

NOTE: The following Minutes are provided for informational purposes only.
If you would like to obtain an official copy of these Minutes, please contact the Ohio Board of Pharmacy at 614/466-4143 for instructions and fee.

Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
January 12, 13, 14, 1998

MONDAY, JANUARY 12, 1998

8:18 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:

Joseph J. Maslak, R.Ph. (Vice-President); Robert Cavendish, R.Ph.;
Paul Lamping, R.Ph.; Suzanne Neuber, R.Ph.; and Ruth Plant, R.Ph.

The Board was joined by Sally Ann Steuk, Assistant Attorney General; Tim Benedict, Compliance Administrator; David Rowland, Legal Affairs Administrator; William McMillen, Licensing 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. The motion was seconded by Mr. Lamping and a roll call vote was conducted by Vice President Maslak as follows: Cavendish-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, and Plant-Yes.

8:33 a.m.

Board Member John Hanna arrived and joined the meeting.

8:43 a.m.

RES. 98-099

The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board authorize Assistant Attorney General Sally Ann Steuk to present the Board's terms for settlements set forth during the Executive Session in the matters of Sarah Anne Hudson-DiSalle, R.Ph., Columbus and Richard Foster Broderick, R.Ph., Cincinnati. The motion was seconded by Mr. Cavendish and approved by the Board (Aye-5/Nay-0/Abstain-1[Lamping on Broderick; Hanna on Hudson-DiSalle]).

RES. 98-100

The Board was joined by Elaine Jones, Compliance Specialist, and Tim Benedict, Compliance Administrator. Information was presented regarding the Anthem Rx Computer System which will be utilized at their new facility. Anthem will be utilizing two separate computer systems for the receipt and dispensing of prescriptions to their patients. Following questioning, the Board's consensus was that the system would, as presented, be in compliance with laws governing the legal distribution of drugs in the state of Ohio and would meet the requirements of positive identification. The Board also instructed staff to inform Anthem that the original copy of each written controlled substance prescription would have to be visually reviewed by a pharmacist to ensure that it had not been altered or is false in any way. The Board noted that this determination could not be made when viewing the electronically-scanned prescription. Also, the Board stated that ongoing Quality Control Standards must be put in place.

9:22 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Elizabeth R. Murcia, R.Ph., Indian Springs.

12:01 p.m.

The hearing was concluded and the Board recessed for lunch.

1:19 p.m.

RES. 98-101

Mr. Repke arrived and joined the meeting. Mrs. Plant moved that the Board approve the Multi-State Pharmacy Jurisprudence Examination State Letter of Agreement for Fiscal Year 99 (beginning September 1998). The motion was seconded by Mr. Lamping and approved (Aye-7/Nay-0).

RES. 98-102

Mrs. Plant then moved that the Board approve payment of the \$250.00 National Association of Boards of Pharmacy membership dues for 1998. The motion was seconded by Mr. Lamping and approved (Aye-7/Nay-0).

Mr. Winsley then presented the names of pharmacists submitted by the Ohio Pharmacist Association and the Ohio Society of Health-System Pharmacists who have agreed to serve on the 1998 Ad Hoc Advisory Committee on Rule Review. The Board requested Mr. Winsley to obtain additional information regarding some of the pharmacists whose names were submitted for consideration before making appointments.

RES. 98-103

Mr. Winsley then reported that the proposed new rule and all of the proposed amended rules, with the exception of 4729-1-01, cleared the Joint Committee on Agency Rule Review (JCARR) during their December 16, 1997 meeting. Proposed amended rule 4729-1-01 was refiled with JCARR and will be reviewed in 1998. Mrs. Plant moved that the Board adopt the following amended rules and new rule with an effective date of February 1, 1998:

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 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~~ INPATIENTS OF AN INSTITUTIONAL facility ~~pharmacy for use by in-patients~~ 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, MEANS 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.
- (J) "CERTIFIED 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)".

4729-9-05 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 OF THE ADMINISTRATIVE CODE 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 OF THE ADMINISTRATIVE CODE 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 OF THE ADMINISTRATIVE CODE 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 4729.7 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 DIVISION (E) OF section 4729.51(~~E~~), AND DIVISION (D) OF SECTION 4729.52 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.

4729-17-05 CONTROLLED SUBSTANCE RECORDKEEPING.

(A) ALL CONTROLLED SUBSTANCES MAINTAINED AS STOCK IN AREAS OUTSIDE OF THE PHARMACY PURSUANT TO PARAGRAPH (B) OF RULE 4729-17-03 OF THE ADMINISTRATIVE CODE SHALL MEET THE FOLLOWING REQUIREMENTS, UNLESS THEY ARE STORED IN A SECURE, AUTOMATED STORAGE SYSTEM THAT MEETS THE REQUIREMENTS OF PARAGRAPH (B) OF THIS RULE:

- (1) THE DRUGS SHALL BE STORED IN A SECURE LOCATION WITH ACCESS LIMITED TO AUTHORIZED INDIVIDUALS;
- (2) A PROOF-OF-USE SHEET OR OTHER BOARD APPROVED RECORDKEEPING SYSTEM SHALL BE MAINTAINED FOR EACH DRUG AND SHALL INCLUDE AT LEAST, BUT IS NOT LIMITED TO, THE FOLLOWING INFORMATION:
 - (a) PATIENT NAME,
 - (b) DATE AND TIME OF ACCESS,
 - (c) DRUG NAME, STRENGTH, AND QUANTITY OBTAINED,
 - (d) THE POSITIVE IDENTIFICATION OF THE PERSON DOING THE ADMINISTRATION, AND, IF APPLICABLE,
 - (e) THE POSITIVE IDENTIFICATION OF BOTH THE PERSON AND THE WITNESS WHO WASTE A PARTIAL DOSE OF A CONTROLLED SUBSTANCE;
- (3) AT EVERY CHANGE OF SHIFT, A RECONCILIATION MUST BE CONDUCTED BY BOTH THE LEAVING AND ARRIVING HEALTH CARE PROFESSIONAL RESPONSIBLE FOR THE SECURITY OF THESE DRUGS IN THE AREA IN WHICH THEY ARE STORED AND MUST INCLUDE AT LEAST THE FOLLOWING:
 - (a) A PHYSICAL COUNT AND RECONCILIATION OF THE CONTROLLED SUBSTANCES AND PROOF-OF-USE SHEETS, IF APPLICABLE, TO ENSURE THE ACCOUNTABILITY OF ALL DOSES,
 - (b) AN INSPECTION OF THE PACKAGING TO ENSURE ITS INTEGRITY,
 - (c) THE POSITIVE IDENTIFICATION OF THE PERSONS CONDUCTING THE RECONCILIATION, AND
 - (d) THE IMMEDIATE REPORTING OF ANY UNRESOLVED DISCREPANCY TO THE APPROPRIATE PEOPLE WITHIN THE INSTITUTION. THE RESPONSIBLE PERSON FOR THE TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE MUST BE ONE OF THOSE NOTIFIED;

(4) ALL CONTROLLED SUBSTANCES SHALL BE PACKAGED IN TAMPER-EVIDENT CONTAINERS EXCEPT MULTIDOSE LIQUIDS AND INJECTABLES WHERE UNIT-OF-USE PACKAGING IS NOT AVAILABLE.

(B) ALL CONTROLLED SUBSTANCES MAINTAINED AS STOCK IN AREAS OUTSIDE OF THE PHARMACY PURSUANT TO PARAGRAPH (B) OF RULE 4729-17-03 OF THE ADMINISTRATIVE CODE THAT ARE STORED IN A SECURE, AUTOMATED STORAGE SYSTEM SHALL BE HANDLED AS IN PARAGRAPH (A) OF THIS RULE UNLESS THE AUTOMATED STORAGE SYSTEM MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(1) THE DRUGS SHALL BE STORED IN A SECURE LOCATION WITH ACCESS LIMITED TO AUTHORIZED INDIVIDUALS;

(2) THE SYSTEM SHALL DOCUMENT THE POSITIVE IDENTIFICATION OF EVERY PERSON ACCESSING THE SYSTEM AND SHALL RECORD THE DATE AND TIME OF ACCESS;

(3) A RECORDKEEPING SYSTEM SHALL BE MAINTAINED THAT SHALL INCLUDE AT LEAST, BUT IS NOT LIMITED TO, THE FOLLOWING INFORMATION:

(a) PATIENT NAME,

(b) DATE AND TIME OF ACCESS,

(c) DRUG NAME, STRENGTH, AND QUANTITY REMOVED,

(d) THE POSITIVE IDENTIFICATION OF THE PERSON REMOVING THE DRUG, AND, IF APPLICABLE,

(e) THE POSITIVE IDENTIFICATION OF BOTH THE PERSON AND THE WITNESS WHO WASTE A PARTIAL DOSE OF A CONTROLLED SUBSTANCE;

(4) PERIODICALLY, THE RESPONSIBLE PERSON SHALL CAUSE A RECONCILIATION OF THE AUTOMATED STORAGE SYSTEM TO BE CONDUCTED WHICH MUST INCLUDE AT LEAST THE FOLLOWING:

(a) A PHYSICAL COUNT AND RECONCILIATION OF THE CONTROLLED SUBSTANCES TO ENSURE THE ACCOUNTABILITY OF ALL DOSES,

(b) AN INSPECTION OF THE PACKAGING TO ENSURE ITS INTEGRITY,

(c) THE POSITIVE IDENTIFICATION OF THE PERSONS CONDUCTING THE RECONCILIATION, AND

(d) THE IMMEDIATE REPORTING OF ANY UNRESOLVED DISCREPANCY TO THE APPROPRIATE PEOPLE WITHIN THE INSTITUTION. THE RESPONSIBLE PERSON FOR THE TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE MUST BE ONE OF THOSE NOTIFIED;

(5) ACCESS TO ALL CONTROLLED SUBSTANCES STORED IN THE AUTOMATED STORAGE SYSTEM SHALL BE LIMITED TO ONE DRUG AND STRENGTH AT A TIME;

(6) ALL CONTROLLED SUBSTANCES STORED IN THE AUTOMATED STORAGE SYSTEM SHALL BE PACKAGED IN TAMPER-EVIDENT CONTAINERS, UNLESS THE SYSTEM ONLY ALLOWS ACCESS TO ONE DOSE AT A TIME.

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. Cavendish and approved (Aye-7/Nay-0).

RES. 98-104 Mr. Winsley requested the Board to include pharmacy interns on the mailing list for the State Board Newsletter. Mr. Lamping moved that the request be approved and that State Board Newsletters be mailed to all Ohio Pharmacy Interns currently licensed with the Board beginning with the May 1998 Newsletter. The motion was seconded by Mrs. Plant and approved (Aye-7/Nay-0).

1:45 p.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing pursuant to Ohio Revised Code Chapters 119. and 4729. in the matter of Martin Barron, R.Ph., University Heights.

2:28 p.m.

The hearing was concluded.

Mrs. Plant moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matters of Elizabeth R. Murcia, R.Ph. and Martin Barron, R.Ph. The motion was seconded by Mr. Lamping and a roll call vote was conducted by Vice-President Maslak as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

2:30 p.m.

Board member Amonte Littlejohn arrived and joined the meeting.

3:20 p.m.

RES. 98-105 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board adopt the following Order in the matter of R.Ph. Elizabeth R. Murcia:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970423-038)

In The Matter Of:

ELIZABETH R. MURCIA, R.Ph.
3881 Dust Commander Drive
Indian Springs, Ohio 45011
(R.Ph. No. 03-2-12631)

INTRODUCTION

THE MATTER OF ELIZABETH R. MURCIA CAME TO HEARING ON JANUARY 12, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph., (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND RUTH A. PLANT, R.Ph.

ELIZABETH R. MURCIA WAS REPRESENTED BY DOUGLAS E. GRAFF, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Elaine Jones, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Charles Broussard, R.Ph., Mercy Hospital, Fairfield, Ohio
- (2) Elizabeth R. Murcia, R.Ph., Respondent
- (3) David Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (4) Alicia Aumentado, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter dated April 23, 1997.
- (2) Exhibit 1A--Copy of Hearing Request letter dated May 23, 1997.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated May 27, 1997.
- (4) Exhibit 1C--Copy of Amendment Notice dated May 29, 1997.
- (5) Exhibit 1D--Copy of Renewal Application for Pharmacist License, No. 03-2-12631, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Elizabeth R. Murcia dated July 25, 1996.
- (6) Exhibit 1E--Letter from Douglas E. Graff dated June 11, 1997, with the following attachments: Motion for Continuance, Memorandum in Support of Ms. Murcia's Motion for Continuance, Request for List of Witnesses and Documents and Notice of Appearance of Counsel.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated June 12, 1997.
- (8) Exhibit 1H--Copy of Hearing Schedule letter dated September 9, 1997.
- (9) Exhibit 1I--Copy of Hearing Schedule letter dated September 23, 1997.
- (10) Exhibit 1J--Copy of Amendment Notice dated December 23, 1997.
- (11) Exhibit 2--Mercy Hospital-Fairfield Pharmacy Narcotic Sheet for Diazepam 5mg dated from November 10, 1996, through April 8 (*sic* 1997).
- (12) Exhibit 3--Mercy Hospital-Fairfield Pharmacy Narcotic Sheet for Lortab 7.5mg dated from November 9, 1996, through April 11 (*sic* 1997).
- (13) Exhibit 4--Four-page Explanation of Spreadsheet of Elizabeth R. Murcia dated April 20, 1997, with attached two-page spreadsheet dated from February 21, 1995, through March 29, 1997.
- (14) Exhibit 4A--Thirty-nine-page copy of partial Interview of Elizabeth Murcia by Elaine Jones, not dated.
- (15) Exhibit 5--Mercy Hospital-Hamilton Control III-V Count Record for Diazepam 10mg (Valium) dated from November 20, 1996, through February 21 (*sic* 1997).
- (16) Exhibit 6--Mercy Hospital-Hamilton Control III-V Count Record for Valium 10mg (Diazepam) dated from February 22 (*sic* 1997), through March 8 (*sic* 1997).
- (17) Exhibit 7--Mercy Hospital-Hamilton Control III-V Count Record for Valium 10mg dated from March 9 (*sic* 1997) through April 6 (*sic* 1997).
- (18) Exhibit 7A--Mercy Hospital-Hamilton Control III-V Count Record for Diazepam 5mg dated from November 20, 1996, through February 16 (*sic* 1997).
- (19) Exhibit 8--Mercy Hospital-Hamilton Control III-V Count Record for Lortab 7.5mg dated from November 21, 1996, through January 29, 1997.
- (20) Exhibit 9--Mercy Hospital-Hamilton Control III-V Count Record for Lortab 7.5mg dated from February 1 (*sic* 1997), through March 23 (*sic* 1997).
- (21) Exhibit 10--Prescription number 2595.
- (22) Exhibit 11--Prescription number 2630.
- (23) Exhibit 12--Prescription number 2631.
- (24) Exhibit 13--Prescription number 2730.
- (25) Exhibit 14--Prescription number 2856.
- (26) Exhibit 15--Prescription number 3630.
- (27) Exhibit 16--Prescription number 3631.
- (28) Exhibit 17--Prescription number 3632.
- (29) Exhibit 18--Prescription number 43554.
- (30) Exhibit 19--Prescription number 43590.
- (31) Exhibit 20--Mercy Hospital Pharmacy, Hamilton, patient profile of Liz Murcia for prescriptions purchased from January 1, 1994, through April 4, 1997.
- (32) Exhibit 21--Mercy Hospital Pharmacy, Hamilton, patient profile of Elizabeth Murcia for prescriptions purchased from January 1, 1980, through April 1, 1997.
- (33) Exhibit 22--Mercy Hospital Pharmacy, Hamilton, patient profile of Nicholas Ratkai for prescriptions purchased from January 1, 1994, through April 2, 1997.
- (34) Exhibit 23--Mercy Hospital Pharmacy, Hamilton, patient profile of Elizabeth Ratkai for prescriptions purchased from January 1, 1994, through April 2, 1997.
- (35) Exhibit 24--Handwritten statement of Dr. Ivan Tuskan signed and notarized on August 19, 1997.

