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Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
December 7, 8, 9, 1998

MONDAY, DECEMBER 7, 1998

8:30 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. (President); Robert B. Cavendish, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Diane C. Adelman, R.Ph.; Paul F. Lamping, R.Ph.; Amonte B. Littlejohn, R.Ph.; and Ruth A. Plant, R.Ph.

8:35 a.m.

Mr. Cavendish moved that the Board go into Executive Session for the purpose of discussing personnel matters and to consider the investigation of charges against a licensee pursuant to Section 121.22(G)(1) of the Revised Code. Mrs. Plant seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, and Plant-Yes.

9:15 a.m.

Nicholas R. Repke, Public Member, arrived and joined the Executive Session.

9:40 a.m.

The Board took a short break from the Executive Session.

10:08 a.m.

The Executive Session resumed.

10:45 a.m.

RES. 99-085 The Executive Session ended. Mr. Cavendish moved that the Board grant the continuance requested in the matter of Jonathan Paul Burket, R.Ph. whose hearing was scheduled for Wednesday, December 9, 1998. Mr. Littlejohn seconded the motion and it was approved by the Board (Aye-6/Nay-1).

RES. 99-086 Mr. Cavendish then moved that the Board enter into a Consent Agreement with Isaac Blair, R.Ph. consistent with the terms as offered by Mr. Blair's attorney. Mrs. Plant seconded the motion and it was approved by the Board (Aye-6/Nay-0/Abstain-1[Abele]).

RES. 99-087 The Board then discussed a request by Martin Barron, R.Ph. that he be allowed to appear before the Board to discuss the terms of his Board Order with them. Mrs. Plant moved that Mr. Barron be invited to meet with the Board at a mutually agreeable time. The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-6/Nay-0/Abstain-1[Abele]).

William McMillen, Licensing Administrator, distributed the Licensing Report to the Board for their review.

RES. 99-088 Mr. Winsley reported to the Board that he had appointed Timothy Benedict, R.Ph. as Assistant Executive Director. Part of Mr. Benedict's duties will be to cover for the Executive Director in his absence.

RES. 99-089 Mr. Winsley then presented both written and verbal comments on the proposed rules that had been received in the Board office prior to the Board meeting. After the Board reviewed and discussed the comments received, Mrs. Plant moved that Mr. Winsley be instructed to notify the Joint Committee on Agency Rule Review (JCARR) of the Board's intent to refile rules 4729-5-17, 4729-5-29, and 4729-29-05 due to the comments received. The motion was seconded by Mr. Cavendish and approved by the Board (Aye-7/Nay-0). A decision on the final wording of the rules to be refiled was deferred until after the Board had a chance to consider any additional comments that might be received at the Public Hearing scheduled for 1:00 p.m. this afternoon.

RES. 99-090 Timothy Benedict, Assistant Executive Director, then presented a letter received from the Ohio Pharmacists Association (OPA) requesting the Board's opinion on a series of questions about proper procedures for filling and refilling prescriptions. The request from OPA was prompted by a significant number of incidents that pharmacies in Ohio have had with auditors from various insurance companies who have denied compensation to pharmacies for prescriptions based on what OPA felt was an inaccurate interpretation of Ohio's laws and rules. After discussion of the questions and a review of Mr. Benedict's proposed response, the Board agreed that Mr. Benedict should send the following reply to OPA:

Stephen M. Mueller, R.Ph., M.S.
Director of Pharmacy Affairs
Ohio Pharmacists Association
6037 Frantz Road, Suite 106
Dublin, Ohio 43017

Dear Mr. Mueller:

The Board of Pharmacy is in receipt of your letter, dated December 3, 1998. In this letter you have requested a Board opinion for the requirements of when a new prescription is necessary and what changes to a prescription may be made by a verbal order from the prescriber after a written prescription has been issued.

Any prescription, other than a schedule II drug, may be orally transmitted by the prescriber or the prescriber's agent, O.A.C. 4729-5-30(K), copy attached. Thus, if there is a question with any part of the prescription, prior to the original dispensing, the pharmacist may orally contact the prescriber and obtain clarification. This clarification must be documented or the pharmacist may simply create a new oral prescription. This would include authorization for "Dispense as Written". The Board's rules do not specifically state how to document the information. If the pharmacist has corrected part of a prescription prior to the original dispensing and there is documentation of the change, the Board would accept this as long as the prescriber acknowledges that they authorized the change.

If a pharmacist wishes to dispense additional refills at one time, they must obtain authorization from the prescriber and then are legally entitled to do so. This authorization must be documented. See O.A.C. 4729-5-27.

The Ohio Administrative Code Rule 4729-5-19(C), copy attached, identifies the possible alternative methods of adding refills to a prescription. If refills are authorized to a prescription on file, the pharmacist may add these refills to this prescription as long as the total life of the prescription does not exceed six months from the date of the original issue for schedule III and IV drugs and one year for schedule V and Dangerous Drugs from the date of the original issue, OAC 4729-5-30(G). Please note that the pharmacist has the right to decide if a new prescription will be created or if refills will be added to an existing prescription on file at the pharmacy.

These issues were discussed with the Board at the December 7, 1998 meeting and are reflected in the official minutes of the Board.

If you have any further questions please contact me at the Board office.

Sincerely,

Timothy J. Benedict, R.Ph.
Compliance Administrator

11:40 a.m.

The Board recessed for lunch.

1:00 p.m.

The Board reconvened in Room 1919, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Joseph J. Maslak, R.Ph. (President); Robert B. Cavendish, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Diane C. Adelman, R.Ph.; Paul F. Lamping, R.Ph.; Amonte B. Littlejohn, R.Ph.; Ruth A. Plant, R.Ph.; and Nicholas R. Repke, Public Member.

1:14 p.m.

Mr. Maslak then opened the Public Hearing on the following rules that the Board had approved for filing at the October 1998 Board meeting and were officially filed on October 26, 1998. Prior to receiving any testimony on the rules, Mr. Maslak announced the Board's intention to refile proposed rules 4729-5-17, 4729-5-29, and 4729-29-05 based on comments already received.

Pharmacy Practice

4729-5-01	Definitions.
4729-5-10	Prescription pick-up station.
4729-5-11	Responsible pharmacist.
4729-5-13	Prescription format.
4729-5-15	Prescriber.
4729-5-16	Labeling of drugs dispensed on prescription.
4729-5-17	Labeling by prescribers who personally furnish dangerous drugs to their patients.
4729-5-18	Patient profiles.
4729-5-19	Serial numbering of prescriptions.
4729-5-20	Prospective drug utilization review.
4729-5-24	Prescription copy.
4729-5-25	Dispensing of drugs and compounding of prescriptions.
4729-5-26	Partial dispensing of schedule II controlled substances.
4729-5-27	Recordkeeping.
4729-5-28	Computerized recordkeeping systems.
4729-5-29	Confidentiality of patient records.
4729-5-30	Manner of issuance of prescription.
4729-5-31	Criteria for licensure by examination.

Continuing Pharmacy Education

4729-7-01	Definitions.
4729-7-02	Requirements for renewal of a pharmacist identification card.
4729-7-03	Evidence of continuing pharmacy education experiences.
4729-7-04	The continuing education advisory council and duties. <i>(To Be Rescinded)</i>
4729-7-06	Criteria for in-state approved providers of continuing pharmacy education.
4729-7-08	Alternative methods of proving continuing competency.

