangerous drugs licenses. Following discussion, Mrs. Plant moved that the Board approve the request of R.Ph. Eugene Wolke to serve as the responsible pharmacist for both the Fort Hamilton-Hughes Memorial Hospital Center (02-0029300) and 1010 Pharmacy, Inc. (02-0616300) until January 31, 1998. The motion was seconded by Mrs. Neuber and approved (Aye-8/Nay-0).

RES. 98-089 Mrs. Plant moved that the request of R.Ph. Jeffrey Fishwick to serve as the responsible pharmacist for both NMC Homecare. (02-0581900) and NMC Homecare (02-0747050) be approved for six months. Mr. Lamping seconded the motion and it was approved (Aye-8/Nay-0).

Staff then discussed Substitute Senate Bill 66 as it was passed by the Senate and sent to the House of Representatives on November 18, 1997.

10:47 a.m.

Assistant Attorney General Sally Ann Steuk and David Rowland, Legal Affairs Administrator, joined the Board. Mr. Lamping moved that the Board go into Executive Session for the purpose of considering the investigation of charges or complaints against a licensee and regulated individual and deliberating on evidence and testimony received in the matter of Kenneth Donald Daniels. The motion was seconded by Mr. Repke and a roll call vote conducted by President Littlejohn as follows: Adelman-Yes, Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

The results of the investigation of the registrant and licensee having been presented to the Board, Assistant Attorney General Sally Ann Steuk and Legal Affairs Administrator David Rowland were excused and left the meeting. The Board then deliberated on the evidence and testimony received in the matter of Kenneth Donald Daniels.

11:02 a.m.

RES. 98-090

The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board adopt the following Order and approve Kenneth Donald Daniels application for licensure by reciprocity with the stipulation that the license is placed on probation for one year from the date it is issued. The motion was seconded by Mr. Repke and approved (Aye-5/Nay-2/Abstain-1[Hanna]).

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970821-003)

In The Matter Of:

KENNETH DONALD DANIELS, R.Ph.

812 Lauren Pratt Court
Henderson, Nevada 89014
(D.O.B. 7/4/54)

INTRODUCTION

THE MATTER OF KENNETH DONALD DANIELS CAME ON FOR CONSIDERATION ON DECEMBER 9, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, 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.

KENNETH DONALD DANIELS WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of Notice of Opportunity for a Hearing letter dated August 21, 1997, with the following attachments: fourteen-page certified copy of Accusation before the Nevada State Board of Pharmacy, Case No. 8803013APH, in the matter of Kenneth D. Daniels, R.Ph. dated December 18, 1989, with attached three-page certified copy of an

attachment regarding the Sixth Cause of Action labeled Exhibit 1; four-page certified copy of Stipulation and Order before the Nevada State Board of Pharmacy, Case No. 88-03013A-RPH-S, in the matter of Kenneth Daniels dated April 27, 1990; and certified copy of letter from Keith W. Macdonald dated May 1, 1992.

- (2) Exhibit 1A--Four-page National Association of Boards of Pharmacy® Official Application for Transfer of Pharmaceutical Licensure™ to the state of Ohio of Kenneth Donald Daniels notarized on June 9, 1997; and attached statement regarding the "Record of Charges, Convictions, and Fines Imposed on Applicant" section of the application, not signed or dated.

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 August 21, 1997, Kenneth Donald Daniels 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 August 25, 1997, Kenneth Donald Daniels received the letter of August 21, 1997, informing him of the allegations against him, and his rights.
- (3) Kenneth Donald Daniels has not responded in any manner to the letter of August 21, 1997, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that on or about June 10, 1997, Kenneth Donald Daniels submitted a NABP Official Application For Transfer Of Pharmaceutical Licensure™ to the state of Ohio.
- (5) Records further indicate that Kenneth Donald Daniels is a registered pharmacist in the state of Nevada.
- (6) On or about December 18, 1989, the Nevada State Board of Pharmacy issued an Accusation against Kenneth Donald Daniels. Attached hereto and incorporated herein as Appendix A is the Accusation with attachment, Case No. 8803013APH, before the Nevada State Board of Pharmacy
- (7) On or about April 27, 1990, the Nevada State Board of Pharmacy issued a Stipulation and Order against Kenneth Donald Daniels' license. Attached hereto and incorporated herein as Appendix B is the Stipulation and Order, Case No. 88-0313A-RPH-S, before the Nevada State Board of Pharmacy.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (6) and (7) of the Findings of Fact constitute not being of good moral character and habits as provided in Paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (6) and (7) of the Findings of Fact constitute having been disciplined by the Nevada State Board of Pharmacy as provided in Paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