- (36) Exhibit 25--Handwritten statement of Nimmie Sehgal, M.D. signed and notarized on August 7, 1997.
- (37) Exhibit 26--Certified copy of Entry of Plea of Guilty to an Information in the Butler County Common Pleas Court, Case No. CR97-05-0472, of Elizabeth R. Murcia dated May 9, 1997.
- (38) Exhibit 27--Certified Copy of two-page Judgment of Conviction Entry in the Butler County Common Pleas Court, Case No. CR97-05-0472, of Elizabeth R. Murcia dated June 24, 1997.
- (39) Exhibit 28--Certified copy of Conditions of Supervision in the Butler County Common Pleas Court, Department of Rehabilitation and Correction, Adult Parole Authority, Case No. CR97-05-0472, of Elizabeth Murcia dated July 2, 1997.

Respondent's Exhibits:

- (1) Exhibit A--Copy of Resume of Elizabeth Murcia.
- (2) Exhibit B-1--Copy of letter from Steven A. Fahnstock dated January 8, 1998.
- (3) Exhibit B-2--Copy of Discharge Summary of Elizabeth Murcia dated June 10, 1997.
- (4) Exhibit C-1--Copy of letter from Alicia Aumentado, R.Ph. dated December 28, 1997.
- (5) Exhibit C-2--Copy of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Liz Murcia dated July 1, 1997.
- (6) Exhibit D-1--Copy of two-page Random Urine Schedule Log dated from June 26, 1997, through December 31, 1997.
- (7) Exhibit D-2--Copies of the following: fax coversheet to Douglas E. Graff from Alicia Aumentado dated January 7, 1997; chain of custody request signed and dated by Elizabeth R. Murcia on December 31, 1997; urine drug screen report of Liz Murcia dated December 1, 1997; chain of custody request signed and dated by Elizabeth R. Murcia on November 25, 1997; urine drug screen report of Liz Murcia dated November 18, 1997; chain of custody request signed and dated by Elizabeth R. Murcia on November 14, 1997; urine drug screen report of Liz Murcia dated October 8, 1997; urine drug screen report of Liz Murcia dated September 24, 1997; chain of custody request signed and dated by Elizabeth R. Murcia on October 1, 1997, chain of custody request signed and dated by Elizabeth R. Murcia on September 19, 1997; letter from Alicia Aumentado dated October 31, 1997; urine drug screen report of Liz Murcia dated September 2, 1997; and chain of custody request signed and dated by Elizabeth Murcia on August 28, 1997.
- (8) Exhibit D-3--Copies of six urine drug screen reports of Elizabeth R. Murcia dated June 10, 1997; May 29, 1997; May 20, 1997; May 15, 1997; May 6, 1997, and April 28, 1997.
- (9) Exhibit E-1--Copies of fifteen pages of AA/NA attendance log sheets dated January 6, 1997 (*sic* 1998) and from June 12, 1997, through January 2, 1998.
- (10) Exhibit E-2--Copies of twelve Recovery Support Group Reaction Sheets of Liz Murcia dated as follows: June 16, 1997; June 13, 1997; June 11, 1997; June 6, 1997; June 4, 1997; May 30, 1997; May 29, 1997; May 27, 1997; May 21, 1997; May 19, 1997; May 16, 1997; and May 14, 1997.
- (11) Exhibit F--Copy of letter from Jeffrey A. Heller dated December 17, 1997.
- (12) Exhibit G--Copies of the following: Certificate of Attendance of Liz Murcia for a continuing pharmacy education course held on April 27, 1997; and three copies of one continuing pharmaceutical education certificate of Elizabeth Murcia numbered 679702-94-018 and dated December 30, 1997.
- (13) Exhibit H--Copy of letter from Jeffrey A. Heller dated January 12, 1997 (*sic* 1998).

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 Elizabeth R. Murcia is a pharmacist registered by this Board to practice pharmacy in the state of Ohio. On April 23, 1997, the Board determined that there was clear and convincing evidence that the continuation of Elizabeth R. Murcia's professional practice and/or her method of distributing controlled substances presented a danger of immediate and serious harm to others, and her license was suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.

- (2) Elizabeth R. Murcia did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Mercy Hospital of Fairfield, beyond the express or implied consent of the owner and/or by deception, to wit: Elizabeth R. Murcia has admittedly stolen the following controlled substances for personal abuse or sale:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
02/11/97	Diazepam 5mg	30
12/13/96	Lortab 7.5mg	20

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

- (3) Elizabeth R. Murcia did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Mercy Hospital of Hamilton, beyond the express or implied consent of the owner and/or by deception, to wit: Elizabeth R. Murcia has admittedly stolen the following controlled substances for personal abuse or sale:

<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
12/02/96	Diazepam 10mg	15
01/09/97	Diazepam 10mg	10
01/19/97	Diazepam 10mg	10
02/26/97	Diazepam 10mg	20
03/16/97	Diazepam 10mg	20
12/21/96	Diazepam 5mg	10
12/30/96	Lortab 7.5mg	15
01/17/97	Lortab 7.5mg	15
03/03/97	Lortab 7.5mg	15

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

- (4) Elizabeth R. Murcia did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Elizabeth R. Murcia created the following documents purporting to be telephone prescriptions so as to cover for her thefts of the drugs:

<u>Date Dispensed</u>	<u>Rx No.</u>	<u>Drug Dispensed</u>	<u>Quantity</u>
02/21/95	2595	Lortab 7.5mg	100
03/04/95	2629	Lorazepam 1mg	30
03/04/95	2630	Lortab 7.5mg	10
03/04/95	2631	Diazepam 10mg	10
04/06/95	2730	Dalmane 15mg	100
05/23/95	2856	Flurazepam 30mg	500
06/07/96	3630	Propoxyphene 65mg/APAP 650mg	100
06/07/96	3631	Diazepam 5mg	30
06/07/96	3632	Hydrocodone 5mg/APAP 500mg	100
07/10/96	3632	Hydrocodone 5mg/APAP 500mg	100
02/02/97	3957	Hydrocodone 5mg/APAP 500mg	100
02/02/97	4050	Diazepam 5mg	30
02/27/97	4087	Diazepam 10mg	10
03/22/97	4087	Diazepam 10mg	10
11/08/96	43554	Flurazepam 30mg	500
12/19/96	43590	Diazepam 10mg	20
01/02/97	43590	Diazepam 10mg	20
02/11/97	43590	Diazepam 10mg	20
03/29/97	43590	Diazepam 10mg	20
02/11/97	43634	Lortab 7.5mg	30
03/13/97	43634	Lortab 7.5mg	30
03/21/97	43634	Lortab 7.5mg	30

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

- (5) Elizabeth R. Murcia did, on or about the following dates, knowingly sell controlled substances in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Elizabeth R. Murcia admittedly stole and then gave the following controlled substances to her family members without a legitimate prescription having been issued by a practitioner:

<u>Date Dispensed</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
06/07/96	3630	Propoxyphene 65mg/APAP 650mg	100
06/07/96	3631	Diazepam 5mg	30
02/02/97	4050	Diazepam 5mg	30

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

- (6) Elizabeth R. Murcia did, on or about the following dates, knowingly sell controlled substances in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Elizabeth R. Murcia admittedly stole and then gave the following controlled substances to her family members without a legitimate prescription having been issued by a practitioner.

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
04/06/95	2730	Dalmane 15mg	100
06/07/96	3632	Hydrocodone 5mg/APAP 500mg	100

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

- (7) Elizabeth R. Murcia did, on or about May 23, 1995, knowingly sell controlled substances in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: pursuant to prescription number 2856, Elizabeth R. Murcia admittedly stole and then gave 500 units of Flurazepam 30mg to her family members without a legitimate prescription having been issued by a practitioner. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (8) Elizabeth R. Murcia did, on or about the following dates, knowingly sell controlled substances in an amount which exceeds the bulk amount but does not exceed five times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Elizabeth R. Murcia admittedly stole and then gave the following controlled substances to her family members without a prescription having been issued by a practitioner.

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
02/21/95	2595	Lortab 7.5mg	100
07/10/96	3632	Hydrocodone 5mg/APAP 500mg	100
02/02/97	3957	Hydrocodone 5mg/APAP 500mg	100

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

- (9) Elizabeth R. Murcia did, on or about November 8, 1996, knowingly sell controlled substances in an amount which exceeds five times the bulk amount but does not exceed fifty times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: pursuant to prescription number 43554, Elizabeth R. Murcia admittedly stole and then gave 500 units of Flurazepam 30mg to her family members without a legitimate prescription having been issued by a practitioner. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (9) of the Findings of Fact constitute being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (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) 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. 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 April 23, 1997.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Elizabeth R. Murcia:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-2-12631, held by Elizabeth R. Murcia indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Elizabeth R. Murcia 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.
- (B) After April, 1999, the Board will consider any petition filed by Elizabeth R. Murcia for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of her license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
 - (1) Elizabeth R. Murcia must continue bi-monthly sessions with Jeffrey A. Heller, Psy.D., or another psychologist acceptable to the Board, throughout the suspension period.
 - (2) At the time of petitioning the Board for reinstatement, Elizabeth R. Murcia must provide:
 - (a) documentation of compliance with continued counseling; and
 - (b) positive reports from the professional regarding Elizabeth R. Murcia's ongoing rehabilitation through continued counseling; and the professional's opinion of Ms. Murcia's ability to return to the practice of pharmacy and additional counseling which may be needed.

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

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Neuber and approved (Aye-6/Nay-0/Abstain-1[Repke]).

RES. 98-106 Mr. Lamping moved that the Board adopt the following Order in the matter of R.Ph. Martin Barron:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-971024-015)

In The Matter Of:

MARTIN BARRON, R.Ph.
2430 Claver Road
University Heights, Ohio 44118
(R.Ph. No. 03-2-05416)

INTRODUCTION

THE MATTER OF MARTIN BARRON CAME TO HEARING ON JANUARY 12, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARTIN BARRON WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL; HOWEVER, MR. BARRON DID SUBMIT HIS CONTENTIONS IN WRITING. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Notice of Opportunity for Hearing letter dated October 24, 1997.
(2) Exhibit 1A--Hearing Request letter dated October 28, 1997.
(3) Exhibit 1B--Copy of Hearing Schedule letter dated October 31, 1997.
(4) Exhibit 1C--Two-page letter from Martin Barron dated November 2, 1997, with the following attachments: copy of Dispensing History of Betty Oliver dated from August 16, 1989, to November 2, 1997; copy of Dispensing History of Lola Addison dated from February 24, 1984, to November 2, 1997; copy of Dispensing History of Elizabeth Thomas dated from February 24, 1984, to November 2, 1997; Tax Insurance Summary of the Medicine Shoppe Pharmacy for patient Iris Kelly dated from February 24, 1984, through November 1, 1997; copy of Dispensing History of Elizabeth Davis dated from February 24, 1984, to November 2, 1997; and copy of Dispensing History of Elizabeth Stewart dated from August 16, 1989, to November 2, 1997.

- (5) Exhibit 1D--Copy of two-page letter from Martin Barron dated November 2, 1997, with handwritten note on second page of letter from Martin Barron with the following attachments: copy of dosage and administration of Pondimin (source unknown); and copy of four prescriptions numbered 147354, 153779, 154217, and 154218.
- (6) Exhibit 1E--Copy of Renewal Application for Pharmacist License, No. 03-2-05416, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Martin Barron dated July 26, 1997.
- (7) Exhibit 2--Two-page Dispensing History of Lola Addison dated from January 1, 1996, to June 27, 1997.
- (8) Exhibit 2(1)--Prescription number 153465.
- (9) Exhibit 3--Dispensing History of Elizabeth Davis dated from January 1, 1996, to June 27, 1997.
- (10) Exhibit 3(1)--Prescription number 154848.
- (11) Exhibit 4--Dispensing History of Iris Kelly dated January 1, 1996, to June 27, 1997.
- (12) Exhibit 4(1)--Prescription number 154217.
- (13) Exhibit 4(2)--Prescription number 154218.
- (14) Exhibit 4(3)--Prescription number 155947.
- (15) Exhibit 5--Two-page Dispensing History of Betty Oliver dated from January 1, 1996, to June 27, 1997.
- (16) Exhibit 5(1)--Prescription number 153432.
- (17) Exhibit 6--Two-page Dispensing History of Elizabeth Stewart dated from January 1, 1996, to June 27, 1997.
- (18) Exhibit 6(1)--Prescription number 153779.
- (19) Exhibit 7--Dispensing History of Elizabeth Thomas dated from January 1, 1996, to June 27, 1997.
- (20) Exhibit 7(1)--Prescription number 153478.
- (21) Exhibit 7(2)--Prescription number 154849.
- (22) Exhibit 7(3)--Prescription number 153481.
- (23) Exhibit 8--Dispensing History of Quintula Woods dated from January 1, 1996, to June 27, 1997.
- (24) Exhibit 8(1)--Prescription number 146070.
- (25) Exhibit 8(2)--Prescription number 147354.
- (26) Exhibit 9--Copy of Gate Pharmaceuticals package insert for the drug Adipex-P (phentermine HCl 37.5mg.)
- (27) Exhibit 10--Copy of seven-page Dangerous Drug Distributor Inspection Report of Medicine Shoppe Pharmacy, Terminal Distributor No. 02-0681600, dated June 27, 1997; copy of letter from Martin Barron dated July 3, 1997; and copies of three pages of response to "Pink-Sheet" items of Martin Barron.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Martin Barron was originally licensed in the state of Ohio on August 4, 1953, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Further, Martin Barron is currently employed as a pharmacist at Medicine Shoppe Pharmacy, 3550 Warrensville Center Road, Shaker Heights, Ohio.
- (2) Martin Barron did, on or about October 7, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Martin Barron sold 28 units of Adipex-P 37.5mg for diet to patient #1 pursuant to prescription number 153465 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and

Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.

- (3) Martin Barron did, on or about November 6, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Martin Barron sold 28 units of Adipex-P 37.5mg for diet to patient #2 pursuant to prescription number 154848 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (4) Martin Barron did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Martin Barron sold controlled substances for diet to patient #3 pursuant to the following which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>	<u>Drug</u>	<u>Quantity</u>
154217	10/22/96	10/23/96	Phentermine	28
154218	10/22/96	10/23/96	Pondimin 20mg	42
155947	11/28/96	12/02/96	Phentermine	28

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

- (5) Martin Barron did, on or about October 5, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Martin Barron sold 28 units of Adipex-P 37.5mg for diet to patient #4 pursuant to prescription number 153432, written on October 7, 1996, which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (6) Martin Barron did, on or about October 14, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Martin Barron sold 28 units of Adipex-P 37.5mg for diet to patient #5 pursuant to prescription number 153779 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (7) Martin Barron did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Martin Barron sold 28 units of Adipex-P 37.5mg for diet to patient #6 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
153478	10/07/96	10/07/96
153481	10/07/96	10/07/96
154849	11/05/96	11/06/96

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

- (8) Martin Barron did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Martin Barron sold 28 units of Ionamin 30mg for diet to patient #7 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
146070	04/26/93	04/27/96
147354	05/10/96	05/24/96

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

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

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

- (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 suspends the pharmacist identification card, No. 03-2-05416, held by Martin Barron for two years. Further, the Board stays the suspension and places Martin Barron's identification card on probation for five years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Martin Barron's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (2) Martin Barron must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (3) Martin Barron must abide by the rules of the Ohio State Board of Pharmacy.
- (4) Martin Barron must comply with the terms of this Order.