Dangerous Drugs

4729-9-01	Definitions.
4729-9-02	Minimum standards for a pharmacy.
4729-9-03	Minimum standards for a first-aid department.
4729-9-04	Returned drugs.
4729-9-05	Security requirements.

- 4729-9-06 Disposal of dangerous drugs which are controlled substances.
- 4729-9-09 Security of prescription blanks and D.E.A. controlled substance order forms.
- 4729-9-10 Occasional sale.
- 4729-9-11 Security and control of dangerous drugs.
- 4729-9-12 Verification of license as a distributor of dangerous drugs or exempt status of a practitioner PRESCRIBER.
- 4729-9-13 Distributor of dangerous drug samples.
- 4729-9-14 Records of controlled substances.
- 4729-9-15 Report of theft or loss of dangerous drugs, controlled substances, and drug documents.
- 4729-9-16 Minimum requirements for wholesalers.
- 4729-9-19 Violations as evidence for denial of terminal, wholesale, or manufacturer license.
- 4729-9-20 Drugs repackaged by a pharmacy.
- 4729-9-21 Drugs compounded in a pharmacy.
- 4729-9-22 Records of dangerous drugs.
- 4729-9-23 Dispensing of multiple drugs in single-dose containers.
- 4729-9-24 Retail and wholesale sales of dangerous drugs on-line.

Nonresident Terminal Distributor of Dangerous Drugs

- 4729-10-01 Definitions.

Controlled Substances

- 4729-11-09 Sale of schedule V controlled substance products without a prescription.

Approved Laboratories

- 4729-13-02 Procedure for STATE board of pharmacy approval as a laboratory.
- 4729-13-03 Qualifications for a laboratory.
- 4729-13-05 Security controls for laboratories.

Animal Shelters

- 4729-14-02 Procedure for licensure as an animal shelter.

Nuclear Pharmacies

- 4729-15-01 Definitions.
- 4729-15-04 Labeling of radiopharmaceuticals.
- 4729-15-05 Prohibitions.

Institutional Facilities

- 4729-17-01 Definitions; institutional facility.
- 4729-17-02 Pharmacist-in-charge of an institutional pharmacy.
- 4729-17-03 Security and control of drugs in an institutional facility.
- 4729-17-04 Records; institutional facility pharmacy.
- 4729-17-05 Controlled substance recordkeeping.
- 4729-17-08 Minimum standards for an institutional facility pharmacy.
- 4729-17-09 Drug orders for patients of an institutional facility.
- 4729-17-10 Labeling of prescriptions for patients of an institutional facility.
- 4729-17-13 D.E.A. numbers for hospital employed practitioners PHYSICIANS.

Sterile Product Prescriptions

- 4729-19-01 Definitions.
- 4729-19-02 Prescriptions for sterile products.
- 4729-19-03 Labeling.
- 4729-19-04 Minimum standards for compounding parenteral or sterile product prescriptions.

Consult Agreements

- 4729-29-01 Reasonable attempt to contact and confer.
- 4729-29-02 Pharmacist as agent.
- 4729-29-03 Records.
- 4729-29-04 Therapy management by formulary.
- 4729-29-05 Signatures required on a consult agreement.

Fluid Therapy Pharmacies

- 4729-31-01 Definitions.
- 4729-31-02 Prescriptions for sterile products.
- 4729-31-03 Labeling.
- 4729-31-04 Recordkeeping.

2:30 p.m.

The Public Hearing ended and the Board took a brief recess.

3:00 p.m.

The Board reconvened in Room 1914 to continue the discussion of agenda matters.

RES. 99-091 Mr. Winsley presented a letter received in the Board office from Wyeth-Ayerst regarding their Shared Success program and the efforts Wyeth-Ayerst was making to comply with the Board's wishes regarding the confidentiality of patient records. Mr. Winsley was instructed by the Board to issue a letter to Wyeth-Ayerst explaining that the only data that needed to be unavailable to the program were any items that would allow a patient to be individually identified (patient-specific data) such as, but not limited to, patient name, patient address, and patient social security number. The letter is also to state that the Board would like to see a system in place to block the acceptance of any patient-specific data if received by the program in error.

Mrs. Plant then reported on her recent activities with the Pharmacy Technician Certification Board.

4:00 p.m.

The Board recessed the meeting until Tuesday, December 8, 1998.

TUESDAY, DECEMBER 8, 1998

8:13 a.m. ROLL CALL

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

Joseph J. Maslak, R.Ph. (President); Robert B. Cavendish, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Diane C. Adelman, R.Ph.; Paul F. Lamping, R.Ph.; Amonte B. Littlejohn, R.Ph.; Ruth A. Plant, R.Ph.; and Nicholas R. Repke, Public Member.

Mr. Cavendish moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee pursuant to Section 121.22(G)(1) of the Revised Code. Mr. Lamping seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

8:50 a.m.

RES. 99-092 The Executive Session ended. Mrs. Plant moved that the Board enter into a Consent Agreement with Linda Mahoney, R.Ph. under terms as set by the Board in response to the terms proposed by Ms. Mahoney's attorney. Ms. Abele seconded the motion and it was approved by the Board (Aye-6/Nay-0/Abstain-1[Lamping]).

RES. 99-093 Ms. Abele then moved that the Board enter into a Consent Agreement with Ruth Ann Roberts, R.Ph. under terms as set by the Board in response to the terms proposed by Ms.

Roberts' attorney. Mr. Littlejohn seconded the motion and it was approved by the Board (Aye-6/Nay-1).

8:58 a.m.

The Board took a brief recess.

9:13 a.m.

The Board reconvened and was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Peter A. Corpus, R.Ph., Columbus, Ohio.

9:22 a.m.

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

9:43 a.m.

The hearing resumed.

10:50 a.m.

The hearing was concluded and the Board took a short recess.

11:01 a.m.

The Board reconvened and was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Joseph R. Tabler, R.Ph., Cincinnati, Ohio.

11:55 a.m.

Mr. Cavendish left the hearing for personal reasons. Mr. Maslak announced for the record that Mr. Cavendish would not participate further in the hearing and would not take part in the deliberations.

12:10 p.m.

The hearing was recessed for a short break.

12:22 p.m.

The hearing resumed.

12:30 p.m.

The hearing was concluded and the Board took a short recess for lunch.

1:00 p.m.

RES. 99-094

All of the Board members, with the exception of Mrs. Neuber, reconvened in Room 1919 for the purpose of meeting with the candidates for licensure by reciprocity. Following presentations by Board members and self-introductions by the candidates for licensure by reciprocity, Mr. Cavendish moved that the Board approve the following candidates for licensure. The motion was seconded by Mr. Lamping and approved by the Board (Aye-7/Nay-0).