Pursuant to Section 4729.09 of the Ohio Revised Code, the State Board of Pharmacy hereby approves the issuance of a certificate of registration or an identification card, and therefore approves the NABP Official Application For Transfer of Pharmaceuic Licensure submitted by Kenneth Donald Daniels with the following stipulations:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card of Kenneth Donald Daniels on probation for one year, effective as of the date of issuance. The terms of probation are as follows:
 - (1) Kenneth Donald Daniels must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (2) Kenneth Donald Daniels must abide by the rules of the Ohio State Board of Pharmacy.
 - (3) Kenneth Donald Daniels must comply with the terms of this Order.
- (B) The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

RES. 98-091 Mr. Cavendish moved that the Board summarily suspend the license of Matthew Earl Fisher (Ohio Pharmacist Identification No. 03-2-12681) to practice pharmacy in Ohio for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Hanna and approved (Aye-8/Nay-0).

Staff then discussed H.B. 532 and reviewed correspondence regarding the proposed legislation. Staff was directed to draft a letter to Representative Williams in response to comments submitted by the Ohio Pharmacists Association regarding the Board's proposals. Staff was also directed to include the issue as an agenda item for discussion with the Ohio Pharmacists Association representatives when they meet with the Board in January, 1998.

11:30 a.m.

The Board recessed for lunch.

1:00 p.m.

RES. 98-092 The Board reconvened in Room 1919 for the purpose of meeting with the following candidates for licensure by reciprocity:

ALTAYE, DAWIT	03-1-22733	MASSACHUSETTS
BODNAR, STEPHANIE J.	03-1-22802	WEST VIRGINIA
CRABTREE, JR., HERMAN D.	03-1-22747	GEORGIA
EPPLEN, KELLY T.	03-1-22740	KENTUCKY
FOGLIA, JR., JOHN P.	03-1-22760	PENNSYLVANIA
GRAHAM, LAURIE J.	03-1-22646	MASSACHUSETTS
HARRIS, JANINE A.	03-1-22769	PENNSYLVANIA
KIEWEL, LORI JO	03-1-22694	IOWA
KOVALYAK, BRENT M.	03-1-22751	PENNSYLVANIA
KRAUSE, MICHAEL R.	03-1-22741	MINNESOTA
LINDON, JAMES L.	03-1-22737	ARIZONA
MITLO, HEATHER L.	03-1-22744	PENNSYLVANIA

NELSON, DENISE L.	03-1-22746	INDIANA
OTTO, JOHN D.	03-1-22774	KENTUCKY
PAN, YU-YUAN	03-1-22710	MICHIGAN
PESEL, ROBERT K.	03-1-22773	PENNSYLVANIA
PROCHASKA, MONICA L.	03-1-22722	WEST VIRGINIA
RICKERT, BRIAN M.	03-1-22730	KENTUCKY
SMITH, AMY C.	03-1-22711	INDIANA
WILLIAMS, MICHELLE A.	03-1-22749	INDIANA
ZINDA, JANE J.	03-1-22748	NORTH CAROLINA

1:30 p.m.

Mr. Lamping moved that the candidates be approved and their licenses to practice pharmacy in Ohio be issued with the exception being Stephanie Jo Bodnar. Ms. Bodnar's license is to be issued when her Official application and fee have been received by the Board office. The motion was seconded by Mrs. Adelman and approved (Aye-8/Nay-0).

1:35 p.m.

The members of the Board reconvened in Room 1914 for the purpose of continuing the business meeting and reviewing agenda items not requiring formal action.

Mr. Lamping moved that the Minutes of the October 6, 7, 8, 1997 meeting be approved as amended. The motion was seconded by Mr. Cavendish and approved (Aye-8/Nay-0).

RES. 98-093

Following consideration of U.S.P. Pharmacy Board Bulletin No. 119, the Board directed staff to respond negatively to the U.S.P.'s proposal to discontinue publishing the U.S.P. Dispensing Information publication. Board members stressed the need for an official publication that provides quality unbiased information regarding drugs and their use in the United States. The Board also pointed out that the information has significant credibility due to the fact that it is produced by a private non-profit organization with input from an officially recognized interdisciplinary group of health professionals. It is an official reference text of drug information that has nothing to do with the marketing of drug products.