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

- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of ten thousand dollars (\$10,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

MOTION CARRIED.

SO ORDERED.

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

3:30 p.m. The Board recessed the meeting until Tuesday, January 13, 1998 at 8:30 a.m.

TUESDAY, JANUARY 13, 1998

8:52 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); 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. 98-107 Mr. Winsley joined the meeting and presented the information requested by the Board regarding the pharmacists who have agreed to serve on the 1998 Ad Hoc Advisory Committee on Rule Review. Following discussion, Mr. Cavendish moved that the following individuals be appointed by the Board:

Ohio Pharmacists Association
Randy Myers
Kent Zellner
Jim Turner
William Armbrecht

Ohio Society of Health-System Pharmacists
Karen Beard
Elizabeth Gregg
Sonya Shultz
Terrye Thompson

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

Administrative matters and correspondence not requiring official action by the Board were reviewed.

9:30 a.m.

Assistant Attorney General Sally Ann Steuk joined the Board for the purpose of conducting an adjudication hearing, pursuant to Ohio Revised Code Chapters 119. and 4729., in the matter of William C. Cody, R.Ph.

12:08 p.m.

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

1:00 p.m.

RES. 98-108 The Board reconvened in Room 1919 for the purpose of meeting with the following candidates for licensure by reciprocity:

KATHERINE H. BADZIK	03-1-22776	NORTH CAROLINA
WAYNE S. BOHENEK	03-1-22735	ILLINOIS
ROBERT P. GIACALONE	03-1-22768	ILLINOIS
ZIAD E. JAMMAL	03-1-22810	MISSOURI
ANDREW J. MOYERS	03-1-22759	KENTUCKY
SUSAN M. REED	03-1-22739	MICHIGAN
JODY J. TWOMBLY	03-1-22719	MASSACHUSETTS
KRISTEN M. TWOMBLY	03-1-22718	MASSACHUSETTS

1:32 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. Cavendish and approved (Aye-7/Nay-0).

1:36 p.m.

The Board reconvened in Room 1914 and continued to receive testimony and evidence in the matter of William C. Cody, R.Ph.

3:41 p.m.

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

3:46 p.m.

Mr. Cavendish moved that the Board go into Executive Session for the purpose of considering the evidence and testimony received in the matter of William C. Cody, R.Ph. 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, Neuber-Yes, Plant-Yes, and Repke-Yes.

4:05 p.m.

RES. 98-109

The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order in the matter of R.Ph. William C. Cody:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970918-006)

In The Matter Of:

WILLIAM C. CODY, R.Ph.

735 Greenfield Drive
Mansfield, Ohio 44904
(R.Ph. No. 03-1-16313)

INTRODUCTION

THE MATTER OF WILLIAM C. CODY CAME TO HEARING ON JANUARY 13, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

WILLIAM C. CODY WAS REPRESENTED BY DOUGLAS E. GRAFF, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Detective Richard C. Brenneman, Knox County Sheriff's Department, Mt. Vernon, Ohio
- (2) Kevin J. Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) William C. Cody, Respondent
- (2) William S. John, Mansfield, Ohio

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of nine-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated September 18, 1997.
- (2) Exhibit 1A--Hearing Request letter dated October 14, 1997.
- (3) Exhibit 1B--Letter from Wilbur H. Flippin, Jr. dated October 14, 1997.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated October 16, 1997.
- (5) Exhibit 1D--Letter from Douglas E. Graff dated November 17, 1997, with the following attachments: Notice of Appearance of Counsel, Motion for Continuance, Memorandum in Support of Mr. Cody's Motion for Continuance, and Request for List of Witnesses and Documents.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated November 21, 1997.
- (7) Exhibit 1F--Copy of letter from Sally Ann Steuk, Assistant Attorney General, dated November 24, 1997.
- (8) Exhibit 1G--Letter from Wilbur H. Flippin, Jr., not dated, received in the Board office on November 24, 1997, with the following attachments: Motion to Withdraw as Counsel and (unofficial) Judgement Entry in the Ohio State Board of Pharmacy regarding William C. Cody, not signed or dated.
- (9) Exhibit 1H--Copy of Renewal Application for Pharmacist License, No. 03-1-16313, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997.
- (10) Exhibit 2--Handwritten statement of William C. Cody written in black ink, signed and notarized on September 11, 1997.
- (11) Exhibit 3--Handwritten statement of William C. Cody written in blue ink, signed and notarized on September 11, 1997.
- (12) Exhibit 4--Copy of Rite Aid Corporation Written Statement Form, handwritten statement of William C. Cody dated September 11, 1997.
- (13) Exhibit 4A--Copy of fifty-three page transcript of tape recorded interview of William C. Cody taken at Rite Aid Pharmacy in Fredericktown, Ohio on September 11, 1997. Interview conducted by Kevin Kinneer and Carl Frost.
- (14) Exhibit 5--Piece of 8½" x 6" ring-bound paper dated September 10, 1997, with figures for the following drugs: Hydrocodone Bitartrate and APAP 10/650, Lorcet 10/650; Hydrocodone Bitartrate and APAP 7.5/500, Hydrocodone Bitartrate and APAP 7.5/750, and Vicodin ES.
- (15) Exhibit 6--Piece of 8½" x 6" ring-bound paper dated September 11, 1997, with figures for the following drugs: Hydrocodone Bitartrate and APAP 10/650, Lorcet 10/650; Hydrocodone Bitartrate and APAP 7.5/500, Talwin NX, Vicodin ES, Vicodin, Hydrocodone Bitartrate and APAP 5/500, and Hydrocodone Bitartrate and APAP 7.5/750.
- (16) Exhibit 7--Receipt listing items received from the residence of William Cody dated September 11, 1997, and September 12, 1997.
- (17) Exhibit 7A--(*This exhibit is in the possession of the Knox County Sheriff's Department*)--Thirteen small Rite Aid prescription bags each containing 100 unconfined units of Hydrocodone Bitartrate/APAP 10/650; one amber vial, prescription number 0326639345, containing 121 units of Hydrocodone Bitartrate/APAP dated September 5, 1997; three sealed boxes containing Rhinocort Inhaler, prescription number 0326631419; one opened Rhinocort Inhaler; one unmarked vial containing 51 units of generic Libram; one unmarked vial containing 100 units of generic Libram; one full, amber vial, prescription number 326631418, containing Ibuprofen 800mg dated August 4, 1997; one amber vial, 1/3 full, prescription number 326631418, containing Ibuprofen 800mg dated September 5, 1997; one amber vial, 3/4 full, prescription number 326633002, containing Prozac 20mg; one Barr Laboratories stock bottle containing 77 units of Chlordiazepoxide Hydrochloride 25mg, Lot No. 6J159CJ, expiration date 10/98; one amber vial, prescription number 0326633002, containing 10 units of Prozac 20mg dated August 4, 1997; one full stock bottle with prescription label, number 0326639347, containing Methocarbamol 750mg; one stock bottle with prescription label, number 0326619291, containing Cyclobenzaprine 10mg dated April 5, 1997; two stock bottles with labels numbered 0326638020, containing West Decon tablets dated August 4, 1997, and September 5, 1997; two stock bottles, one open and one sealed, with prescription labels, numbered 0326625795, containing Cyclobenzaprine 10mg dated June 5, 1997, and August 4, 1997; and one Rite Aid #3266 cash register receipt in the amount of \$78.33.

- (18) Exhibit 8--RAD-S. Main Customer History Report of Sarah Wasznicki dated from January 1, 1995, to September 7, 1997.
- (19) Exhibit 9--Prescription number 0326633593.
- (20) Exhibit 10--RAD-S. Main Customer History Report of William Sams dated from January 1, 1995, to September 7, 1997.
- (21) Exhibit 11--RAD-S. Main Customer History Report of Robert Lauder dated from January 1, 1995, to September 7, 1997.
- (22) Exhibit 12--RAD-S. Main Customer History Report of Joseph Krivda dated from January 1, 1995, to September 7, 1997.
- (23) Exhibit 13--RAD-S. Main Customer History Report of Louise R. Krivda dated from January 1, 1995, to September 7, 1997.
- (24) Exhibit 14--Prescription number 0326626840.
- (25) Exhibit 15--RAD-S. Main Customer History Report of Samuel Herryholmes dated from January 1, 1995, to September 7, 1997.
- (26) Exhibit 16--Prescription number 0326627629.
- (27) Exhibit 17--RAD-S. Main Customer History Report of Wanda Smith dated from January 1, 1995, to September 7, 1997.
- (28) Exhibit 18--Prescription number 0326626704.
- (29) Exhibit 19--RAD-S. Main Customer History Report of Marion D. Filbert dated from January 1, 1995, to September 7, 1997.
- (30) Exhibit 20--Prescription number 0326628090.
- (31) Exhibit 21--Five-page RAD-S. Main Customer History Report of Melinda Cody dated from January 1, 1994, to September 7, 1997.
- (32) Exhibit 22--Prescription number 16322.
- (33) Exhibit 23--Prescription number 0326627073.
- (34) Exhibit 24--Four-page RAD-S. Main Customer History Report of William C. Cody dated from January 1, 1994, to September 7, 1997.
- (35) Exhibit 25--Prescription number 15240.
- (36) Exhibit 26--Ten-page copy of spread sheets containing patient name, prescription number, date, quantity, dispensing pharmacist, doctor, drug, and grand totals dispensed for the following patients: Sarah Wasznicki, William Sams, Robert Lauder, Joseph Krivda, Louise R. Krivda, Samuel Harryholmes (*sic* Herryholmes), Wanda Smith, Marion D. Filbert, Melinda Cody, and William C. Cody.

Respondent's Exhibits:

- (1) Exhibit A--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of William Cody dated October 21, 1997.
- (2) Exhibit B--Copies of five pages of recovery meeting attendance sheets of William Cody dated as follows: December 1, 1997, to December 30, 1997; November 1, 1997, to November 24, 1997; November 25, 1997, to November 30, 1997; October 10, 1997, to October 31, 1997; and October 29, 1997.
- (3) Exhibit C--Copies of six pages of medical records of Daniel D. Burwell, D.O., regarding William Cody dated from July 20, 1992, through December 15, 1997.
- (4) Exhibit D--Copies of eleven urine drug screen reports of William Cody, consisting of thirteen pages, dated as follows: September 15, 1997; September 19, 1997; September 16, 1997; September 23, 1997; September 30, 1997; October 8, 1997; October 23, 1997; November 6, 1997; December 4, 1997; December 11, 1997; and December 31, 1997.
- (5) Exhibit E--Sixty-nine pages of two-sided copies of Parkside Recovery Services Medical Records of William Cody dated from September 12, 1997, through January 7, 1998.
- (6) Exhibit F--Copies of the following: two-page letter from Linda L. Orr dated January 6, 1998; letter from R. Scott Carpenter dated January 10, 1998; letter from John B. Parr dated January 6, 1998; letter from Connie Strang dated January 4, 1998; letter from Roger L. Bollinger dated January 8, 1998; letter from Michael W. Crispin dated January 9, 1998; letter from Mark Barnhill dated January 9, 1998; letter from Lynn E. Orr, not dated; and letter, name illegible, not dated.
- (7) Exhibit G--Letter from Alan J. Slifka dated January 7, 1998.

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 William C. Cody was originally licensed in the state of Ohio by reciprocity, and on September 18, 1997, William C. Cody's license was summarily suspended in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (2) William C. Cody 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: William C. Cody admitted to an agent of the Ohio Board of Pharmacy that he has ingested up to twenty-five, though normally eighteen to twenty, unit doses of Hydrocodone Bitartrate 10mg/APAP 650mg per day and that he is addicted to drugs; that he has ingested drugs while practicing pharmacy; that he has stolen drugs for his own personal abuse without prescriptions from practitioners; that he has created fictitious patients and prescriptions, and/or records to cover for his thefts; and William C. Cody has admitted making prescription errors while under the influence of drugs.
- (3) William C. Cody did, on or about September 11, 1997, knowingly obtain or use controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: William C. Cody ingested fourteen unit doses of Hydrocodone Bitartrate 10mg/APAP 650mg without an order from a practitioner. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) William C. Cody did, on or about September 11, 1997, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: William C. Cody was found to have in his possession the following controlled substances without a prescription:

<u>Drug</u>	<u>Quantity</u>
Hydrocodone Bitartrate 10mg/APAP 650mg	1,421
Librium	151
Chlordiazepoxide Hydrochloride 25mg	77

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (5) William C. Cody did, on or about September 11, 1997, knowingly possess a dangerous drug, to wit: William C. Cody was found to have in his possession the following dangerous drugs:

<u>Drug</u>	<u>Quantity</u>
Rhinocort Inhaler	3
Prozac 20mg	2 bottles
Methocarbamol 750mg	1 bottle
Cyclobenzaprine 10mg	3 bottles
West Decon tablets	2 bottles

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

- (6) William C. Cody did, from February 14, 1996, through September 5, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs and other property of Rite Aid Discount Pharmacies, beyond the express or implied consent of the owner and/or by deception, to wit: William C. Cody stole the following controlled substances from his employer:

<u>Pt. #</u>	<u>Rx #</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
1	20844	06/28/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	100

1	21293	07/12/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
1	21596	07/22/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	08/25/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	10/01/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	11/15/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	12/03/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	01/20/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	29752	01/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
1	30475	02/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
1	33593	04/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	05/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	06/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	07/08/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	08/14/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	02/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	04/09/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	05/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	06/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	06/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	07/31/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	05/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	07/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	08/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
4	35308	05/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	12/04/96	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	03/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	04/01/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	04/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	05/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	06/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	07/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	08/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	08/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
6	27629	12/19/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	01/20/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	02/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	04/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	05/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	36896	07/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
7	26704	12/02/96	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	03/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	04/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	05/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	05/30/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	06/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	07/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	07/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
8	28090	12/27/96	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	01/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	02/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	04/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	05/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	06/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	37518	07/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	38950	08/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
9	16322	03/08/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60
9	16322	03/23/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60
9	16322	04/17/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60

9	18923	05/08/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	05/30/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	06/28/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	08/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	09/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	11/10/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	12/09/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	03/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	04/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	05/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	35738	06/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	35738	07/02/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	38019	08/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
9	38019	09/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	15240	02/14/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	03/13/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	03/23/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	04/17/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	05/03/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	06/15/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	07/12/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	07/27/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	08/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	09/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	23757	09/21/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	10/10/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	11/10/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	12/09/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	31417	03/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	04/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	05/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	06/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	07/02/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	08/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	39345	09/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100

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

- (7) William C. Cody did, from February 14, 1996, through September 5, 1997, intentionally create and/or knowingly possess false or forged prescriptions, to wit: William C. Cody created and possessed on file the following prescriptions purportedly for the following patients:

<u>Pt. #</u>	<u>Rx #</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>
1	20844	06/28/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	100
1	21293	07/12/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
1	21596	07/22/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	08/25/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	10/01/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	11/15/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	12/03/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	21596	01/20/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	29752	01/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
1	30475	02/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
1	33593	04/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	05/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	06/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
1	33593	07/08/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100

1	33593	08/14/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	02/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	04/09/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	05/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	06/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	06/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
2	31183	07/31/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	05/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	07/11/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
3	34756	08/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
4	35308	05/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	12/04/96	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	03/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	04/01/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	26840	04/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	05/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	06/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	07/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	08/13/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
5	35307	08/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
6	27629	12/19/96	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	01/20/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	02/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	04/18/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	27629	05/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
6	36896	07/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
7	26704	12/02/96	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	03/26/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	04/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	26704	05/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	05/30/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	06/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	07/16/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
7	35507	07/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	126
8	28090	12/27/96	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	01/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	02/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	04/17/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	05/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	28090	06/23/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	37518	07/21/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
8	38950	08/28/97	Hydrocodone Bitartrate 10mg/APAP 650mg	120
9	16322	03/08/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60
9	16322	03/23/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60
9	16322	04/17/96	Hydrocodone Bitartrate 7.5mg/APAP 500mg	60
9	18923	05/08/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	05/30/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	06/28/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	08/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	09/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	19852	11/10/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	12/09/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	03/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	04/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	27073	05/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	35738	06/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60

9	35738	07/02/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
9	38019	08/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
9	38019	09/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	15240	02/14/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	03/13/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	03/23/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	04/17/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	05/03/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	15240	06/15/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	07/12/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	07/27/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	08/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	21292	09/11/96	Hydrocodone Bitartrate 10mg/APAP 650mg	30
WC	23757	09/21/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	10/10/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	11/10/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	12/09/96	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	01/06/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	23757	02/07/97	Hydrocodone Bitartrate 10mg/APAP 650mg	60
WC	31417	03/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	04/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	05/03/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	06/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	07/02/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	31417	08/04/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100
WC	39345	09/05/97	Hydrocodone Bitartrate 10mg/APAP 650mg	100

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

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (7) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (5) and (7) 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 September 18, 1997.