CARROLL, PENNY SCHWARTZ	TEXAS
DUFFY, CHRISTOPHER DAVID	PENNSYLVANIA
FERGUSON, CHRISTINA MARIE	WEST VIRGINIA
HOJNOWSKI, MARIE THERESA	NEW JERSEY
JONES, AMBER LYNN	GEORGIA
KIRLANGITIS, AMY LYNN	ARIZONA
LOBER, CHERYL ANN	CONNECTICUT
MAVUMKAL, ROMY J.	CONNECTICUT
MICHAEL, GEETA VIRGINIA	TEXAS
ORTEGA, ANNA L.	PUERTO RICO
PATEL, APURVA P.	NEVADA
ROWE UNDERHILL, JANET ELAINE	KENTUCKY
RUBLE, THERESE WALBERG	MISSOURI
SALISBURY, BRAD D.	PENNSYLVANIA
SHRADER, STEPHANIE MICHELLE	INDIANA
STEPHENS, JR., ROBERT L.	INDIANA

1:45 p.m.

The Board reconvened in Room 1914 to continue with the business of the Board.

Mr. Cavendish moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee pursuant to Section 121.22(G)(1) of the Revised Code. Mr. Lamping seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

2:31 p.m.

RES. 99-095 The Executive Session ended. Mr. Cavendish moved that the Board summarily suspend the license of David Michael Sunshain, R.Ph. (03-2-15284) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-7/Nay-0).

RES. 99-096 Mr. Lamping then moved that the Board adopt the following Order in the matter of the reinstatement petition of Peter A. Corpus, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980903-011)

In The Matter Of:

PETER A. CORPUS, R.Ph.
2627 Meadwell Court
Columbus, Ohio 43235
(R.Ph. No. 03-2-20118)

INTRODUCTION

THE MATTER OF PETER A. CORPUS CAME TO HEARING ON DECEMBER 8, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

PETER A. CORPUS 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) None

Respondent's Witnesses:

- (1) Peter A. Corpus, Respondent
- (2) Bruce Franken, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Bryan Carlson, Sponsor, Alcoholic's Anonymous.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Order of the State Board of Pharmacy, Docket No. D-940125-038, in the matter of Peter A. Corpus dated June 30, 1994.
- (2) Exhibit 1A--Copy of page twenty-five of the Ohio State Board of Pharmacy Record of the Proceedings, Minutes of the Meeting dated August 11, 1997.
- (3) Exhibit 1B--Notice of Appearance of Counsel of Douglas E. Graff dated August 31, 1998.
- (4) Exhibit 1C--Request for Hearing and Motion to Address the Board, and Certificate of Service dated August 31, 1998.
- (5) Exhibit 1D--Copy of two-page Hearing Schedule letter dated September 3, 1998.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated November 13, 1998.

Respondent's Exhibits:

- (1) Exhibit A--Bound notebook with tabbed dividers containing copies as follows: Five-page Order of the State Board of Pharmacy, Docket No. D-940125-038, in the matter of Peter

A. Corpus dated June 30, 1994; and page twenty-five of the Ohio State Board of Pharmacy Record of the Proceedings, Minutes of the Meeting dated August 11, 1997. Assessment--Letter from Patricia A. Carter and Tom H. Pepper dated October 23, 1998; four-page Curriculum Vitae of Tom H. Pepper, M.D.; Controlled Substances Registration Certificate of Tom H. Pepper, M.D., expiration date: March 31, 1993; and State Medical Board of Ohio Identification Card of Tom Hartwell Pepper, M.D., expiration date: September 30, 1994. PRO--Two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Peter A. Corpus dated January 31, 1996; two letters from Curtis A. (Curt) Haywood dated March 22, 1996, and April 30, 1996; two-page letter from Fred Frick dated July 9, 1996; four letters from Joseph Turcer dated September 17, 1996; October 14, 1996; December 23, 1996; April 25, 1997; letter from Bruce Franken, not dated; two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Peter A. Corpus dated September 1, 1997; letter from Joseph Turcer dated March 30, 1998; letter from Joseph Turcer, not dated; and letter from Philip LoPresti dated August 6, 1998. AA/NA--Fifty-three pages of AA/NA meeting attendance verification sheets of Peter Corpus dated from October 19, 1994, through October 31, 1998. Certificates--Thirteen pages consisting of the following: twenty pages consisting of twenty-two certificates of appreciation of Peter Corpus dated from January 5, 1994, through November 25, 1997. CE--Twelve certificates of participation for pharmaceutical education numbered and dated as follows: 680-026-94-084 dated April 16, 1997; 202-000-96-034-H04 dated December 31, 1996; XX-999-95-031-H03 dated June 3, 1997; XX-999-95-031-H03 dated June 3, 1997; 680-057-95-007 dated July 1, 1997; 680-057-95-006 dated July 1, 1997; 680-057-95-005 dated July 22, 1997; XX-999-95-032-H03 dated July 30, 1997; 05699995114 dated July 10, 1997; 057-999-97-077-H01 dated May 30, 1998; 202-000-96-034-H04 dated December 31, 1996; and 068-999-97-005-L01 dated August 5, 1997; Certificate for the Forty-Sixth Annual Session of the University of Utah School on Alcoholism and other Drug Dependencies dated June 27, 1997; and five answer sheets for continuing education participation with personal checks of Peter A. Corpus numbered and dated as follows: 392 dated July 7, 1997; 393 dated July 7, 1997; 397 dated July 8, 1997; 411 dated July 17, 1997; 410 dated July 17, 1997. UDS--Seventy-four pages consisting of sixty-six urine drug screen reports of Peter Corpus dated as follows: February 2, 1994; March 26, 1994; April 4, 1994; April 16, 1994; April 23, 1994; May 4, 1994; May 7, 1994; May 14, 1994; May 21, 1994; May 28, 1994; June 3, 1994; June 10, 1994; June 18, 1994; June 23, 1994; July 5, 1994; July 11, 1994; July 15, 1994; July 26, 1994; July 30, 1994; August 10, 1994; August 16, 1994; August 20, 1994; August 27, 1994; September 3, 1994; September 12, 1994; September 20, 1994; September 30, 1994; October 4, 1994; October 21, 1994; April 18, 1995; April 1, 1996; April 7, 1996; April 23, 1996; May 2, 1996; May 18, 1996; May 29, 1996; June 29, 1996; August 7, 1996; September 4, 1996; September 21, 1996; October 31, 1996; November 26, 1996; December 24, 1996; January 29, 1997; February 25, 1997; April 1, 1997; April 16, 1997; May 6, 1997; June 18, 1997; July 25, 1997; August 7, 1997; September 23, 1997; October 29, 1997; November 21, 1997; December 17, 1997; January 27, 1998; February 20, 1998; March 7, 1998; April 22, 1998; May 16, 1998; June 23, 1998; July 15, 1998; August 29, 1998; September 30, 1998; October 29, 1998; and November 24, 1998. Letters--Letter from Steven A. Corpus, not dated; letter from Nick A. Kallis dated August 2, 1997; letter from Richard L. Thomas, not dated; and letter from Charles J. Broussard, not dated.

- (2) Exhibit B--Copy of five pages of Weekly Record of Meeting Attendance of Peter A. Corpus dated from November 2, 1998, through December 5, 1998; and copies of two certifications of participation for pharmaceutical education of Peter Corpus numbered 105-000-98-022-H03 and 105-000-98-021-H03 and dated November 19, 1998.