RES. 98-094

Board member Joe Maslak and Compliance Administrator Tim Benedict reported to the Board on the 35 licensees and registrants presently on probation pursuant to Orders of the Board. Following the report and discussion, Mrs. Plant moved that the request by Dr. Birch that R.Ph. Dominick Bartone be permitted to discontinue his counseling sessions be approved by the Board. Mr. Maslak seconded the motion and it was approved (Aye-8/Nay-0).

2:12 p.m. The meeting was recessed until Wednesday, December 10, 1997, at 8:00 a.m.

WEDNESDAY, OCTOBER 10, 1997

8:08 a.m. ROLL CALL

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

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

The Board was joined by Mary Ryan, Vice President, and Nevin Okay, Program Manager for the Health Utilization Management Group, of Merck-Medco Managed Care, L.L.C. to make a presentation on the company's "centralized intervention process". The presentation specifically addressed the "centralized intervention process" as it is used by the company in the "Partners for Health Aging" program.

8:10 a.m.

Board member Amonte Littlejohn arrived and joined the meeting.

The centralized intervention process will also be used in many of the company's other programs that are designed to identify best medical practices by leading authorities in pharmacology and drug therapy. The programs use pharmacists who have undergone specialty education and training to provide prescribers with recommendations to lower a patient's risk of adverse drug reactions and provide withdrawal protocols in the event that a gradual withdrawal from a medication is necessary.

8:35 a.m.

Board member John Hanna arrived and joined the meeting.

Board member Joe Maslak left during the presentation due to personal business.

RES. 98-095 Following the presentation and questioning by Board members, Mrs. Plant moved that the Board note in the minutes that the policies and procedures presented by the Merck-Medco Managed Care representatives complied with Ohio's laws and rules regulating the legal distribution of drugs in Ohio and the practice of pharmacy. Mr. Cavendish seconded the motion and it was approved (Aye-5/Nay-0).

Nancy Little, Licensing Administrator and Systems Manager for the Board, joined the meeting for the purpose of obtaining guidance regarding when a new identification number is required for dangerous drug distributors. Several scenarios were presented to the Board for consideration and staff discussed the concept of "purchased liability".

Mr. Maslak returned and discussion continued, and Ruth Plant left for personal business reasons.

RES. 98-096 Mr. Cavendish moved that the Board instruct staff to continue to process applications pursuant to Resolution 83-095 as amended (04/25/96) and that the resolution be further amended to provide applicants with an option to not have a new identification number issued when they are willing to sign and file an affidavit of "purchased liability" with their application. The affidavit is to be drafted by staff for consideration by the Board at the January meeting. The motion was seconded by Mr. Hanna and approved (Aye-6/Nay-0).

10:10 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in the matter of Arch Joseph Weber pursuant to the provisions of Chapters 119. and 4729. of the Ohio Revised Code.

12:56 p.m.

The hearing was concluded and Mrs. Adelman excused herself from the meeting in order to check out of her hotel room.

1:08 p.m.

Mr. Repke moved that the Board go into Executive Session for the purpose of considering the investigation of charges or complaints against a licensee and regulated individual and deliberating on the evidence and testimony submitted during the hearing in the matter of Arch Joseph Weber. The motion was seconded by Mr. Lamping and a roll call vote was conducted by President Littlejohn as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, and Repke-Yes.

Assistant Attorney General Sally Ann Steuk; David Rowland, Legal Affairs Administrator; and Tim Benedict, Compliance Administrator, joined the Board. Mr. Rowland and Mr. Benedict presented the results of the investigation of charges against a licensee and regulated individual to the Board. Sally Ann Steuk, David Rowland, and Tim Benedict left immediately following the presentation of the results of the investigation.

1:15 p.m.

Board member Diane Adelman returned and joined the meeting to participate in the deliberation on the evidence and testimony received in the matter of Arch Joseph Weber.

1:25 p.m.

RES. 98-097 The Executive Session was concluded and the meeting opened to the public. Mr. Cavendish moved that the Board summarily suspend the license of Randy J. Patrick, Ohio Pharmacist Identification No. 03-2-17941, to practice pharmacy in Ohio for the reason that

there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved (Aye-5/-Nay-0/Abstain-1[Adelman]).