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

- (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. 03-1-16313, held by William C. Cody 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. 03-1-16313, held by William C. Cody effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-16313, held by William C. Cody effective as of the date of the mailing of this Order.

Further, William C. Cody may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

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

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Neuber and approved (Aye-4/Nay-3).

4:08 p.m. The meeting was recessed until Wednesday, January 14, 1998, at 8:00 a.m.

WEDNESDAY, JANUARY 14, 1998

8:05 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 with the following members present:

Amonte B. Littlejohn, R.Ph. (President); Joseph J. Maslak, R.Ph. (Vice-President); 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. 98-110 Material regarding a proposal to operate Oxygen Bars in the state of Ohio was presented to the Board for their consideration. Also provided to Board members was a copy of a document received from FDA regarding the status of oxygen as a prescription drug. Following consideration of the information provided by staff, the consensus of the Board was that Oxygen Bars would not be legal in Ohio and would not qualify for licensure as a terminal distributor of dangerous drugs. The Board noted that the intended use of the prescription drug was not for a legitimate medical purpose.

RES. 98-111 The Board then discussed the Administrative Code rules that would be reviewed by the 1998 Ad Hoc Advisory Committee on Rule Review. Mrs. Plant expressed her views regarding the status of present continuing pharmacy education programs and the fact that they do not assure the continuing competency of pharmacists holding current licenses to practice in the state of Ohio. Following discussion, Mrs. Plant moved that the Board appoint an Ad Hoc Advisory Committee on Continuing Pharmacy Education to address the issues of continuing competency and the varied ways of assuring the continuing competence of persons licensed by the Board to practice in Ohio. The committee would review Chapter 4729-7 of the Administrative Code for the purpose of recommending amendments and new rules if needed. The motion was seconded by Mr. Repke and approved (Aye-7/Nay-0).

Staff was directed to identify pharmacists from different practice settings, continuing education providers, colleges of pharmacy, and accrediting bodies (e.g., JCAHO) to serve on the committee. The first meeting of the Ad Hoc Advisory Committee on Continued Pharmacy Education is to be held in March, 1998, and their recommendations presented to the Board prior to the September 1998 Board meeting.

8:48 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk; Legal Affairs Administrator David Rowland; Compliance Administrator Tim Benedict; Compliance Supervisor Robert Cole; and Compliance Agent Dale Fritz. Mr. Maslak reported on the Ohio Tuberculosis Coalition meeting which he attended on December 19, 1997.

RES. 98-112

President Amonte Littlejohn then directed remarks to Compliance Agent Dale Fritz regarding his job performance and presented him with the following resolution adopted by the Board:

RESOLUTION OF THE BOARD

WHEREAS, the investigative and analytical efforts of Dale R. Fritz, Jr., a Compliance Agent with the Ohio State Board of Pharmacy, directly led to the conviction of an individual who took the lives of two innocent persons by committing aggravated vehicular homicide; and

WHEREAS, the efforts of Dale R. Fritz, Jr. brought praise and acclaim upon this Board from the Cuyahoga County Prosecuting Attorney's Office; and

WHEREAS, Dale R. Fritz, Jr. demonstrated professionalism in carrying out the responsibilities of his position by using his insight, assertiveness, and research and analytical skill; and

WHEREAS, Dale R. Fritz, Jr. put forth extraordinary effort and dedication to duty exerted during a time in which he was already fully engaged in other Board duties; therefore

BE IT RESOLVED that we, the undersigned Members of the Ohio State Board of Pharmacy, in its one hundred and thirteenth year, do hereby express our profound appreciation to Board Compliance Agent Dale R. Fritz, Jr. for his dedication and service to the Board and the citizens of Ohio, and

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

Dale R. Fritz, Jr.

Mrs. Plant moved that the Minutes of the December 8, 9, 10, 1997 meeting be approved as amended. The motion was seconded by Mr. Lamping and approved (Aye-7/Nay-0).

9:00 a.m.

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

9:10 a.m.

RES. 98-113

The Executive Session was concluded and the meeting opened to the public. The Board instructed Assistant Attorney General Sally Ann Steuk to notify counsel for Erik Scot Davis that the settlement proposed was not acceptable and that the hearing in the matter of Erik Scot Davis would be held.

9:30 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk and the hearing record in the matter of R.Ph. Arthur P. Hess opened by President Littlejohn.

9:53 a.m.

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

RES. 98-114 Assistant Executive Director William Winsley presented the application of "Smith and Nephew Wound Management - Ohio Division" for approval as an in-state provider of continuing pharmacy education. Mr. Lamping moved that the application be approved. The motion was seconded by Mr. Hanna and approved (Aye-7/Nay-0).

10:17 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 Erik Scot Davis's application for licensure by examination pursuant to the provisions of Chapters 119. and 4729. of the Ohio Revised Code.

12:10 p.m.

The hearing was concluded and the Board recessed for lunch.

1:00 p.m.

The Board reconvened in Room 1914 and Mrs. Plant moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony submitted during the hearings in the matters of Arthur P. Hess, R.Ph. and Erik Scot Davis's application for licensure by examination. The motion was seconded by Mrs. Neuber and a roll call vote was conducted by President Littlejohn as follows: Cavendish-Yes, Hanna-Yes, Lamping-Yes, Maslak-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

1:15 p.m.

RES. 98-115 The Executive Session was concluded and the meeting opened to the public. Mrs. Neuber moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-971113-021)

In The Matter Of:

ARTHUR P. HESS, R.Ph.
3625 N. Roger Drive
Port Clinton, Ohio 43452
(R.Ph. No. 03-3-07255)

INTRODUCTION

THE MATTER OF ARTHUR P. HESS CAME ON FOR CONSIDERATION ON JANUARY 14, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ARTHUR P. HESS 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) Dale Fritz, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated November 13, 1997.

- (2) Exhibit 1A--Copy of Renewal Application for Pharmacist License, No. 03-3-07255, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Arthur P. Hess dated July 28, 1996.
- (3) Exhibit 2--Two-page Kmart Pharmacy #3784 Medical Expenses report of Art Hess dated from August 19, 1993, to March 17, 1997.
- (4) Exhibit 3--Handwritten statement of John M. Jonesco, D.O. dated May 8, 1997.
- (5) Exhibit 4--Prescription number 4400695.
- (6) Exhibit 5--Prescription number 4401580.
- (7) Exhibit 6--Two-page Kmart Pharmacy #3784 Medical Expenses report of Radelle Hess dated from August 19, 1993, to March 17, 1997.
- (8) Exhibit 7--Handwritten statement of M. Scott Mead, D.D.S. signed and notarized on May 2, 1997.
- (9) Exhibit 8--Prescription number 4403594.
- (10) Exhibit 9--Two-page copy of Bill of Indictment filed in the Criminal Division of Sandusky County Common Pleas Court, State of Ohio vs. Arthur P. Hess, Case No. 97-CR-720, dated September 25, 1997.
- (11) Exhibit 10--Copy of Judgment Entry filed in the Sandusky County Common Pleas Court, State of Ohio vs. Arthur P. Hess, dated January 5, 1998.
- (12) Exhibit 11--Two-page handwritten statement of Joanne Langley signed and notarized on January 8, 1998.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) On November 13, 1997, Arthur P. Hess was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of November 17, 1997, Arthur P. Hess received the letter of November 13, 1997, informing him of the allegations against him, and his rights.
- (3) Arthur P. Hess has not requested a hearing in this matter.
- (4) Records of the Board of Pharmacy indicate that Arthur P. Hess was originally licensed in the state of Ohio on August 8, 1960, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (5) Arthur P. Hess did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Arthur P. Hess created the following prescriptions to cover for his use of the drugs without having valid prescriptions issued by prescribers:

<u>Date</u>	<u>Rx No.</u>	<u>Type</u>	<u>Drug</u>	<u>Qty.</u>	<u>Payment</u>
02/02/94	4400695	New	Propoxyphene N/APAP 100/650	100	Cash
06/25/94	4400695	Refill	Propoxyphene N/APAP 100/650	100	Cash
08/10/94	4401580	New	Propoxyphene N/APAP 100/650	100	PCS
08/31/94	4401580	Refill	Propoxyphene N/APAP 100/650	100	PCS
09/11/94	4401580	Refill	Propoxyphene N/APAP 100/650	100	Cash
10/15/94	4401580	Refill	Propoxyphene N/APAP 100/650	100	Cash
11/14/95	4404452	New	Propoxyphene N/APAP 100/650	100	PCS
05/21/96	4405717	New	Propoxyphene N/APAP 100/650	100	Cash
09/23/96	4405717	Refill	Propoxyphene N/APAP 100/650	100	Cash
01/09/97	6645971	Refill	Ibuprofen 800mg	100	PCS
02/15/97	6645971	Refill	Ibuprofen 800mg	100	PCS

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

- (6) Arthur P. Hess did, on or about the following dates, make or utter a false or forged prescription for a dangerous drug, to wit: Arthur P. Hess created the following prescriptions for dangerous drugs to cover for his use of the drugs without having valid prescriptions issued by prescribers:

<u>Date</u>	<u>Rx No.</u>	<u>Type</u>	<u>Drug</u>	<u>Qty.</u>	<u>Payment</u>
02/02/94	6605734	New	Motrin 800mg	100	Cash
02/11/94	6606174	New	Ceclor 500mg	20	Cash
06/25/94	6605734	Refill	Motrin 800mg	100	Cash
05/21/96	6645971	New	Motrin 800mg	100	Cash

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

- (7) Arthur P. Hess did, on or about June 26, 1995, intentionally make and/or knowingly possess a false or forged prescription, to wit: Arthur P. Hess created prescription number 4403594 for 50 unit doses of Propoxyphene Napsylate/APAP 100/650 to cover for his use of the drugs without having a valid prescription issued by a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Arthur P. Hess did permit someone other than a pharmacist or pharmacy intern to practice pharmacy, to wit: while working at Kmart Pharmacy #3784, Arthur P. Hess failed to remain in the pharmacy at all times when it was open and did not check prescriptions filled by the pharmacy technicians. Such conduct is in violation of Rule 4729-5-25 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings of Fact constitute being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings of Fact constitute being guilty of abusing drugs as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7) 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.
- (5) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (8) of the Findings of Fact constitutes being guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy as provided in Division (A)(6) of the Ohio Revised Code.

ACTION OF THE BOARD

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

- (A) On the basis of the Findings of Fact and paragraphs (1), (2), (3), and (5) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-07255, held by Arthur P. Hess indefinitely, effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Arthur P. Hess 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. Further, Arthur P. Hess must petition the Board to request reinstatement and must appear personally.
- (B) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five thousand dollars (\$5,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

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

MOTION CARRIED.

SO ORDERED.

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

RES. 98-116 Mr. Hanna moved that the Board adopt the following Order and deny the application of Erik Scot Davis for licensure as a pharmacist by examination. Mr. Maslak seconded the motion and it was approved (Aye-6/Nay-1).

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970701-001)

In The Matter Of:

ERIK SCOT DAVIS
1964 Blain Highway
Waverly, Ohio 45690
(D.O.B. 4/12/60)

INTRODUCTION

THE MATTER OF ERIK SCOT DAVIS CAME TO HEARING ON JANUARY 14, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ERIK SCOT DAVIS WAS REPRESENTED BY MARK S. GUTENTAG, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) David L. Rowland, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Erik Scot Davis, Respondent
- (2) Tamra Davis, Wife of Respondent
- (3) Dennis Garman, Mount Tabor Community Christian Church, Chillicothe, Ohio

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Notice of Opportunity for Hearing letter dated July 1, 1997.
- (2) Exhibit 1A--Hearing Request letter dated July 20, 1997.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 24, 1997.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated September 9, 1997.
- (5) Exhibit 1D--Letter of Representation and Continuance Request from the law firm of Gamble Hartshorn Alden Co. LPA dated October 1, 1997.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated October 6, 1997.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated November 14, 1997.
- (8) Exhibit 2--Application for Examination as a Pharmacist of Erik Scot Davis signed and notarized on May 5, 1997, with attached copy of seven-page Order of the State Board of Pharmacy, Docket No. D-920507-139, of Erik Scot Davis dated October 27, 1992, and explanation to section five of the application.
- (9) Exhibit 3--Copy of seven-page Order of the State Board of Pharmacy, Docket No. D-920507-139, of Erik Scot Davis dated October 27, 1992.
- (10) Exhibit 4--Two-page certified copy of Indictment in the Hamilton County Common Pleas Court, Case No. B912347, in the matter of Eric (*sic* Erik) S. Davis dated May 1, 1991.
- (11) Exhibit 4A--Certified copy of Entry Withdrawing Plea of Not Guilty and Entering Plea of Guilty in the Hamilton County Court of Common Pleas, The State of Ohio vs. Erik Davis, Case No. B912347 dated January 13, 1992.
- (12) Exhibit 4B--Certified copy of Entry Accepting Plea of Guilty in the Hamilton County Common Pleas Court, The State of Ohio vs. Erik S. Davis, Case No. B912347 dated October 28, 1992.
- (13) Exhibit 4C--Certified copy of Judgment Entry, Sentence, Incarceration in the Hamilton County Common Pleas Court, The State of Ohio vs. Erik S. Davis, Case No. B912347 dated October 28, 1992.
- (14) Exhibit 5--Three-page certified copy of Indictment in the Hamilton County Common Pleas Court, Case No. B914437, in the matter of Erik S. Davis dated July 31, 1991.
- (15) Exhibit 5A--Certified copy of Entry Withdrawing Plea of Not Guilty and Entering Plea of Guilty in the Hamilton County Court of Common Pleas, The State of Ohio vs. Erik Davis, Case No. B914437, dated October 28, 1992.
- (16) Exhibit 5B--Copy of Report of Probation Violation in the Hamilton County Court of Common Pleas, State of Ohio vs. Erik S. Davis, Case No. B914437, dated March 30, 1992.
- (17) Exhibit 5C--Certified copy of Entry Accepting Plea of Guilty in the Hamilton County Common Pleas Court, The State of Ohio vs. Erik S. Davis, Case No. B914437 dated October 28, 1992.
- (18) Exhibit 5D--Certified copy of Judgment Entry, Sentence, Incarceration in the Hamilton County Common Pleas Court, The State of Ohio vs. Erik S. Davis, Case No. B914437 dated October 28, 1992.
- (19) Exhibit 6--Two-page certified copy of Judgment Entry Sentencing Defendant in the Clermont County Court of Common Pleas, State of Ohio vs. Eric (*sic* Erik) S. Davis, Case No. 92-CR-005141, dated October 27, 1992.
- (20) Exhibit 7--Handwritten statement of Erik Scot Davis signed and notarized on January 31, 1992.