FINDING OF FACT

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

- (1) Peter A. Corpus has complied with the terms set forth in Resolution No. 98-016 of Ohio State Board of Pharmacy Record of the Proceedings dated August 11, 1997, and is now in accordance with the Order of the State Board of Pharmacy, Docket No. D-940125-038, dated June 30, 1994.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-20118, of Peter A. Corpus to practice pharmacy in the state of Ohio and places him on probation for five years from the date his identification card is issued, with the following conditions:

- (A) Peter A. Corpus must enter into a new contract, after the effective date of this Order, with a treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
 - (1) Random, observed urine drug screens shall be conducted at least every three months.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. Testing for alcohol must be conducted within forty-eight hours from the time the sample is given. A breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.
 - (2) The intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion.
 - (3) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.
 - (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Peter A. Corpus must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
 - (1) the written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) a written description of his progress towards recovery and what he has been doing during the previous three months.
- (C) Peter A. Corpus must show completion of 45 hours (4.5 C.E.U.s) of continuing pharmacy education within the three-year period immediately preceding the date of application for renewal. Forty-two hours (4.2 C.E.U.s) must be in patient care related topics (ACPE category 01 or 02, or Ohio category 01) and three hours (0.3 C.E.U.s) in Board approved Jurisprudence. The original certificates of participation must be submitted to the Board office with the renewal application.
- (D) Other terms of probation are as follows:
 - (1) The State Board of Pharmacy hereby declares that Peter A. Corpus' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

- (2) Peter A. Corpus must report his license suspension for, and history of, drug abuse on all employment applications.
- (3) Peter A. Corpus may not serve as a responsible pharmacist.
- (4) Peter A. Corpus may not destroy, assist in, or witness the destruction of controlled substances.
- (5) Peter A. Corpus must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (6) Peter A. Corpus must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (7) Peter A. Corpus must abide by the rules of the Ohio State Board of Pharmacy.
- (8) Peter A. Corpus must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

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

RES. 99-097 Mrs. Adelman then moved that the Board adopt the following order in the matter of Joseph R. Tabler, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980601-062)

In The Matter Of:

JOSEPH R. TABLER, R.Ph.
6822 Stonington Road
Cincinnati, Ohio 45230
(R.Ph. No. 03-1-07832)

INTRODUCTION

THE MATTER OF JOSEPH R. TABLER CAME TO HEARING ON DECEMBER 8, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JOSEPH R. TABLER WAS NOT 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) William McMillen, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Joseph R. Tabler, Respondent
- (B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated June 1, 1998.
- (2) Exhibit 1A--Hearing Request letter dated June 18, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated June 30, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated November 13, 1998.
- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of Joseph Robert Tabler showing original date of registration as August 20, 1962; and two-page copy of Renewal Application for Pharmacist License, No. 03-1-07832, for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999, of Joseph R. Tabler dated July 28, 1998.
- (6) Exhibit 2--Five-page copy of U.S. District Court, Eastern District of Kentucky (Covington) Criminal Docket for Case No. 96-CR-94-ALL, USA vs. Tabler, filed December 11, 1996, and dated through May 8, 1997.
- (7) Exhibit 3--Copy of twelve-page Indictment in the U.S. District Court, Eastern District of Kentucky, Covington, United States of America vs. Joseph R. Tabler, not dated.
- (8) Exhibit 4--Copy of eleven-page Plea Agreement in the U.S. District Court, Eastern District of Kentucky, Covington, Criminal No. 96-94, United States of America vs. Joseph R. Tabler, not dated.
- (9) Exhibit 5--Copy of five-page Stipulated Factual Basis for Guilty Plea in the U.S. District Court, Eastern District of Kentucky, Covington, Criminal Action No. 96-94, United States of America vs. Joseph R. Tabler, not dated.
- (10) Exhibit 6--Copy of six-page Judgment in a Criminal Case in the U.S. District Court, Eastern District of Kentucky, Covington, Case No. 96-94, United States of America vs. Joseph R. Tabler, dated July 31, 1997.
- (11) Exhibit 7--Copy of newspaper article from *The Cincinnati Enquirer* titled "Former St. Luke worker indicted", not dated.
- (12) Exhibit 8--Copy of Journal Entry in the Clermont County Court, Batavia, Ohio, Case No. 89CRB 95-593, State of Ohio vs. Joseph R. Tabler, April 10, 1989.

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 Joseph R. Tabler was originally licensed in the State of Ohio on August 20, 1962, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Joseph R. Tabler did, on or about April 29, 1997, plead guilty to one count of Mail Fraud, a felony in violation of 18 U.S.C 1341. United States vs. Tabler, Case No. 96-CR-94-ALL, U.S. District Court, Eastern District of Kentucky. Joseph R. Tabler did, from approximately February 1991 through February 1996, with purpose to defraud, present to an insurer written statements as claims for payment, knowing that the statements were false and deceptive, to wit: while practicing pharmacy at St. Luke's Hospital Pharmacy, Ft. Thomas, Kentucky, Joseph R. Tabler forged false prescriptions and submitted false claims to Anthem Blue Cross of Kentucky totaling approximately \$78,000.00. Such conduct is in violation of Section 2913.47 of the Ohio Revised Code.
- (3) Joseph R. Tabler did, on or about April 10, 1989, plead guilty to Theft in violation of Section 2913.02 of the Ohio Revised Code, a first degree misdemeanor. State of Ohio vs. Joseph R. Tabler, 89 CRB-95-593, Clermont County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) 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 paragraph (3) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) 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 Joseph R. Tabler:

- (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. 03-1-07832, held by Joseph R. Tabler indefinitely. Further, the Board stays the suspension and places Joseph R. Tabler's identification card on probation, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Joseph R. Tabler must take and successfully complete the jurisprudence examination offered by the Board prior to July 1, 1999.
 - (a) If Joseph R. Tabler has not successfully completed the examination prior to that date, his identification card will be suspended until this condition has been achieved.
 - (b) When successful, Joseph R. Tabler's identification card will remain on probation for five years from the date of successful completion.
 - (2) The State Board of pharmacy hereby declares that Joseph R. Tabler's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (3) Joseph R. Tabler may not serve as a responsible pharmacist.
 - (4) Joseph R. Tabler may not fill prescriptions for himself or immediate family members.
 - (5) Joseph R. Tabler must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Joseph R. Tabler must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) Joseph R. Tabler must comply with the terms of this Order.
- (B) The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-5/Nay-1).

RES. 99-098 Ms. Abele moved that Board staff be instructed to notify Mr. Tabler of the Board's decision as soon as possible after the conclusion of the meeting instead of waiting for the Board's normal review in January. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-5/Nay-1).

RES. 99-099 Mr. Winsley then distributed copies of a letter received from the FDA regarding Baxter Healthcare Corporation's COMPASS program. After discussion, the Board agreed that the FDA letter verifies the Board's opinion that any site filling patient-specific prescriptions must be licensed as a Terminal Distributor of Dangerous Drugs. Staff was instructed to discuss this issue with Baxter in order to reach a resolution to their particular situation.

After discussion of the Minutes of the November 1998 meeting that had been distributed, Mr. Littlejohn moved that the Minutes of the November 2, 3, 4, 1998 meeting be approved as amended. The motion was seconded by Mr. Lamping and approved by the Board (Aye-6/Nay-0/Abstain-1[Plant]).

RES. 99-100 The Board then discussed the comments received during the Public Hearing. Mrs. Plant moved that the following rules, as amended by the Board, be refiled with JCARR on January 4, 1999. The motion was seconded by Mr. Lamping and approved (Aye-7/Nay-0).