RES. 98-098 Mr. Lamping moved that the Board adopt the following Order in the matter Arch Joseph Weber:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-971003-008)

In The Matter Of:

ARCH JOSEPH WEBER, R.Ph.
8700 Ashford Lake NW
Pickerington, Ohio 43147
(R.Ph. No. 03-3-14610)

INTRODUCTION

THE MATTER OF ARCH JOSEPH WEBER CAME TO HEARING ON DECEMBER 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.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ARCH JOSEPH WEBER WAS REPRESENTED BY WILLIAM J. MOONEY, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) George Perdue, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (2) Bruce Franken, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Steve Harris, R.Ph. Pharmacists Rehabilitation Organization, Inc.
- (4) Arch Joseph Weber, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-960123-035, in the matter of Arch Joseph Weber, R.Ph. dated July 1, 1996.
- (2) Exhibit 1A--Hearing Request letter dated September 28, 1997.
- (3) Exhibit 1B--Copy of two-page Hearing Schedule letter dated October 3, 1997.
- (4) Exhibit 1C--Letter from William J. Mooney dated October 24, 1997.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated October 28, 1997.

Respondent's Exhibits:

- (1) Exhibit A--Bound copies separated as follows: Tab 1 (RMS Contract) - Shepherd Hill Letters Verifying Treatment: Letter from Chris Lindskog dated October 27, 1997; letter from Christine Lindskog dated November 24, 1997; two letters from Mary Spain dated June 5, 1996, and July 2, 1996; and four urine drug screen reports of Arch Weber dated from June 8, 1996, through June 27, 1996. Tab 2 (PRO Contract) - Two-page Shepherd Hill Hospital Recovery Monitoring Services Agreement of Arch Joseph Weber dated April 10, 1996; Intervenor Information form; two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Arch Weber dated March 10, 1996. Tab 3 (Drug Screens) - 105 pages consisting of sixty-four urine drug screen reports of Arch Weber dated from March 28, 1996; letter from Chris Lindskog dated July 3, 1997; three letters from Mary Spain dated October 7, 1996, January 10, 1997, and April 10, 1997; and one AA Attendance sheet of Arch Weber dated October 13 through November 11, 1997. Tab 4 (AA Attendance) - twenty-nine pages of meeting attendance verification sheets of Arch Weber dated from February 27, 1996, through December 8, 1997. Tab 5 (Probation Compliance) - Disbursement Release in the Court of Common Pleas of Fairfield County, Ohio, Case No. 96CR0203, of Arch Joseph Weber, date illegible; Fairfield County Common Pleas Court, Receipt No. 57734, for money received of Arch Weber dated July 7, 1997; and letter from Bruce A. Oatney dated November 6, 1997. Tab 6 (Continuing Education) - eleven pages consisting of twenty-three continuing education certificates of Arch Weber dated from November 1, 1996, through October 7, 1997.

FINDING OF FACT

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

- (1) Arch Joseph Weber is in compliance with the Order of the Board, Docket No. D-960123-035, dated July 1, 1996.

ACTION OF THE BOARD

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

- (A) Arch Joseph Weber must enter into a new contract, after the effective date of this Order, with a treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
 - (1) random, **observed** urine screens shall be conducted at least once every three months. The urine drug screens must report proper testing for alcohol. The urine drug screens must also report testing for creatinine as the dilutional standard or specific gravity and the results of such testing must be within normal limits;
 - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Arch Joseph Weber must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:

- (1) the written report and documentation provided by the treatment program pursuant to the contract, and
- (2) a written description of his progress towards recovery and what he has been doing during the previous three months.

(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 Arch Joseph Weber is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (2) Arch Joseph Weber may not serve as a responsible pharmacist.
- (3) Arch Joseph Weber may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Arch Joseph Weber must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) Arch Joseph Weber must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Arch Joseph Weber must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Arch Joseph Weber must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

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

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

PER DIEM	<u>12/08</u>	<u>12/09</u>	<u>12/10</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	-	2
Plant	1	1	1	3
Repke	1	1	1	3

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

1:30 p.m. Mr. Repke moved that the meeting be adjourned. Mrs. Adelman seconded the motion and it was approved (Aye-6/Nay-0).

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

/d/ 1/14/98
Date

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