Respondent's Exhibits:

- (1) Exhibit A--Nine-page Introduction, Statement of Facts, Discussion, and Conclusion and subsections as follows: Section 1--Three-page letter from Erik Scot Davis dated December 24, 1997. Section 2--Six-page Curriculum Vita of Erik Scot Davis dated January, 1998. Section 3--Seven-page Order of the State Board of Pharmacy, Docket No. D-920507-139, of Erik Scot Davis dated October 27, 1992, and copy of five-page Notice of Opportunity for Hearing letter dated May 7, 1992. Section 4--Copy of eight-page unsigned Agreed

Board Order #L-93-012 in the matter of Erik Scot Davis before the Texas State Board of Pharmacy, not dated; and copy of seven-page Order of the State Board of Pharmacy, Docket No. D-920507-139, of Erik Scot Davis dated October 27, 1992. Section 5--Two two-page letters from Tamra Lynn Davis dated January 3, 1998. Section 6--Letter from Dennis Garman dated December 30, 1997; letter from Carl Alan Cox dated December 30, 1997; letter from Deric A. Cox dated December 31, 1997; letter from Mary Ellen Cox dated December 31, 1997; letter written on notebook paper, in black ink, name illegible, not dated; letter from Donna and Roger Remington, not dated; letter from Kim Young dated December 31, 1997; letter from John R. Cottrill not dated; letter from Jon and Cynthia Bee dated January 1, 1998; letter from Carol R. Arnold and Harry E. Arnold, Jr. dated December 30, 1997; two-page letter from Patty Richards, not dated; letter from Leeann Carter dated December 31, 1997; letter from Melody Derouin dated December 30, 1997; letter from Arvel D. Phipps dated December 30, 1997; copy of letter from Tod and Pam Gallagher dated December 30, 1997; letter from Martha Rucker dated January 4, 1998. Section 7--Five-page copy of 1960 OAG 1465 Attorney General's Opinion dated June 14, 1960. Section 8--Letter from Jennifer Clemans dated December 30, 1997; copies of two urine drug screen reports of Erik Davis dated April 18, 1997, and February 25, 1997; copies to two pages of AA Group attendance verification sheets of Erik Davis dated from April 15, 1997, through May 17, 1997. Section 9--Copy of letter from C. O. Elliott dated January 7, 1998. Section 10--Letter from Kevin G. Schill dated December 16, 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 Erik Scot Davis submitted an Application for Examination as a Pharmacist on or about May 7, 1997.
- (2) Records further indicate that Erik Scot Davis was originally licensed to practice pharmacy in the state of Ohio on June 26, 1990, and his license was summarily suspended on or about January 6, 1992, in accordance with Section 3719.121 (C) of the Ohio Revised Code. Further, on or about October 27, 1992, the Board found the following to be fact:
 - (a) Erik Scot Davis was originally licensed in the state of Ohio on June 26, 1990, pursuant to reciprocity, and was suspended without a prior hearing on January 6, 1992, due to being judicially declared eligible for Treatment in Lieu of Conviction.
 - (b) Erik Scot Davis did, on or about March 23, 1991, operate a motor vehicle while under the influence of alcohol and/or drugs, and he was, on or about June 7, 1991, convicted in the Hamilton county Municipal Court of Operation of a Motor Vehicle While Under the Influence in violation of Section 4511.19 of the Ohio Revised Code.
 - (c) Erik Scot Davis did, on or about March 23, 1991, knowingly carry or have concealed on his person or concealed ready at hand a deadly weapon, to wit: when arrested for OMVI, Erik Scot Davis had a concealed 9mm semiautomatic firearm. Such conduct is in violation of Section 2923.12 of the Ohio Revised Code.
 - (d) Erik Scot Davis did, on or about January 30, 1992, with the purpose to deprive the owner, York Discount Drugs, 220 Main St., Owensville, Ohio 45160, knowingly obtain or exert control over dangerous drugs beyond the consent of the owner, to wit: Erik Scot Davis stole 200 unit doses of Adipex-P and 1,000 unit doses of Diazepam 10mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
 - (e) Erik Scot Davis did, on or about January 30, 1992, knowingly sell a controlled substance 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 and when the sale was within 1,000 feet of a school building, to wit: after stealing 200 unit doses of Adipex-P and 1,000 unit doses of Diazepam 10mg, Erik Scot Davis sold them without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (f) Erik Scot Davis did, between the dates of August 7, 1991, and February 7, 1992, with the purpose to deprive the owner, York Discount Drugs, 220 Main St., Owensville, Ohio 45160, knowingly obtain or exert control over dangerous drugs beyond the consent of the owner, to wit: Erik Scot Davis stole the following drugs from his employer: 1,747 unit doses of Diazepam 10mg, 163 unit doses of Vicodin ES, 20 unit doses of Fastin 30mg, and 554 unit doses of Carisoprodol 350mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (g) Erik Scot Davis did, on or about the following dates, intentionally make and/or knowingly possess a false or forged prescription, to wit: Erik Scot Davis created and retained in the files of York Discount Drugs the following false and/or forged prescriptions for patient Ronald A. Cupp, allegedly authorized by telephone by Dr. Patricia Cusumano:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date Sold</u>
C71792	Diazepam 10mg	100	11/07/91
C71792	Diazepam 10mg	100	11/11/91
C71792	Diazepam 10mg	100	11/13/91
C72088	Diazepam 10mg	100	11/18/91
C72088	Diazepam 10mg	100	11/25/91
C72088	Diazepam 10mg	100	12/09/91
C73295	Diazepam 10mg	100	12/26/91
C73295	Diazepam 10mg	100	01/14/92
C73295	Diazepam 10mg	100	01/27/92

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

- (h) Erik Scot Davis did, between November 7, 1991, and January 27, 1992, knowingly sell a controlled substance 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: Erik Scot Davis sold 900 unit doses of Diazepam 10mg without a valid prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (i) Erik Scot Davis did, between February 1, 1991, and April 4, 1991, with the purpose to deprive, knowingly obtain dangerous drugs beyond the scope of consent of the owner, Rite Aid, to wit: Erik Scot Davis stole the following drugs:

<u>Drug</u>	<u>Quantity</u>
Vicodin ES	1
Tylenol #4	150
Glutethimide	71
Propoxyphene 65mg	73
Fiorinal w/Codeine	21
Phentermine 37.5mg	60
Diazepam 10mg	43
Phentermine 30mg	5
Temazepam 30mg	23
Flexeril	73
Valium 10mg	45
Valium 5mg	6
Soma	4

Halcion .25mg	124
Xanax	67
Synalgos	35
Oxazepam 30mg	3
Flurazepam	96
Diphenoxylate 2.5mg	2
Cocaine Crystals	350mg

These dangerous drugs were surrendered to the Cincinnati Police Department. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (j) Erik Scot Davis did, on or about March 31, 1991, intentionally make and/or knowingly possess a false or forged prescription, to wit: Erik Scot Davis fabricated false prescription number 011155 by transferring it from another pharmacy for the purpose of obtaining the drugs, 100 tablets of Vicodin ES, for himself. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (k) Erik Scot Davis did, on or about February 7, 1991, intentionally make and/or knowingly possess a false or forged prescription, to wit: Erik Scot Davis fabricated false prescription number 011155 by transferring it from another pharmacy for the purpose of obtaining the drugs, 100 tablets of Vicodin ES, for himself. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (l) Erik Scot Davis did, between February 1, 1991, and April 4, 1991, with the purpose to deprive, knowingly obtain dangerous drugs beyond the scope of consent of the owner, Rite Aid, to wit: Erik Scot Davis stole the following drugs:

<u>Drug</u>	<u>Quantity</u>
Halcion .25mg	171
Xanax 1mg	100
Diazepam 2mg	94
Ativan 1mg	98
Diazepam 10mg	120
Propoxyphene N-100	39
Propoxyphene N-50	20
Propoxyphene Comp. 65mg	85
lonimin 30mg	58
Dalmane 30mg	30

These dangerous drugs were surrendered to the Ohio State Board of Pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

The Board concluded that Erik Scot Davis was guilty of gross immorality; guilty of a felony; guilty of dishonesty and unprofessional conduct in the practice of pharmacy; addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy; and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code. For these reasons, Erik Scot Davis' license to practice pharmacy in the state of Ohio, No. 03-2-18565, was revoked.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(c) through (2)(l) of the Findings of Fact constitute

being guilty of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2)(a) and (2)(b) of the Findings of Fact constitute having been convicted of violating state or federal pharmacy or drug laws as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that 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)(a) 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 Erik Scot Davis.

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

MOTION CARRIED.

SO ORDERED.

1:20 p.m.

The Board was joined by the following representatives of the Ohio Society of Health-System Pharmacists: Registered Pharmacists Kathy Donnelly, Dan Gueth, Susan Ward, Alicia Miller, Karen Kier, Ed Stembly, Doug Parr, and Robert Parsons. The following topics were discussed with the Board members and staff: positive identification; the Pharmacy Practice Act revisions (Sub. S.B. 66); Hospice patients; the Board's definition of "campus"; Narrow Therapeutic Index drugs; and proposed legislation.

2:11 p.m.

Having addressed the topics of discussion, the Ohio Health-System Pharmacists representatives left and the Board recessed for five minutes. Mrs. Neuber left for personal reasons.

2:25 p.m.

The Board was joined by the following representatives of the Ohio Pharmacist Association: Executive Director Ernie Boyd; Assistant Executive Director Amy Bennett; President Katherine Karas; President-Elect Gregory Fox; Vice-President Donald Bennett; Executive Committee Member-at-Large Randall Myers; and Treasurer Jim Turner. Issues discussed included the taking of telephoned oral prescriptions by interns; the seven-year Pharm.D. degree in Ohio; prescriber problems communicating with pharmacies; the National Association of Boards of Pharmacy Pharmacist Continuing Competence Assessment Mechanism (PCCAM); Sub. S.B. 66, H.B. 532, and H.B. 633; and problems experienced by exam candidates with the Sylvan testing centers.

3:00 p.m.

Board Member Ruth Plant excused herself from the remainder of the Board meeting due to personal business commitments.

3:30 p.m.

Having addressed the topics of discussion, the Ohio Pharmacists Association representatives left and the Board recessed for five minutes.

3:35 p.m.

- RES. 98-117** The Board reconvened and Mr. Lamping moved that the Board withdraw the Notice of Opportunity for a Hearing in the matter of Mike's Apothecary's application for a terminal distributor of dangerous drugs license. The application was withdrawn by the attorney for R.Ph. Mike Krusling. The motion was seconded by Mr. Cavendish and approved (Aye-5/Nay-0).
- RES. 98-118** Staff reported that the Notice of Opportunity for a Hearing in the matter of Westchester Pharmacy was withdrawn. The applicant submitted a new application with a responsible pharmacist acceptable to the Board.
- RES. 98-119** Sally Ann Steuk, Assistant Attorney General; David Rowland, Legal Affairs Administrator; and William Winsley, Assistant Executive Director, joined the Board to discuss the Board's request that a legal and binding "Purchased Liability Agreement" be drafted. Mr. Rowland reported that he had contacted Jack Atkinson, National Association of Boards of Pharmacy counsel, about the legality of such an agreement. Mr. Atkinson agreed that it would not be legal and therefore not binding on the parties entering into the agreement.
- RES. 98-120** Tim Benedict presented a request for Board approval to serve as the responsible pharmacist at the same time for two terminal distributor of dangerous drugs licenses. Following discussion, Mr. Cavendish moved that the Board approve the request of R.Ph. Shirley J. Kramer to serve as the responsible pharmacist for two CIGNA HealthCare of Ohio pharmacies (02-817850 and 02-817900) for ninety days. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0).
- RES. 98-121** The Executive Director then presented information regarding a forum that is being held by The Citizen Advocacy Center on "Chemically Dependent Health Care Practitioners" March 5-6, 1998 in Arlington, Virginia. Mr. Cavendish moved that the Board approve the attendance of Nick Repke, Public Board member, at this meeting and that he be reimbursed for expenses pursuant to state laws and Office of Budget and Management rules. The motion was seconded by Mr. Lamping and approved (Aye-5/Nay-0).
- RES. 98-122** Staff then reported that the Board had entered into the following settlements as indicated by the dates signed:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-971024-014)

In The Matter Of:

MICHAEL DAVID CONNELL, R.Ph.
13870 Donald Drive
Brook Park, Ohio 44142
(R.Ph. No. 03-2-10223)

This Settlement Agreement is entered into by and between Michael David Connell 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.

Michael David Connell 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.

Michael David Connell is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges being filed by the Board against Michael David Connell and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Michael David Connell's license to practice pharmacy in the state of Ohio, this

Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Michael David Connell neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that Michael David Connell was originally licensed in the state of Ohio on July 20, 1972, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that Mr. Connell is the Responsible Pharmacist at the Parma Drug Co. pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
 - (2) Michael David Connell did, on or about January 31, 1997, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Connell sold 28 units of Adipex-P 37.5mg for diet to patient #1 pursuant to prescription number 643763 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
 - (3) Michael David Connell did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Michael David Connell sold 28 units of Adipex-P 37.5mg for diet to patient #2 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
619153	12/18/95	01/08/96
620872	01/15/96	02/05/96
622812	02/12/96	03/04/96
625539	03/28/96	04/15/96
626388	04/06/96	04/29/96
627144	04/22/96	05/13/96
628729	05/20/96	06/10/96
629637	06/03/96	06/24/96

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

- (4) Michael David Connell did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Michael David Connell sold controlled substances for diet to patient #3 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pur-

suant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>	<u>Drug</u>	<u>Quantity</u>
620370	01/25/96	01/27/96	Didrex 50 mg	56
634596	09/12/96	09/13/96	Didrex 50 mg	56
639665	09/26/96	11/30/96	Redux 15 mg	56

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

- (5) Michael David Connell did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Michael David Connell sold 56 units of Didrex 50mg for diet to patient #4 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
645204	02/07/97	02/23/97
648590	03/27/97	04/16/97
650119	05/08/97	05/11/97

Such conduct is in violation of Section 2925.03(A) 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, Michael David Connell knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Michael David Connell's pharmacist identification card, No. 03-1-07265, will be placed on probation for two years. The terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Michael David Connell's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Michael David Connell must take and successfully complete the jurisprudence examination offered by the Board on February 3, 1998, or June 30, 1998. If Michael David Connell has not successfully completed the examination prior to July 15, 1998, his license will be suspended until this condition has been achieved.
 - (3) Michael David Connell must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Michael David Connell must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Michael David Connell must comply with the terms of this Order.

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

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

- (B) Michael David Connell agrees to the imposition of a monetary penalty of two thousand five hundred dollars (\$2,500.00) due and owing within thirty days from 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 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Michael David Connell 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, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may 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.

Michael David Connell 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.

Michael David Connell waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Michael David Connell waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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. Michael David Connell agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

<u>/s/ Michael David Connell</u>	<u>/d/ 1-8-98</u>
Michael David Connell, Respondent	Date of Signature

<u>/s/ Jeffrey S. Richardson</u>	<u>/d/ 1/8/98</u>
Jeffrey S. Richardson, Attorney for Respondent	Date of Signature

<u>/s/ Amonte B. Littlejohn</u>	<u>/d/ 1-14-98</u>
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy	Date of Signature

<u>/s/ Sally Ann Steuk</u>	<u>/d/ 1-14-98</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-970529-043)

In The Matter Of:

EVELYN K. HANSEN, R.Ph.
7840 Sutcliff Court
Dublin, Ohio 43016
(R.Ph. No. 03-3-14453)

This Settlement Agreement is entered into by and between Evelyn K. Hansen 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.

Evelyn K. Hansen enters into this Agreement being fully informed of her 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.