4729-5-17 LABELING BY PRESCRIBERS WHO PERSONALLY FURNISH DANGEROUS DRUGS TO THEIR PATIENTS.

(A) WHENEVER A PRESCRIBER PERSONALLY FURNISHES A DANGEROUS DRUG, OTHER THAN A SAMPLE DRUG PURSUANT TO SECTION 3719.81 OF THE REVISED CODE, THE PRESCRIBER SHALL AFFIX TO THE CONTAINER A LABEL SHOWING:

- (1) THE NAME AND ADDRESS OF THE PRESCRIBER.
- (2) THE NAME OF THE PATIENT FOR WHOM THE DRUG IS INTENDED. IF THE PATIENT IS AN ANIMAL, THE NAME OF THE OWNER AND THE SPECIES OF THE ANIMAL.
- (3) NAME AND STRENGTH OF THE DANGEROUS DRUG.
- (4) DIRECTIONS FOR USE.
- (5) DATE FURNISHED.

(B) WHENEVER A PRESCRIBER PERSONALLY FURNISHES A DANGEROUS DRUG, LABELED AS A SAMPLE PURSUANT TO SECTION 3719.81 OF THE REVISED CODE AND WHERE THE DIRECTIONS FOR USE ARE DIFFERENT FROM THE DIRECTIONS ON OR IN THE SAMPLE CONTAINER, THE PRESCRIBER SHALL ALSO PROVIDE, IN WRITTEN FORMAT, THE FOLLOWING:

- (1) NAME OF THE PRESCRIBER.
- (2) NAME OF THE PATIENT. IF THE PATIENT IS AN ANIMAL, THE NAME OF THE OWNER AND THE SPECIES OF THE ANIMAL.
- (3) DIRECTIONS FOR USE.

4729-5-29 Confidentiality of patient records.

- (A) ~~Records of dispensing~~ RELATING TO THE PRACTICE OF PHARMACY or administering of drugs are not a public record. A person having custody of, or access to, such records shall not divulge the contents thereof, or provide a copy thereof, to anyone except:
- (1) The patient for whom the prescription or medication order was issued.
 - (2) The ~~practitioner~~ PRESCRIBER who issued the prescription or medication order.
 - (3) Certified/licensed health care personnel who are responsible for the care of the patient.
 - (4) A member, inspector, agent, or investigator of the STATE board of pharmacy or any federal, state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug.
 - (5) An agent of the state medical board when enforcing Chapter 4731. of the Revised Code.
 - (6) An agency of government charged with the responsibility of providing medical care for the patient upon a written request by an authorized representative of the agency requesting such information.
 - (7) An agent of a medical insurance company who provides prescription insurance coverage to the patient upon authorization and proof of insurance by the patient or proof of payment by the insurance company for those medications whose information is requested.
 - (8) Any person, other than those listed in paragraphs (A)(1) to (A)(~~6~~)(7) of this rule, only when the patient has given consent for such disclosure in writing, except where a patient requiring medication is unable to deliver a written consent to the necessary disclosure. Any consent must be signed by the patient and dated. Any consent for disclosure is valid until rescinded by the patient. In an emergency, the pharmacist may disclose the prescription information when, in the professional judgment of the pharmacist, it is deemed to be in the best interest of the patient. A pharmacist making an oral disclosure in an emergency situation must prepare a written memorandum showing the patient's name, the date and time the disclosure was made, the nature of the emergency, and the names of the individuals by whom and to whom the information was disclosed.
- (B) ANY COMMUNICATION BETWEEN A PHYSICIAN, A PHARMACIST, AND A PATIENT, PURSUANT TO A CONSULT AGREEMENT, EXCEPT WHEN REQUESTED BY A FEDERAL, A STATE, OR A LOCAL GOVERNMENT ENTITY, IS PRIVILEGED FROM DISCOVERY OR OTHER USE AND DISCLOSURE IN CIVIL PROCESS.
- (C) ~~Records of dispensing~~ RELATING TO THE PRACTICE OF PHARMACY or administering drugs which may be required as evidence of a violation shall be released to a member, inspector, agent, or investigator of the STATE board of pharmacy or any state, county, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person or drug upon his request. Such person shall furnish a receipt to the person having legal custody of the records. ~~The IF THE RECORD IS A PRESCRIPTION, THE receipt shall list the records removed and shall include the~~ following information:
- (1) Prescription identification number; or, if an order for medication, the name of the patient;
 - (2) The drugs prescribed;
 - (3) Quantity of drugs prescribed and dispensed;

- (4) Name of the ~~prescribing practitioner~~ PRESCRIBER;
 - (5) Date, name of agency, and signature of person removing the records.
- (~~E~~) (D) All such records, including consents, memoranda of emergency disclosures, and written requests pursuant to paragraph (A)(~~7~~)(8) of this rule, shall be kept on file at the pharmacy for a period of three years in a readily retrievable manner.

4729-29-05 SIGNATURES REQUIRED ON A CONSULT AGREEMENT.

TO BE EFFECTIVE, A CONSULT AGREEMENT MUST BEAR THE SIGNATURES OF ONE PATIENT OR CAREGIVER, ONE PHYSICIAN, AND ONE PHARMACIST. THE CONSULT AGREEMENT MUST DEFINE THE DIAGNOSIS OR DIAGNOSES THAT AFFECT THE DRUG THERAPY THAT IS COVERED BY THE AGREEMENT. WHERE THERE IS A GROUP OF PHYSICIANS OR PHARMACISTS WHO MAY BE CARING FOR THE PATIENT, THE CONSULT AGREEMENT SHALL BE SIGNED BY THE PRIMARY PHYSICIAN AND THE PRIMARY PHARMACIST. IN THIS CASE, THE CONSULT AGREEMENT SHALL DESIGNATE ONE OTHER PHARMACIST WHO MAY BE COVERING FOR THE PRIMARY PHARMACIST. THIS DESIGNATION OF AN ALTERNATE PHARMACIST FOR COVERAGE PURPOSES MUST BE MADE PRIOR TO THE CONSULT AGREEMENT RECEIVING THE SIGNATURE OF THE PATIENT OR THE PATIENT'S CAREGIVER.

3:23 p.m.

The Board recessed the meeting until Wednesday, December 9, 1998.

WEDNESDAY, DECEMBER 9, 1998

8:05 a.m. ROLL CALL

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

Joseph J. Maslak, R.Ph. (President); Robert B. Cavendish, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Diane C. Adelman, R.Ph.; Paul F. Lamping, R.Ph.; Amonte B. Littlejohn, R.Ph.; Ruth A. Plant, R.Ph.; and Nicholas R. Repke, Public Member.

RES. 99-101 Mr. Benedict joined the Board to present several requests for waivers pursuant to Rule 4729-5-11 of the Administrative Code. Following discussion, Mr. Cavendish moved that the request of Dan Scott, R.Ph. for approval to serve as the responsible pharmacist at the following sites be approved for one year:

Riverside Mercy Hospital (02-1027550)
Riverside Mercy Home Pharmacy (02-1027600)

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

RES. 99-102 Mr. Cavendish then moved that the Board approve the request of Richard Adams, R.Ph. to be the responsible pharmacist at the following sites for one year:

Harrison Community Hospital (02-0034450)
Health Connection Pharmacy (02-0560300)

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

RES. 99-103 Mrs. Plant then moved that the Board approve the request of Shirley Kramer, R.Ph. to be the responsible pharmacist at the following sites until January 1, 1999:

Cigna (02-0817850)
Cigna (02-0817900)

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

Mr. Repke and Mr. Benedict then presented the probation report to the Board. There were no problems that required immediate attention.