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Attached to and incorporated herein as State's Exhibit 1D1 is the Notice of Opportunity letter dated May 29, 1997. Evelyn K. Hansen neither admits nor denies the allegations stated in the Notice; however, the Board finds that it has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) A 30-day suspension of her pharmacist identification card, No. 03-3-14453, and such suspension is effective as of the date of the Agreement. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Evelyn K. Hansen 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.
- (B) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return her 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) Upon reinstatement of Evelyn K. Hansen's pharmacist identification card, No. 03-3-14453, will be placed on probation for one year. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Evelyn K. Hansen's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Evelyn K. Hansen may not serve as a responsible pharmacist.
 - (3) Evelyn K. Hansen must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (4) Evelyn K. Hansen must abide by the rules of the Ohio State Board of Pharmacy.
 - (5) Evelyn K. Hansen must comply with the terms of this Order.

- (6) Evelyn K. Hansen must take and successfully complete the jurisprudence examination offered by the Board on February 3, 1998, or June 30, 1998. If Evelyn K. Hansen has not successfully completed the examination prior to July 15, 1998, her license will be suspended until this condition has been achieved.

For cause, the Board may at any time revoke probation, 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.

- (D) Evelyn K. Hansen agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) to be paid in six installments, due on the 15th day of each month, from January, 1998, through June, 1998. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

Evelyn K. Hansen acknowledges that she 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.

Evelyn K. Hansen waives any and all claims or causes of action she 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. Evelyn K. Hansen agrees that should the Board reject this Agreement and if this case proceeds to hearing, she 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 Board President's signature below.

<u>/s/</u> <u>Evelyn K. Hansen</u>	<u>/d/</u> <u>Dec 12, 1997</u>
Evelyn K. Hansen, Respondent	Date of Signature
<u>/s/</u> <u>H. Ritchey Hollenbaugh</u>	<u>/d/</u> <u>12/12/97</u>
H. Ritchey Hollenbaugh, Attorney for Respondent	Date of Signature
<u>/s/</u> <u>Amonte B. Littlejohn</u>	<u>/d/</u> <u>1/14/98</u>
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy	Date of Signature
<u>/s/</u> <u>Sally Ann Steuk</u>	<u>/d/</u> <u>1-14-98</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

A T T A C H M E N T

NOTICE OF OPPORTUNITY FOR HEARING

May 29, 1997

Evelyn Kay Hansen, R.Ph.
7840 Sutcliff Court
Dublin, Ohio 43016

STATE'S EXHIBIT <u>1 D 1</u>

Re: Ohio Registered Pharmacist
License No. 03-3-14453

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, you are entitled to a hearing before the State Board of Pharmacy, if you request such a hearing within thirty (30) days of the time of the mailing of this notice, on the basis of the following allegations:

(1) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on December 8, 1981, pursuant to reciprocity, and are currently licensed to practice pharmacy in the state of Ohio.

(2) You did, from January 3, 1992, through March 22, 1993, a 444 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #3 for purposes of weight control when the pharmacy sold 406 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) You did, from January 10, 1992, through March 13, 1993, a 428 day time period, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 336 unit doses of Didrex 50mg to Patient #7 for purposes of weight control when the pharmacy sold 812 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) You did, from January 8, 1992, and March 3, 1993, a 420 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #8 for purposes of weight control when the pharmacy sold 644 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(5) You did, from January 13, 1992, through March 5, 1993, a 417 day time period, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 210 unit doses of Adipex-P to Patient #9 for purposes of weight control when the pharmacy sold 364 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if

proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(6) You did, from January 7, 1992, through February 25, 1993, a 415 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #10 for purposes of weight control when the pharmacy sold 350 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(7) You did, from January 8, 1992, through March 24, 1993, a 441 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #11 for purposes of weight control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(8) You did, from January 2, 1992, through March 12, 1993, a 435 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #12 for purposes of weight control when the pharmacy sold 840 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(9) You did, from January 7, 1992, through March 13, 1993, a 431 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Didrex 50mg to Patient #13 for purposes of weight control when the pharmacy sold 616 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(10) You did, from January 6, 1992, through February 19, 1993, a 410 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #14 for purposes of weight control when the pharmacy sold 350 unit doses to the patient throughout this time period. The sales

were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(11) You did, from January 22, 1992, through March 11, 1993, a 414 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #16 for purposes of weight control when the pharmacy sold 280 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(12) You did, from January 7, 1992, through March 18, 1993, a 436 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #17 for purposes of weight control when the pharmacy sold 700 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(13) You did, from January 2, 1992, through March 4, 1993, a 427 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #19 for purposes of weight control when the pharmacy sold 392 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(14) You did, from January 7, 1992, through January 20, 1993, a 379 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 168 unit doses of Didrex 50mg to Patient #22 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(15) You did, from January 7, 1992, through March 19, 1993, a 437 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Didrex 50mg to Patient #23 for purposes of weight

control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(16) You did, from January 9, 1992, through March 19, 1993, a 435 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #26 for purposes of weight control when the pharmacy sold 420 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(17) You did, from January 2, 1992, through January 6, 1993, a 370 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 224 unit doses of Didrex 50mg to Patient #29 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(18) You did, from January 3, 1992, through March 12, 1993, a 434 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #30 for purposes of weight control when the pharmacy sold 336 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(19) You did, from January 2, 1992, through March 22, 1993, a 445 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 224 unit doses of Didrex 50mg to Patient #31 for purposes of weight control when the pharmacy sold 924 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(20) You did, from January 15, 1992, through March 23, 1993, a 433 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in

an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 140 unit doses of Didrex 50mg to Patient #33 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(21) You did, from January 6, 1992, through February 24, 1993, a 415 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 70 unit doses of Adipex-P to Patient #34 for purposes of weight control when the pharmacy sold 392 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(22) You did, from January 6, 1992, through March 15, 1993, a 419 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #36 for purposes of weight control when the pharmacy sold 896 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(23) You did, from January 6, 1992, through March 19, 1993, a 438 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P and 28 unit doses of Didrex 50mg to Patient #37 for purposes of weight control when the pharmacy sold 28 unit doses of Adipex-P and 357 unit doses of Didrex 50mg to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(24) You did, from January 3, 1992, through February 12, 1993, a 406 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 252 unit doses of Didrex 50mg to Patient #38 for purposes of weight control when the pharmacy sold 588 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(25) You did, from January 7, 1992, through March 15, 1993, a 433 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 14 unit doses of Adipex-P to Patient #39 for purposes of weight control when the pharmacy sold 420 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(26) You did, from January 20, 1992, through March 8, 1993, a 413 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #40 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(27) You did, from January 6, 1992, through March 8, 1993, a 427 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 224 unit doses of Didrex 50mg to Patient #42 for purposes of weight control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(28) You did, from January 3, 1992, through March 19, 1993, a 441 day time period, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 308 unit doses of Didrex 50mg to Patient #43 for purposes of weight control when the pharmacy sold 868 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

For these reasons, the State Board of Pharmacy will determine whether to take action pursuant to Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY ADVISED that Section 4729.16 of the Ohio Revised Code states in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity

any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by or with your attorney, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

BY ORDER OF THE STATE BOARD OF PHARMACY

/s/ Franklin Z. Wickham

Franklin Z. Wickham, R.Ph., M.S.
Executive Director

DLR:so (D-970529-043)

CERTIFIED MAIL
Return Receipt

cc: Mary L. Hollern, Assistant Attorney General

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-970529-040)

In The Matter Of:

JAMES N. KING, R.Ph.
723 Racine Avenue
Columbus, Ohio 43204
(R.Ph. No. 03-1-07265)

This Settlement Agreement is entered into by and between James N. King 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.

James N. King 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.

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Attached to and incorporated herein as State's Exhibit 1B1 is the Notice of Opportunity letter dated May 29, 1997. James N. King neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) A 30-day suspension of his pharmacist identification card, No. 03-1-07265, and such suspension is effective as of the date of the Agreement. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James N. King 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.
- (B) 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) Upon reinstatement of James N. King's pharmacist identification card, No. 03-1-07265, will be placed on probation for one year. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that James N. King's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) James N. King may not serve as a responsible pharmacist.

- (3) James N. King must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (4) James N. King must abide by the rules of the Ohio State Board of Pharmacy.
- (5) James N. King must comply with the terms of this Order.
- (6) James N. King must take and successfully complete the jurisprudence examination offered by the Board on February 3, 1998, or June 30, 1998. If James N. King has not successfully completed the examination prior to July 15, 1998, his license will be suspended until this condition has been achieved.

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.

- (D) James N. King agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days from 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 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, James N. King 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, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may 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.

James N. King 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.

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

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

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

/s/ James N. King
James N. King, Respondent

/d/ Dec 8 1997
Date of Signature

/s/ David C. Winters
David C. Winters, Attorney for Respondent

/d/ 8 December 97
Date of Signature

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

/d/ 1-14-98
Date of Signature

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

/d/ 12-9-97
Date of Signature

A T T A C H M E N T

NOTICE OF OPPORTUNITY FOR HEARING

May 29, 1997

James N. King, R.Ph.
723 Racine Avenue
Columbus, Ohio 43204



Re: Ohio Registered Pharmacist
License No. 03-1-07265

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, you are entitled to a hearing before the State Board of Pharmacy, if you request such a hearing within thirty (30) days of the time of the mailing of this notice, on the basis of the following allegations:

(1) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on August 8, 1960, pursuant to examination, and are currently licensed to practice pharmacy in the state of Ohio. Records further reflect that you have been the Responsible Pharmacist at Lincoln Professional Pharmacy, 421 S. Georgesville Road, Columbus, Ohio, since January 18, 1993, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

(2) You and/or a pharmacist under your control did, from January 3, 1992, through February 1, 1993, a 395 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #1 for purposes of weight control when the pharmacy sold 280 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) You and/or a pharmacist under your control did, from January 24, 1992, through March 24, 1993, a 425 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #2 for purposes of weight control when the pharmacy sold 700 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) You and/or a pharmacist under your control did, from January 3, 1992, through March 22, 1993, a 444 day time period, knowingly sell a controlled substance in an amount equal to or

exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #3 for purposes of weight control when the pharmacy sold 406 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(5) You and/or a pharmacist under your control did, from January 14, 1992, through February 23, 1993, a 406 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #4 for purposes of weight control when the pharmacy sold 266 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(6) You and/or a pharmacist under your control did, from January 17, 1992, through March 18, 1993, a 426 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #5 for purposes of weight control when the pharmacy sold 294 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(7) You and/or a pharmacist under your control did, from January 13, 1992, through March 8, 1993, a 420 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #6 for purposes of weight control when the pharmacy sold 378 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(8) You and/or a pharmacist under your control did, from January 10, 1992, through March 13, 1993, a 428 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #7 for purposes of weight control when the pharmacy sold 812 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter

2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(9) You and/or a pharmacist under your control did, from January 8, 1992, through March 3, 1993, a 420 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #8 for purposes of weight control when the pharmacy sold 644 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(10) You and/or a pharmacist under your control did, from January 13, 1992, through March 5, 1993, a 417 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #9 for purposes of weight control when the pharmacy sold 364 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(11) You and/or a pharmacist under your control did, from January 7, 1992, through February 25, 1993, a 415 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #10 for purposes of weight control when the pharmacy sold 350 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(12) You and/or a pharmacist under your control did, from January 8, 1992, through March 24, 1993, a 441 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #11 for purposes of weight control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(13) You and/or a pharmacist under your control did, from January 2, 1992, through March 12, 1993, a 435 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #12 for purposes of weight control when the pharmacy sold 840 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and

not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(14) You and/or a pharmacist under your control did, from January 7, 1992, through March 13, 1993, a 431 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #13 for purposes of weight control when the pharmacy sold 616 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(15) You and/or a pharmacist under your control did, from January 6, 1992, through February 19, 1993, a 410 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #14 for purposes of weight control when the pharmacy sold 350 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(16) You and/or a pharmacist under your control did, from January 10, 1992, through March 19, 1993, a 434 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 14 unit doses of Adipex-P to Patient #15 for purposes of weight control when the pharmacy sold 364 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(17) You and/or a pharmacist under your control did, from January 22, 1992, through March 11, 1993, a 414 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #16 for purposes of weight control when the pharmacy sold 280 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(18) You and/or a pharmacist under your control did, from January 7, 1992, through March 18, 1993, a 436 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719.,

4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #17 for purposes of weight control when the pharmacy sold 700 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(19) You and/or a pharmacist under your control did, from January 8, 1992, through March 19, 1993, a 421 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Adipex-P to Patient #18 for purposes of weight control when the pharmacy sold 196 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(20) You and/or a pharmacist under your control did, from January 2, 1992, through March 4, 1993, a 427 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #19 for purposes of weight control when the pharmacy sold 392 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(21) You and/or a pharmacist under your control did, from January 9, 1992, through February 4, 1993, a 392 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Didrex 50mg to Patient #20 for purposes of weight control when the pharmacy sold 616 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(22) You and/or a pharmacist under your control did, from January 3, 1992, through March 23, 1993, a 445 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #21 for purposes of weight control when the pharmacy sold 476 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(23) You and/or a pharmacist under your control did, from January 7, 1992, through January 20, 1993, a 379 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Didrex 50mg to Patient #22 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(24) You and/or a pharmacist under your control did, from January 7, 1992, through March 19, 1993, a 437 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #23 for purposes of weight control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(25) You and/or a pharmacist under your control did, from February 19, 1992, through March 19, 1993, a 394 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #24 for purposes of weight control when the pharmacy sold 210 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(26) You and/or a pharmacist under your control did, from January 2, 1992, through February 8, 1993, a 403 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Didrex 50mg to Patient #25 for purposes of weight control when the pharmacy sold 532 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(27) You and/or a pharmacist under your control did, from January 9, 1992, through March 19, 1993, a 435 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #26 for purposes of weight control when the pharmacy sold 420 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty

or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(28) You and/or a pharmacist under your control did, from April 22, 1992, through March 23, 1993, a 335 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 unit doses of Didrex 50mg to Patient #27 for purposes of weight control when the pharmacy sold 420 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(29) You and/or a pharmacist under your control did, from January 6, 1992, through February 24, 1993, a 415 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 14 unit doses of Adipex-P to Patient #28 for purposes of weight control when the pharmacy sold 280 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(30) You and/or a pharmacist under your control did, from January 3, 1992, through March 12, 1993, a 434 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 70 unit doses of Adipex-P to Patient #30 for purposes of weight control when the pharmacy sold 336 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(31) You and/or a pharmacist under your control did, from January 2, 1992, through March 22, 1993, a 445 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 140 unit doses of Didrex 50mg to Patient #31 for purposes of weight control when the pharmacy sold 924 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(32) You and/or a pharmacist under your control did, from January 24, 1992, through March 13, 1993, a 414 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #32 for purposes of weight control

when the pharmacy sold 364 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(33) You and/or a pharmacist under your supervision and control did, from January 15, 1992, through March 23, 1993, a 433 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 112 unit doses of Didrex 50mg to Patient #33 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(34) You and/or a pharmacist under your control did, from January 6, 1992, through February 24, 1993, a 415 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #34 for purposes of weight control when the pharmacy sold 392 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(35) You and/or a pharmacist under your control did, from January 6, 1992, through February 23, 1993, a 414 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 14 unit doses of Adipex-P to Patient #35 for purposes of weight control when the pharmacy sold 322 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(36) You and/or a pharmacist under your control did, from January 6, 1992, through March 15, 1993, a 419 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 140 unit doses of Didrex 50mg to Patient #36 for purposes of weight control when the pharmacy sold 896 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(37) You and/or a pharmacist under your control did, from January 6, 1992, through March 19, 1993, a 438 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 42 unit doses of Adipex-P to Patient #37 for purposes of weight control when the pharmacy sold 357 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(38) You and/or a pharmacist under your control did, from January 3, 1992, through February 12, 1993, a 406 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #38 for purposes of weight control when the pharmacy sold 588 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(39) You and/or a pharmacist under your control did, from January 7, 1992, through March 15, 1993, a 433 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 unit doses of Adipex-P to Patient #39 for purposes of weight control when the pharmacy sold 420 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(40) You and/or a pharmacist under your control did, from January 20, 1992, through March 8, 1993, a 413 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #40 for purposes of weight control when the pharmacy sold 672 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(41) You and/or a pharmacist under your control did, from January 3, 1992, through March 15, 1993, a 437 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 14 unit doses of Adipex-P to Patient #41 for purposes of weight control when the pharmacy sold 322 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the

violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(42) You and/or a pharmacist under your control did, from January 6, 1992, through March 8, 1993, a 427 day time period, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 84 unit doses of Didrex 50mg to Patient #42 for purposes of weight control when the pharmacy sold 756 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(43) You and/or a pharmacist under your control did, from January 3, 1992, through March 19, 1993, a 441 day time period, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 140 unit doses of Didrex 50mg to Patient #43 for purposes of weight control when the pharmacy sold 868 unit doses to the patient throughout this time period. The sales were not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, or aiding and abetting the violation of the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(44) You as the Responsible Pharmacist did, on or about March 24, 1993, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which is not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: you admittedly allowed Jill Garinger, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy and/or willfully violating the provisions of Chapter 4729. of the Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(45) You as the Responsible Pharmacist did, on or about August 18, 1995, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which is not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: you admittedly allowed Jill Garinger, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy and/or willfully violating the provisions of Chapter 4729. of the Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

For these reasons, the State Board of Pharmacy will determine whether to take action pursuant to Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY ADVISED that Section 4729.16 of the Ohio Revised Code states in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a

penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by or with your attorney, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

BY ORDER OF THE STATE BOARD OF PHARMACY

/s/ Franklin Z. Wickham

Franklin Z. Wickham, R.Ph., M.S.