RES. 99-104 Mr. Winsley presented a letter from John Ross, Director of Pharmacy, River Valley Health System requesting Board approval for an exemption from the requirements of Rule 4729-5-10 of the Administrative Code for one of their clinics located in Aid, Ohio. Based on the description of the problem and the need for the patients to be able to receive their prescription drugs in a timely and effective manner, Mrs. Plant moved that the Board approve the pick-up station exemption for the River Valley Health System. The motion was seconded by Mr. Repke and approved by the Board (Aye-7/Nay-0).

RES. 99-105 Mr. Winsley next presented two requests for approval as providers of continuing pharmacy education. After discussion, Mrs. Plant moved that the Board approve the applications for provider status of the following two organizations:

Southern Ohio Medical Center; Portsmouth, Ohio
Anthem Prescription Management; Mason, Ohio

Ms. Abele seconded the motion and it was approved by the Board (Aye-7/Nay-0).

Ms. Abele reported on her activities as a member of the Nursing Formulary Committee and on the activities of the committee since the last meeting.

Ms. Abele and Mr. Cavendish reported on the meeting with representatives of the Optometry Board and the Medical Board regarding formulary issues for optometrists.

9:15 a.m.

Mr. Cavendish moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee pursuant to Section 121.22(G)(1) of the Revised Code. Mrs. Adelman seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

9:28 a.m.

RES. 99-106 The Executive Session ended. Mrs. Plant moved that the Board enter into the following Settlement Agreement with Michael David Perciful, R.Ph., Mt. Vernon. The motion was seconded by Mr. Lamping and approved by the Board (Aye-7/Nay-0).

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-980407-054)

In The Matter Of:

MICHAEL DAVID PERCIFUL, R.Ph.
7428 Green Valley Road
Mt. Vernon, Ohio 43050
(R.Ph. No. 03-2-16516)

This Settlement Agreement is entered into by and between Michael David Perciful 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 Perciful 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 Perciful is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Michael David Perciful'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 Perciful neither admits nor denies the allegations stated in the Notice; however, the Board believes it has evidence sufficient to sustain the allegations and hereby adjudicates the same:
- (1) Records of the Board indicate that Michael David Perciful were originally licensed in the state of Ohio on August 6, 1986, pursuant to examination, and on April 7, 1998, Michael David Perciful's license to practice pharmacy in Ohio was summarily suspended in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
 - (2) Michael David Perciful is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: on March 20, 1998, Michael David Perciful admitted to agents of the Board that he has stolen Cocaine HCl flakes from his employer for personal use; Michael David Perciful has given controlled substances to his friends; Michael David Perciful has practiced pharmacy while being impaired; and that Michael David Perciful is drug dependent. On March 20, 1998, Michael David Perciful was found to be in possession of Cocaine HCl flakes, Methylphenidate 5mg, Valium 5mg, Ambien 5mg, and Marijuana. Such conduct indicates that Michael David Perciful falls within the ambit of Sections 3719.121(A); 3719.121(B); and, 4729.16(A)(3) of the Ohio Revised Code.
 - (3) Michael David Perciful did, on or about March 17, 1998, knowingly sell or offer to sell a controlled substance in an amount less than the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, the drug being a schedule II controlled substance, to wit: Michael David Perciful sold a full 5gm bottle of Cocaine HCl flakes without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
 - (4) Michael David Perciful did, between March 13, 1998, and March 17, 1998, knowingly sell or offer to sell a controlled substance in an amount exceeding five times the bulk amount but in amount less than fifty times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, the drug being a schedule II controlled substance, to wit: Michael David Perciful sold 400 to 500 unit doses of Percocet without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
 - (5) Michael David Perciful did, on or about March 20, 1998, knowingly obtain, possess, or use a controlled substances in an amount less than bulk when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Perciful ingested approximately .59gm of Cocaine HCl flakes while engaged in the practice of pharmacy; Michael David Perciful possessed one amber bottle containing approximately .06gm Cocaine HCl flakes, which he removed from his sock and surrendered to Board agents; and Michael David Perciful possessed one amber bottle containing approximately 4.35gm of Cocaine HCl flakes, which was removed from his vehicle and surrendered to Board agents. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
 - (6) Michael David Perciful did, on or about March 20, 1998, knowingly obtain, possess, or use a controlled substance in an amount less than bulk when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Perciful surrendered to agents of the Board one plastic vial containing 57 unit doses of Methylphenidate 5mg which was removed from his vehicle. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (7) Michael David Perciful did, on or about March 20, 1998, knowingly obtain, possess, or use a controlled substance in an amount less than bulk when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Perciful surrendered to agents of the Board one plastic vial containing 4 unit doses of Valium 5mg and 1 unit dose of Ambien 5mg which was removed from his vehicle. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (8) Michael David Perciful did, on or about March 20, 1998, knowingly obtain, possess, or use a controlled substance in an amount less than bulk when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Perciful surrendered to agents of the Board one wooden box containing Marijuana which was removed from his vehicle. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (9) Michael David Perciful did, on or about March 20, 1998, knowingly possess drug paraphernalia when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Michael David Perciful surrendered to agents of the Board one brass pipe containing Marijuana residue and one wooden box containing Marijuana which was removed from his vehicle. Such conduct is in violation of Section 2925.14 of the Ohio Revised Code.
- (10) Michael David Perciful did, from on or about October 16, 1996, through March 20, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., 870 S. High Street, Columbus, Ohio 43206 beyond the express or implied consent of the owner, to wit: Michael David Perciful stole the following controlled substances:

<u>Drug</u>	<u>Schedule</u>	<u>Qty.</u>	<u>% of Supply</u>
Percocet (Oxycodone/APAP 325mg)	II	1,215	22%
Oxycodone/APAP 325mg	II	3,556	23.4%
Methylphenidate 5mg	II	123	12.7%
Ritalin 10mg (Methylphenidate 10mg)	II	210	13.1%
Methylphenidate 10mg	II	77	3%
Ritalin 20mg (Methylphenidate 20mg)	II	100	14.3%
Methylphenidate ER 20mg	II	201	12.5%
Valium 2mg (Diazepam 2 mg.)	IV	431	68.4%
Valium 5mg (Diazepam 5 mg.)	IV	541	6.7%
Valium 10mg (Diazepam 10 mg.)	IV	2,351	19.9%
Diazepam 5mg/ml (Injection)	IV	20ml	25%

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

- (11) Michael David Perciful did, on or between April 2, 1997, and August 21, 1997, by theft, acquire uncompleted, pre-printed prescription blanks, to wit: Michael David Perciful stole seven pre-signed, uncompleted prescription blanks from the Oncology Department at Park Medical Center, 1492 E. Broad Street, Columbus, Ohio 43205. Such conduct is in violation of Section 2925.23(C) of the Ohio Revised Code.
- (12) Michael David Perciful did, on or between April 2, 1997, and August 21, 1997, intentionally make, and knowingly possess a false and forged prescription, to wit: Michael David Perciful created and possessed in the files of Barney Zell Pharmacy, Inc. the following prescriptions:

<u>Rx No.</u>	<u>Drug</u>	<u>Qty.</u>	<u>Date</u>
422312	Cocaine 10% solution	100 ml	04/02/97
426779	Cocaine 10% solution	100 ml	05/16/97
3066	Cocaine 10% solution	100 ml	05/29/97
3089	Cocaine 10% solution	100 ml	06/27/97
431005	Cocaine 10% solution	100 ml	07/14/97
3110	Cocaine 10% solution	100 ml	07/24/97
3136	Cocaine 10% solution	100 ml	08/21/97

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

- (13) Michael David Perciful did, on or about March 7, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole one 5gm bottle of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440122. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (14) Michael David Perciful did, on or about March 27, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440123. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (15) Michael David Perciful did, on or about April 16, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole one 5gm bottle of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440125. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (16) Michael David Perciful did, on or about May 1, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440126. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (17) Michael David Perciful did, on or about May 16, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440127. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (18) Michael David Perciful did, on or about May 29, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440157. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (19) Michael David Perciful did, on or about June 12, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440159. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (20) Michael David Perciful did, on or about June 24, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440160. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (21) Michael David Perciful did, on or about July 10, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440161. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (22) Michael David Perciful did, on or about July 23, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440162. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (23) Michael David Perciful did, on or about August 21, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440163. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (24) Michael David Perciful did, on or about September 8, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440129. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (25) Michael David Perciful did, on or about September 18, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole two 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440131. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (26) Michael David Perciful did, on or about October 1, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole one 25gm bottle of Cocaine HCl flakes pursuant to DEA 222 Form No. 953440132. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (27) Michael David Perciful did, on or about October 28, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole five 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054619. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (28) Michael David Perciful did, on or about November 19, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole five 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054624. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (29) Michael David Perciful did, on or about December 11, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054623. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (30) Michael David Perciful did, on or about December 30, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054640. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (31) Michael David Perciful did, on or about January 20, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell

Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054641. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (32) Michael David Perciful did, on or about February 12, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054643. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (33) Michael David Perciful did, on or about February 27, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054645. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (34) Michael David Perciful did, on or about March 13, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Barney Zell Pharmacy, Inc., beyond the express or implied consent of the owner, to wit: Michael David Perciful stole six 5gm bottles of Cocaine HCl flakes pursuant to DEA 222 Form No. 973054646. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (35) Michael David Perciful did, on or about March 17, 1998, knowing that an official proceeding or investigation was in progress or was likely to be instituted, alter, destroy, conceal, or remove records with purpose to impair their value or availability as evidence in such proceeding or investigation, to wit: Michael David Perciful stole and subsequently destroyed 42 DEA 222 Forms in order to conceal the fact that he was stealing schedule II controlled substances from Barney Zell's Pharmacy, Inc. Such conduct is in violation of Section 2921.12 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Michael David Perciful knowingly and voluntarily agrees with the State Board of Pharmacy to the revocation of his pharmacist identification card, No. 03-2-16516, effective immediately.

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.

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

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

/s/ Michael D. Perciful
Michael David Perciful, Respondent

/d/ December 9, 1998
Date of Signature

/s/ R. Kevin Kerns
R. Kevin Kerns, Attorney for Respondent

/d/ December 9, 1998
Date of Signature

/s/ Joseph J Maslak
Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy

/d/ 12/9/98
Date of Signature

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

/d/ 12-9-98
Date of Signature

9:30 a.m.

At this time, Mr. Perciful and his attorney, Kevin Kerns, appeared before the Board to make a statement.

RES. 99-107 Mr. Winsley reported that the Board had entered into the following settlement in the matter of Steven A. Goldblatt, R.Ph.; Reynoldsburg:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-980928-018)

In The Matter Of:

STEVEN A. GOLDBLATT, R.Ph.
6388 Rugosa Avenue
Reynoldsburg, Ohio 43068
(R.Ph. No. 03-2-13785)

This Settlement Agreement is entered into by and between Steven A. Goldblatt 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).

Steven A. Goldblatt 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.

Steven A. Goldblatt is knowingly and voluntarily acknowledging that, in order to preclude the charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Steven A. Goldblatt '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) Steven A. Goldblatt neither admits nor denies the following allegations; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that Steven A. Goldblatt was originally licensed in the state of Ohio on August 1, 1980, pursuant to examination and is currently licensed to practice pharmacy in the state of Ohio. Records further indicate that, during the relevant time periods stated herein, Steven A. Goldblatt was a Pharmacy Supervisor for CVS/pharmacy.
 - (2) Steven A. Goldblatt is addicted to or abusing alcohol or drugs to such a degree as to render him unfit to practice pharmacy, to wit: Steven A. Goldblatt

admitted to David Henry of CVS/pharmacy that he is drug dependent and that he had forged prescriptions for Stadol Nasal Spray. The Board investigation revealed that between the dates of October 4, 1995, and March 1, 1998, on at least thirty-two different occasions, Steven A. Goldblatt visited four different CVS Pharmacies and entered false information into the computer system in order to obtain dangerous drugs or controlled substances. These prescriptions were in Steven A. Goldblatt's name as the patient. Additionally, after Stadol Nasal Spray became a Schedule IV controlled substance (effective date was October 31, 1997), on at least nine occasions, Steven A. Goldblatt visited four different CVS pharmacies and entered false information into the computer system in order to obtain Stadol Nasal Spray. These prescriptions were in the names of legitimate patients that had not recently had prescriptions filled at the pharmacies in question. Such conduct indicates that Steven A. Goldblatt is addicted to controlled substances within the meaning of Section 4729.16 of the Ohio Revised Code.

- (3) Steven A. Goldblatt did, from July 23, 1996, to January 29, 1998, knowingly make a false statement in a prescription, to wit: Steven A. Goldblatt entered the following false prescriptions for dangerous drugs into the computer system at CVS Pharmacy #3438 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
0438-580045	Stadol Nasal Spray	2.5ml	07/23/96
0438-587969	Stadol Nasal Spray	2.5ml	10/14/96
0438-587969	Stadol Nasal Spray	2.5ml	10/30/96
0438-587969	Stadol Nasal Spray	5ml	11/30/96
0438-596070	Stadol Nasal Spray	2.5 ml	12/26/96
0438-596070	Stadol Nasal Spray	5ml	01/23/97
0438-602057	Stadol Nasal Spray	5ml	02/21/97
0438-609420	Stadol Nasal Spray	2.5ml	05/05/97
0438-609420	Stadol Nasal Spray	5ml	06/15/97
0438-609420	Stadol Nasal Spray	2.5ml	06/28/97
0438-609420	Stadol Nasal Spray	5ml	07/31/97
0438-609420	Stadol Nasal Spray	2.5ml	08/12/97
0438-609420	Stadol Nasal Spray	2.5ml	10/19/97
3438-630268	Flonase Nasal Spray	16ml	12/14/97
3438-630268	Flonase Nasal Spray	16ml	01/29/98