Executive Director

DLR:so (D-970529-040)

CERTIFIED MAIL
Return Receipt

cc: Mary L. Hollern, Assistant Attorney General

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-970529-041)

In The Matter Of:

LINCOLN PROFESSIONAL PHARMACY, INC.

c/o James N. King, R.Ph.

421 S. Georgesville Road

Columbus, Ohio 43228
(Terminal Distributor No. 02-0446800)

This Settlement Agreement is entered into by and between Lincoln Professional Pharmacy, Inc. 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.

Lincoln Professional Pharmacy, Inc. 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.

Lincoln Professional Pharmacy, Inc. is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against Lincoln Professional Pharmacy, Inc., and in order to obviate the need to conduct an administrative hearing to consider the disciplinary sanctions against Lincoln Professional Pharmacy, Inc.'s license, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.57 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.
- (B) Attached to and incorporated herein as State's Exhibit 1A1 is the Notice of Opportunity letter in the matter of Lincoln Professional Pharmacy, Inc. dated May 29, 1997. Lincoln Professional Pharmacy, Inc. neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

Lincoln Professional Pharmacy, Inc. agrees to the imposition of a monetary penalty of thirty thousand dollars (\$30,000.00) due and owing within thirty 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.

The Board agrees not to institute or commence any disciplinary proceedings against the following terminal distributor licenses for any allegations of wrongdoing involving dispensing diet medications prior to the effective date of this Agreement.

Linden Medical Pharmacy, Terminal Distributor No. 02-0138550
Medical Plaza Pharmacy, Terminal Distributor No. 02-0150350
Hilltop Family Pharmacy, Terminal Distributor No. 02-0374450

If, in the judgment of the Board, Lincoln Professional Pharmacy, Inc. 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.

Lincoln Professional Pharmacy, Inc. 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.

Lincoln Professional Pharmacy, Inc. and its employees and agents waive any and all claims or causes of action they may claim 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. Lincoln Professional Pharmacy, Inc. 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.

<u>/s/ Gregory Garner /by Sam Warner per authorization</u>	<u>/d/ 12 8 97</u>
Gregory Garner on behalf of Lincoln Professional Pharmacy, Inc.	Date of Signature
<u>/s/ Jeremy Gilman per authorization 12-8-97</u>	<u>/d/ 12 8 97</u>
Jeremy Gilman, Attorney for Lincoln Professional Pharmacy, Inc.	Date of Signature
<u>/s/ Samuel B Weiner</u>	<u>/d/ 12 8 97</u>
Samuel Weiner, Attorney for Lincoln Professional Pharmacy, Inc.	Date of Signature
<u>/s/ Amonte B. Littlejohn</u>	<u>/d/ 1-14-98</u>
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy	Date of Signature
<u>/s/ Sally Ann Steuk</u>	<u>/d/ 12-9-97</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

A T T A C H M E N T

NOTICE OF OPPORTUNITY FOR HEARING

May 29, 1997

Lincoln Professional Pharmacy, Inc.
c/o James N. King, R.Ph.
421 S. Georgesville Road
Columbus, Ohio 43228

STATE'S EXHIBIT 1 A 1

Re: Ohio Terminal Distributor
License No. 02-0446800

Dear Responsible Pharmacist:

YOU ARE HEREBY NOTIFIED that, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, Lincoln Professional Pharmacy is entitled to a hearing before the State Board of Pharmacy, if the facility requests such a hearing within thirty (30) days of the time of the mailing of this notice, on the basis of the following allegations:

(1) Records of the Board of Pharmacy indicate that you are the Responsible Pharmacist at Lincoln Professional Pharmacy pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

(2) Lincoln Professional Pharmacy did, from January 3, 1992, through February 1, 1993, a 395 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 280 unit doses of Adipex-P to Patient #1 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term

use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(3) Lincoln Professional Pharmacy did, from January 24, 1992, through March 24, 1993, a 425 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 700 unit doses of Didrex 50mg to Patient #2 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(4) Lincoln Professional Pharmacy did, from January 3, 1992, through March 22, 1993, a 444 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 406 unit doses of Adipex-P to Patient #3 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(5) Lincoln Professional Pharmacy did, from January 14, 1992, through February 23, 1993, a 406 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 266 unit doses of Adipex-P to Patient #4 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(6) Lincoln Professional Pharmacy did, from January 17, 1992, through March 18, 1993, a 426 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 294 unit doses of Adipex-P to Patient #5 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(7) Lincoln Professional Pharmacy did, from January 13, 1992, through March 8, 1993, a 420 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 378 unit doses of Adipex-P to Patient #6 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(8) Lincoln Professional Pharmacy did, from January 10, 1992, through March 13, 1993, a 428 day time period, sell a controlled substance in an amount equal to or exceeding three times

the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 812 unit doses of Didrex 50mg to Patient #7 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(9) Lincoln Professional Pharmacy did, from January 8, 1992, through March 3, 1993, a 420 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 644 unit doses of Didrex 50mg to Patient #8 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(10) Lincoln Professional Pharmacy did, from January 13, 1992, through March 5, 1993, a 417 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 364 unit doses of Adipex-P to Patient #9 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(11) Lincoln Professional Pharmacy did, from January 7, 1992, through February 25, 1993, a 415 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 350 unit doses of Adipex-P to Patient #10 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(12) Lincoln Professional Pharmacy did, from January 8, 1992, through March 24, 1993, a 441 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 756 unit doses of Didrex 50mg to Patient #11 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(13) Lincoln Professional Pharmacy did, from January 2, 1992, through March 12, 1993, a 435 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 840 unit doses of Didrex 50mg to Patient #12 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of

Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(14) Lincoln Professional Pharmacy did, from January 7, 1992, through March 13, 1993, a 431 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 616 unit doses of Didrex 50mg to Patient #13 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(15) Lincoln Professional Pharmacy did, from January 6, 1992, through February 19, 1993, a 410 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 350 unit doses of Adipex-P to Patient #14 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(16) Lincoln Professional Pharmacy did, from January 10, 1992, through March 19, 1993, a 434 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 364 unit doses of Adipex-P to Patient #15 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(17) Lincoln Professional Pharmacy did, from January 22, 1992, through March 11, 1993, a 414 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 280 unit doses of Adipex-P to Patient #16 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(18) Lincoln Professional Pharmacy did, from January 7, 1992, through March 18, 1993, a 436 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 700 unit doses of Didrex 50mg to Patient #17 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(19) Lincoln Professional Pharmacy did, from January 8, 1992, through March 19, 1993, a 421 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised

Code, to wit: the pharmacy sold 196 unit doses of Adipex-P to Patient #18 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(20) Lincoln Professional Pharmacy did, from January 2, 1992, through March 4, 1993, a 427 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 392 unit doses of Adipex-P to Patient #19 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(21) Lincoln Professional Pharmacy did, from January 9, 1992, through February 4, 1993, a 392 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 616 unit doses of Didrex 50mg to Patient #20 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(22) Lincoln Professional Pharmacy did, from January 3, 1992, through March 23, 1993, a 445 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 476 unit doses of Didrex 50mg to Patient #21 when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(23) Lincoln Professional Pharmacy did, from January 7, 1992, through January 20, 1993, a 379 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 672 unit doses of Didrex 50mg to Patient #22 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(24) Lincoln Professional Pharmacy did, from January 7, 1992, through March 19, 1993, a 437 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 756 unit doses of Didrex 50mg to Patient #23 when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(25) Lincoln Professional Pharmacy did, from February 19, 1992, through March 19, 1993, a 394 day time period, sell a controlled substance in an amount equal to or exceeding three times

the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 210 unit doses of Adipex-P to Patient #24 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(26) Lincoln Professional Pharmacy did, from January 2, 1992, through February 8, 1993, a 403 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 532 unit doses of Didrex 50mg to Patient #25 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(27) Lincoln Professional Pharmacy did, from January 9, 1992, through March 19, 1993, a 435 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 420 unit doses of Adipex-P to Patient #26 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(28) Lincoln Professional Pharmacy did, from April 22, 1992, through March 23, 1993, a 335 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 420 unit doses of Didrex 50mg to Patient #27 when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(29) Lincoln Professional Pharmacy did, from January 6, 1992, through February 24, 1993, a 415 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 280 unit doses of Adipex-P to Patient #28 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(30) Lincoln Professional Pharmacy did, from January 2, 1992, through January 6, 1993, a 370 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 672 unit doses of Didrex 50mg to Patient #29 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(31) Lincoln Professional Pharmacy did, from January 3, 1992, through March 12, 1993, a 434 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 336 unit doses of Adipex-P to Patient #30 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(32) Lincoln Professional Pharmacy did, from January 2, 1992, through March 22, 1993, a 445 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 924 unit doses of Didrex 50mg to Patient #31 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(33) Lincoln Professional Pharmacy did, from January 24, 1992, through March 13, 1993, a 414 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 364 unit doses of Adipex-P to Patient #32 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(34) Lincoln Professional Pharmacy did, from January 15, 1992, through March 23, 1993, a 433 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 672 unit doses of Didrex 50mg to Patient #33 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(35) Lincoln Professional Pharmacy did, from January 6, 1992, through February 24, 1993, a 415 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 392 unit doses of Adipex-P to Patient #34 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(36) Lincoln Professional Pharmacy did, from January 6, 1992, through February 23, 1993, a 414 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 322 unit doses of Adipex-P to Patient #35 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term

use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(37) Lincoln Professional Pharmacy did, from January 6, 1992, through March 15, 1993, a 419 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 896 unit doses of Didrex 50mg to Patient #36 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(38) Lincoln Professional Pharmacy did, from January 6, 1992, through March 19, 1993, a 438 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 357 unit doses of Adipex-P and 28 unit doses of Didrex 50mg to Patient #37 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(39) Lincoln Professional Pharmacy did, from January 3, 1992, through February 12, 1993, a 406 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 588 unit doses of Didrex 50mg to Patient #38 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(40) Lincoln Professional Pharmacy did, from January 7, 1992, through March 15, 1993, a 433 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 420 unit doses of Adipex-P to Patient #39 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(41) Lincoln Professional Pharmacy did, from January 20, 1992, through March 8, 1993, a 413 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 672 unit doses of Didrex 50mg to Patient #40 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(42) Lincoln Professional Pharmacy did, from January 3, 1992, through March 15, 1993, a 437 day time period, sell a controlled substance in an amount equal to or exceeding three times

the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 322 unit doses of Adipex-P to Patient #41 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(43) Lincoln Professional Pharmacy did, from January 6, 1992, through March 8, 1993, a 427 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 756 unit doses of Didrex 50mg to Patient #42 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(44) Lincoln Professional Pharmacy did, from January 3, 1992, through March 19, 1993, a 441 day time period, sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the pharmacy sold 868 unit doses of Didrex 50mg to Patient #43 for purposes of weight control when such was not for a legitimate medical purpose and not for "short term use" as required by the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code, and if proven constitutes violating a provision of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(45) Lincoln Professional Pharmacy did, on or about March 24, 1993, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which is not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: the pharmacy allowed Jill Garinger, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code, and if proven constitutes violating a rule of the board and/or a provision of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(46) Lincoln Professional Pharmacy did, on or about August 18, 1995, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which is not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: the pharmacy allowed Jill Garinger, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code, and if proven constitutes violating a rule of the board and/or a provision of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(47) Lincoln Professional Pharmacy did cease to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: on March 24, 1993, and again on August 18, 1995, the pharmacy allowed persons other than a registered pharmacist unsupervised access to the pharmacy, thereby causing a lack of adequate safeguards to assure the prevention of the sale or other distribution of dangerous drugs by a person other than a pharmacist or practitioner. Such conduct, if proven, constitutes ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

For these reasons, the State Board of Pharmacy will determine whether to take action pursuant to Section 4729.57 of the Ohio Revised Code.

YOU ARE HEREBY ADVISED that Section 4729.57 of the Ohio Revised Code provides in pertinent part:

(A) The board of pharmacy may suspend, revoke, or refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or one thousand dollars if the acts committed have not been classified as an offense by the Revised Code, for any of the following causes:

(1) Making any false material statements in an application for a license as a terminal distributor of dangerous drugs;

(2) Violating any rule of the board;

(3) Violating any provision of this chapter;

(4) Violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code;

(5) Violating any provision of the federal narcotic law or Chapter 2925. or 3719. of the Revised Code;

(6) Falsely or fraudulently promoting to the public a dangerous drug, except that nothing in this division prohibits a terminal distributor of dangerous drugs from furnishing information concerning a dangerous drug to a practitioner or another licensed terminal distributor;

(7) Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code.

IF YOUR FACILITY DESIRES A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by or with your attorney, or you may present the facility's position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against the facility.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against the facility, may take action without such a hearing.

BY ORDER OF THE STATE BOARD OF PHARMACY

/s/ Franklin Z. Wickham

Franklin Z. Wickham, R.Ph., M.S.

Executive Director

DLR:so (D-970529-041)

CERTIFIED MAIL
Return Receipt

cc: Mary L. Hollern, Assistant Attorney General

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-970630-046)

In The Matter Of:

CRYSTAL EDWARD WHITE, R.Ph.
4676 Dalebridge #12
Warrensville Heights, Ohio 44128
(R.Ph. No. 03-2-11178)

This Settlement Agreement is entered into by and between Crystal Edward White 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.

Crystal Edward White 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.

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Attached to and incorporated herein are State's Exhibit 1, the Notice of Opportunity letter dated June 30, 1997, and State's Exhibit 1C, the Addendum Notice dated August 7, 1997. Crystal Edward White neither admits nor denies the allegations stated in the Notices; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) A one-year suspension of his pharmacist identification card, No. 03-2-11178, and such suspension is effective as of the date of the Agreement. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Crystal Edward White 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.
- (B) 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) Upon reinstatement of Crystal Edward White's pharmacist identification card, No. 03-2-11178, will be placed on probation for three years. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Crystal Edward White's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Crystal Edward White may not serve as a responsible pharmacist.