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

- (4) Steven A. Goldblatt did, from December 14, 1997, to March 19, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Steven A. Goldblatt entered the following false prescriptions for controlled substances into the computer system at CVS Pharmacy #3438 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
3438-630267	Stadol Nasal Spray	2.5ml	12/14/97
3438-630267	Stadol Nasal Spray	2.5ml	01/04/98
3438-630267	Stadol Nasal Spray	5ml	01/29/98
3438-630267	Stadol Nasal Spray	2.5ml	03/01/98
0438-604631	Fiorinal w/Codeine	30 capsules	03/19/97

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

- (5) Steven A. Goldblatt did, from October 4, 1995, to October 6, 1996, make or utter false or forged prescriptions for dangerous drugs, to wit: Steven A. Goldblatt entered the following false prescriptions for dangerous drugs into the computer system at CVS Pharmacy #5715 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
2715-057004	Stadol Nasal Spray	2.5ml	10/04/95
2715-072684	Stadol Nasal Spray	5ml	01/08/96
2715-072684	Stadol Nasal Spray	5ml	02/01/96
2715-072684	Stadol Nasal Spray	5ml	02/19/96

Such conduct is in violation of Section 4729.61(C) (as in effect during this time period) of the Ohio Revised Code.

- (6) Steven A. Goldblatt did, on or about October 6, 1996, knowingly make a false statement in a prescription, to wit: Steven A. Goldblatt entered the following false prescription for a dangerous drug into the computer system at CVS Pharmacy #5715 in order to obtain the drug:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
2715-118998	Stadol Nasal Spray	5ml	10/06/96

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

- (7) Steven A. Goldblatt did, from October 28, 1995, to April 18, 1996, make or utter false or forged prescriptions for a dangerous drug, to wit: Steven A. Goldblatt entered the following false prescriptions for dangerous drugs into the computer system at CVS Pharmacy #4223 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
1223-030517	Stadol Nasal Spray	2.5ml	10/28/95
1223-030517	Stadol Nasal Spray	2.5ml	11/16/95
1223-037685	Stadol Nasal Spray	2.5ml	12/31/95
1223-046794	Stadol Nasal Spray	5ml	03/17/96
1223-046794	Stadol Nasal Spray	5ml	04/18/96

Such conduct is in violation of Section 4729.61(C) (as in effect during this time period) of the Ohio Revised Code.

- (8) Steven A. Goldblatt did, on or about February 10, 1997, and again on or about September 26, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Steven A. Goldblatt entered the following false prescription information into the computer system at CVS Pharmacy #6949 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
3949-171826	Stadol Nasal Spray	2.5ml	02/10/97
3949-226420	Stadol Nasal Spray	2.5ml	09/26/97

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

- (9) Steven A. Goldblatt did, on or about December 14, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Steven A. Goldblatt entered the following false prescription information into the computer system at CVS Pharmacy #5717 in order to obtain the drug:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
5717-127760	Stadol Nasal Spray	2.5ml	12/14/97

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

- (10) Steven A. Goldblatt did, on December 22, 1997, and again on December 26, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Steven A. Goldblatt entered the following false prescription information into the computer system at CVS Pharmacy #3080 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
3080-100115	Stadol Nasal Spray	7.5ml	12/22/97
3080-100115	Stadol Nasal Spray	7.5ml	12/26/97

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

- (11) Steven A. Goldblatt did, on or about December 14, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit:

Steven A. Goldblatt entered the following false prescription information into the computer system at CVS Pharmacy #3438 in order to obtain the drug:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
3438-630269	Stadol Nasal Spray	2.5ml	12/14/97

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

- (12) Steven A. Goldblatt did, from November 14, 1997, through February 27, 1998, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Steven A. Goldblatt entered the following false prescription information into the computer system at CVS Pharmacy #6949 in order to obtain the drugs:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Date</u>
6949-240005	Stadol Nasal Spray	2.5ml	11/14/97
6949-242415	Stadol Nasal Spray	2.5ml	11/24/97
6949-245731	Stadol Nasal Spray	2.5ml	12/08/97
6949-256883	Stadol Nasal Spray	10ml	01/21/98
6949-266084	Stadol Nasal Spray	10ml	02/27/98

Such conduct is in violation of Section 2925.23(B) 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, Steven A. Goldblatt knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The indefinite suspension of his pharmacist identification card, No. 03-2-13785, from the effective date of this Agreement.
- (1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Steven A. Goldblatt may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (2) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.
- (B) June 17, 1999, or thereafter, the Board will consider any petition filed by Steven A. Goldblatt for a hearing, pursuant to Revised Code Chapter 119. of the Ohio Revised Code, upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
- (1) Steven A. Goldblatt must enter into a contract with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Agreement and, upon signing, submit a copy of the contract to the Board office. The contract must provide:
- (a) random, observed urine drug screens shall be conducted at least every three months. The urine sample must be given within twelve hours of notification. Stadol must be added to the standard urine drug screen, and must include testing for creatinine or specific gravity of the sample as the dilutional standard;
- (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional

support group, is required during outpatient treatment and/or during aftercare; and

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

Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

- (2) Steven A. Goldblatt must provide, at the time of petitioning the Board for reinstatement, evidence of his evaluation of chemical dependency status and recommendation for treatment by the ODADAS professional, written documentation from his treatment provider regarding compliance with the program pursuant to the contract; copies of AA/NA meeting attendance verification; and copies of all urine drug screen reports.

If, in the judgment of the Board, Steven A. Goldblatt 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, modify the conditions of this Agreement, 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.

Steven A. Goldblatt 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).

Steven A. Goldblatt waives any and all claims or causes of action he may have against the State of Ohio or the Board, and its members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Steven A. Goldblatt 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. Steven A. Goldblatt agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

/s/ Steven A Goldblatt
Steven A. Goldblatt, R.Ph., Respondent

/d/ 10-22-98
Date of Signature

/s/ Daniel D Conner
Daniel D. Connor, Attorney for Respondent

/d/ 11-3-98
Date of Signature

/s/ Joseph J Maslak, Jr
Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy

/d/ 11/19/98
Date of Signature

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

/d/ 11-19-98
Date of Signature

The Board then discussed several agenda items that did not require any action on the part of the Board.

9:50 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk, and staff members Tim Benedict and David Rowland. Mrs. Adelman moved that the Board go into Executive Session to confer with an attorney for the Board pursuant to Section 121.22(G)(3) of the Revised Code. Mr. Lamping seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Plant-Yes, and Repke-Yes.

10:14 a.m.

The Executive Session concluded. Mr. Cavendish moved that the Board receive Per Diem as follows:

PER DIEM	<u>11/12</u>	<u>11/23</u>	<u>12/07</u>	<u>12/08</u>	<u>12/09</u>	<u>Total</u>
Abele	1	1	1	1	1	5
Adelman	-	-	1	1	1	3
Cavendish	1	-	1	1	1	4
Lamping	-	-	1	1	1	3
Littlejohn	-	-	1	1	1	3
Maslak	-	-	1	1	1	3
Neuber	-	-	-	-	-	0
Plant	-	-	1	1	1	3
Repke	-	-	1	1	1	3

10:15 a.m.

Mr. Lamping moved that the meeting be adjourned. The motion was seconded by Mr. Cavendish and approved (Aye-7/Nay-0).

/s/ Joseph J Maslak
Joseph J. Maslak, President

/d/ 1/5/99
Date

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