- (3) Crystal Edward White must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (4) Crystal Edward White must abide by the rules of the Ohio State Board of Pharmacy.
- (5) Crystal Edward White must comply with the terms of this Order.
- (6) Crystal Edward White must take and successfully complete the jurisprudence examination offered by the Board prior to reinstatement. If Crystal Edward White has not successfully completed the examination prior to one year from the effective date of this agreement, his license will remain suspended until this condition has been achieved.

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.

- (D) Crystal Edward White agrees to the imposition of a monetary penalty of five thousand dollars (\$5,000.00) to be made in twelve installments, due on or before the 15th day of each month, from January, 1998, through December, 1998. The checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Crystal Edward White 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, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may 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.

Crystal Edward White 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.

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

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

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

/s/ Crystal E. White
Crystal Edward White, Respondent

/d/ 1/9/98
Date of Signature

/s/ Emery J. Leuchtag
Emery J. Leuchtag, Attorney for Respondent

/d/ 1/9/98
Date of Signature

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

/d/ 1/14/98
Date of Signature

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

/d/ 1-14-98
Date of Signature

A T T A C H M E N T S

NOTICE OF OPPORTUNITY FOR HEARING

June 30, 1997



Crystal Edward White, R.Ph.
4676 Dalebridge #12
Warrensville Heights, Ohio 44128

Re: Ohio Registered Pharmacist
License No. 03-2-11178

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, you are entitled to a hearing before the State Board of Pharmacy, if you request such a hearing within thirty (30) days of the time of the mailing of this notice, on the basis of the following allegations:

(1) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on August 4, 1975, pursuant to reciprocity, and are currently licensed to practice pharmacy in the state of Ohio. Records further reflect that you were, during the relevant time periods alleged herein, the Responsible Pharmacist at Rite Aid Discount Drugstore #3156 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-16 of the Ohio Administrative Code.

(2) You did, on or about the following dates, sell at retail dangerous drugs when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: on each of the following occasions you sold the following drugs to Patient #1 without an order from a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
14286	10/11/95	Carisoprodol 350mg	40
14286	11/19/95	Carisoprodol 350mg	40
14471	10/14/95	Carisoprodol 350mg	40
14798	10/20/95	Carisoprodol 350mg	40
15008	10/24/95	Carisoprodol 350mg	40
18420	01/01/96	Carisoprodol 350mg	40
20659	02/10/96	Carisoprodol 350mg	40
20954	02/16/96	Carisoprodol 350mg	40
20954	02/20/96	Carisoprodol 350mg	40
23544	04/04/96	Carisoprodol 350mg	40
23681	04/07/96	Carisoprodol 350mg	40
23840	04/10/96	Carisoprodol 350mg	40
23915	04/12/96	Carisoprodol 350mg	40
23915	04/14/96	Carisoprodol 350mg	40
24219	04/18/96	Carisoprodol 350mg	40
24449	04/23/96	Carisoprodol 350mg	40
24661	04/26/96	Carisoprodol 350mg	40
25480	05/12/96	Carisoprodol 350mg	40

Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) You did, on or about the following dates, make a false or forged prescription for a dangerous drug, to wit: you created the following prescriptions for Patient #1 without an order from a practitioner, and maintained them on file in the pharmacy in which you worked so as to cover for your illegal sales of the drugs:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
14286	10/11/95	Carisoprodol 350mg	40
14286	11/19/95	Carisoprodol 350mg	40
14471	10/14/95	Carisoprodol 350mg	40
14798	10/20/95	Carisoprodol 350mg	40
15008	10/24/95	Carisoprodol 350mg	40
18420	01/01/96	Carisoprodol 350mg	40
20659	02/10/96	Carisoprodol 350mg	40
20954	02/16/96	Carisoprodol 350mg	40
20954	02/20/96	Carisoprodol 350mg	40
23544	04/04/96	Carisoprodol 350mg	40
23681	04/07/96	Carisoprodol 350mg	40
23840	04/10/96	Carisoprodol 350mg	40
23915	04/12/96	Carisoprodol 350mg	40
23915	04/14/96	Carisoprodol 350mg	40
24219	04/18/96	Carisoprodol 350mg	40
24449	04/23/96	Carisoprodol 350mg	40
24661	04/26/96	Carisoprodol 350mg	40
25480	05/12/96	Carisoprodol 350mg	40

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) You did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: you created and maintained on file in the pharmacy in which you worked the following prescriptions for Patient #1 so as to cover for your illegal sales of the drugs:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
24706	04/28/96	Hydrocodone APAP 5/500	16
24854	04/30/96	Hydrocodone APAP 5/500	30
25103	05/05/96	Hydrocodone APAP 5/500	30

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(5) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold the following schedule III controlled substance to Patient #1 without an order from a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
24706	04/28/96	Hydrocodone APAP 5/500	16
24854	04/30/96	Hydrocodone APAP 5/500	30
25103	05/05/96	Hydrocodone APAP 5/500	30

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(6) You did, on or about the following dates, make a false or forged prescription for a dangerous drug, to wit: you created the following prescriptions for Patient #2 without an order from a practitioner, and maintained them on file in the pharmacy in which you worked so as to cover for your illegal sales of the drugs:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
12278	09/02/95	Azmacort Inhaler	40gm
12279	09/02/95	Intal Inhaler	28gm
12280	09/02/95	Ventolin Inhaler	34gm
12280	09/09/95	Ventolin Inhaler	34gm
12278	09/23/95	Azmacort Inhaler	40gm
13318	09/23/95	Intal Inhaler	28gm
13317	09/23/95	Ventolin Inhaler	34gm
13503	09/27/95	Seldane-D	60
13505	09/27/95	Slo-Bid 300mg	100
13504	09/27/95	Slo-Bid 50mg	100
13317	10/01/95	Ventolin Inhaler	34gm
14288	10/11/95	Ventolin Inhaler	34gm
16357	11/19/95	Azmacort Inhaler	40gm
16358	11/19/95	Intal Inhaler	28gm
16356	11/19/95	Ventolin Inhaler	34gm
16357	12/24/95	Azmacort Inhaler	40gm
18077	12/24/95	Intal Inhaler	28gm
16356	12/24/95	Ventolin Inhaler	34gm
18419	01/01/96	Prednisone 5mg	30
19150	01/13/96	Azmacort Inhaler	40gm
19148	01/13/96	Intal Inhaler	28gm
18419	01/13/96	Prednisone 5mg	30
19149	01/13/96	Ventolin Inhaler	34gm
19150	01/28/96	Azmacort Inhaler	40gm
19896	01/28/96	Intal Inhaler	28gm
18419	01/28/96	Prednisone 5mg	30
19149	01/28/96	Ventolin Inhaler	34gm
20436	02/06/96	Azmacort Inhaler	40gm
20432	02/06/96	Intal Inhaler	28gm
20433	02/06/96	Intal Inhaler	28gm
20435	02/06/96	Seldane-D	60
20434	02/06/96	Ventolin Inhaler	34gm
20436	02/20/96	Azmacort Inhaler	40gm
21183	02/20/96	Intal Inhaler	28gm
21182	02/20/96	Serevent Inhaler	13gm
20434	02/20/96	Ventolin Inhaler	34gm
18419	02/27/96	Prednisone 5mg	30
21521	02/27/96	Seldane-D	60
22161	03/08/96	Ventolin Inhaler	34gm
22788	03/20/96	Azmacort Inhaler	40gm
22787	03/20/96	Intal Inhaler	28gm
21182	03/20/96	Serevent Inhaler	13gm
22161	03/20/96	Ventolin Inhaler	34gm
22971	03/24/96	Prednisone 5mg	30
22788	04/02/96	Azmacort Inhaler	40gm
22787	04/02/96	Intal Inhaler	28gm
21182	04/02/96	Serevent Inhaler	13gm
23841	04/10/96	Ventolin Inhaler	34gm
23986	04/14/96	Albuterol Solution	75

24187	04/17/96	Uniphyl 400mg	60
24660	04/26/96	Azmacort Inhaler	40gm
22787	04/26/96	Intal Inhaler	28gm
24659	04/26/96	Ventolin Inhaler	34gm
24187	04/28/96	Uniphyl 400mg	60
25201	05/07/96	Ventolin Inhaler	34gm
25870	05/18/96	Prednisone 10mg	15
25869	05/18/96	Ventolin Inhaler	34gm

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(7) You did, on or about the following dates, sell at retail dangerous drugs when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: on each of the following occasions you sold the following dangerous drugs to Patient #2 without an order from a practitioner, thereby causing physical harm to the patient:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
12278	09/02/95	Azmacort Inhaler	40gm
12279	09/02/95	Intal Inhaler	28gm
12280	09/02/95	Ventolin Inhaler	34gm
12280	09/09/95	Ventolin Inhaler	34gm
12278	09/23/95	Azmacort Inhaler	40gm
13318	09/23/95	Intal Inhaler	28gm
13317	09/23/95	Ventolin Inhaler	34gm
13503	09/27/95	Seldane-D	60
13505	09/27/95	Slo-Bid 300mg	100
13504	09/27/95	Slo-Bid 50mg	100
13317	10/01/95	Ventolin Inhaler	34gm
14288	10/11/95	Ventolin Inhaler	34gm
16357	11/19/95	Azmacort Inhaler	40gm
16358	11/19/95	Intal Inhaler	28gm
16356	11/19/95	Ventolin Inhaler	34gm
16357	12/24/95	Azmacort Inhaler	40gm
18077	12/24/95	Intal Inhaler	28gm
16356	12/24/95	Ventolin Inhaler	34gm
18419	01/01/96	Prednisone 5mg	30
19150	01/13/96	Azmacort Inhaler	40gm
19148	01/13/96	Intal Inhaler	28gm
18419	01/13/96	Prednisone 5mg	30
19149	01/13/96	Ventolin Inhaler	34gm
19150	01/28/96	Azmacort Inhaler	40gm
19896	01/28/96	Intal Inhaler	28gm
18419	01/28/96	Prednisone 5mg	30
19149	01/28/96	Ventolin Inhaler	34gm
20436	02/06/96	Azmacort Inhaler	40gm
20432	02/06/96	Intal Inhaler	28gm
20433	02/06/96	Intal Inhaler	28gm
20435	02/06/96	Seldane-D	60
20434	02/06/96	Ventolin Inhaler	34gm
20436	02/20/96	Azmacort Inhaler	40gm
21183	02/20/96	Intal Inhaler	28gm
21182	02/20/96	Serevent Inhaler	13gm
20434	02/20/96	Ventolin Inhaler	34gm
18419	02/27/96	Prednisone 5mg	30
21521	02/27/96	Seldane-D	60
22161	03/08/96	Ventolin Inhaler	34gm
22788	03/20/96	Azmacort Inhaler	40gm
22787	03/20/96	Intal Inhaler	28gm

21182	03/20/96	Serevent Inhaler	13gm
22161	03/20/96	Ventolin Inhaler	34gm
22971	03/24/96	Prednisone 5mg	30
22788	04/02/96	Azmacort Inhaler	40gm
22787	04/02/96	Intal Inhaler	28gm
21182	04/02/96	Serevent Inhaler	13gm
23841	04/10/96	Ventolin Inhaler	34gm
23986	04/14/96	Albuterol Solution	75
24187	04/17/96	Uniphyll 400mg	60
24660	04/26/96	Azmacort Inhaler	40gm
22787	04/26/96	Intal Inhaler	28gm
24659	04/26/96	Ventolin Inhaler	34gm
24187	04/28/96	Uniphyll 400mg	60
25201	05/07/96	Ventolin Inhaler	34gm
25870	05/18/96	Prednisone 10mg	15
25869	05/18/96	Ventolin Inhaler	34gm

Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(8) You as the Responsible Pharmacist failed to maintain records of drugs dispensed in accordance with state and federal laws, rules, and regulations, to wit: you, the Responsible Pharmacist, failed to maintain records which:

- a) contained the manual initials of the dispensing pharmacist and date of dispensing on original prescriptions;
- b) provided readily retrievable information, maintained for a period of three years;
- c) contained a tamper-evident log book containing the name and/or initials on each data entry at the time of dispensing.

Such conduct is in violation of Rule 4729-5-17 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy and/or guilty of willfully violating the provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

For these reasons, the State Board of Pharmacy will determine whether to take action pursuant to Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY ADVISED that under Division (A) of Section 4729.16 of the Ohio Revised Code: The State Board of Pharmacy, after notice and hearing in accordance with Sections 119.01 to 119.13 of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;

(4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;

(5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;

(6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;

(7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or

(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.

IF YOU DESIRE A HEARING, such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

BY ORDER OF THE STATE BOARD OF PHARMACY

/s/ Franklin Z. Wickham
Franklin Z. Wickham, Pharm.D., R.Ph., M.S.
Executive Director

7
DLR:so (D-960630-046)

CERTIFIED MAIL
Return Receipt

cc: Mary L. Hollern, Assistant Attorney General
Elliott Kelley, Attorney for Respondent; 601 Rockwell; Cleveland, Ohio 44114

ADDENDUM NOTICE

August 7, 1997



Crystal Edward White, R.Ph.
4676 Dalebridge #12
Warrensville Heights, Ohio 44128

Re: Ohio Registered Pharmacist
Number 03-2-11178

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that, in addition to the allegations stated in the June 30, 1997, Notice of Opportunity letter, the following allegations will also be considered, as numbered:

- (9) You did, on or about February 17, 1997, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #2 pursuant to prescription number 44690 when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (10) You did, on or about October 8, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #3 pursuant to prescription number 35073, written on October 14, 1996, when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (11) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #4 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx No.</u>	<u>Written</u>	<u>Filled</u>
38524	11/28/96	11/23/96
40646	12/03/97	12/21/96
43372	01/28/97	01/29/97
47178	03/27/97	03/21/97

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (12) You did, on or about June 17, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #5 pursuant to prescription number 27654, when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (13) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg

for diet to patient #7 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
36176	10/22/96	10/23/96
38544	11/18/96	01/23/96
46712	03/14/97	03/14/97

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (14) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #10 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
33043	09/10/96	09/10/96
33750	09/24/96	09/20/96
39076	11/29/96	12/02/96
39779	12/13/96	12/11/96
41144	12/27/96	12/30/96

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (15) You did, on or about December 20, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #12 pursuant to prescription number 40558 when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (16) You did, on or about November 5, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 56 units of Didrex 50mg for diet to patient #11 pursuant to prescription number 37106 when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (17) You did, on or about November 9, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #15 pursuant to prescription number 37459 when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (18) You did, on or about March 3, 1997, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #16 pursuant to prescription number 45844, written on March 6, 1997, when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (19) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #17 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
41787	01/11/97	01/08/97
44527	02/14/97	02/14/97

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (20) You did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you sold 28 units of Adipex-P 37.5mg for diet to patient #19 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Ohio's diet medication rules, violating your corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
33044	09/10/96	09/10/96
33751	09/24/96	09/20/96

Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating the provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY ADVISED that Section 4729.16 of the Ohio Revised Code states in pertinent part that:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.

IN ACCORDANCE WITH THE NOTICE OF OPPORTUNITY letter dated June 30, 1997, and pursuant to your adjudication hearing scheduled for November 17, 1997, you may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

If you wish to request a continuance in this matter, such request should be sent by certified mail, return receipt requested, to the offices of the Ohio State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. However, you must submit such request prior to thirty days from the date of the scheduled hearing. The request will be presented to the Board for consideration and you will be notified as soon as practical regarding the request. If you have any questions regarding this matter, feel free to contact the Board office.

BY ORDER OF THE STATE BOARD OF PHARMACY

/s/ Franklin Z. Wickham
Franklin Z. Wickham, Pharm.D., R.Ph., M.S.
Executive Director

CERTIFIED MAIL
Return Receipt

