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Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
December 13, 14, 15, 1999

MONDAY, DECEMBER 13, 1999

12:09 p.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:

Robert B. Cavendish, R.Ph. (President); Diane C. Adelman, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Lawrence J. Kost, R.Ph.; Amonte B. Littlejohn, R.Ph.; Suzanne L. Neuber, R.Ph.; and Nicholas R. Repke, Public Member.

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

The Board meeting continued with a discussion of matters not requiring formal action of the Board.

RES. 2000-088 Mr. Winsley announced that the hearing in the matter of Emergency Medical Transport, Inc. (EMT, Inc.) scheduled for Wednesday, December 15th, at 9:00 a.m. had been cancelled since EMT, Inc. had withdrawn their application for a Terminal Distributor of Dangerous Drugs license. As a result, the hearing in the matter of Janice Marie Greavu, R.Ph. had been rescheduled to 11:00 a.m. that day with the consent of all parties.

RES. 2000-089 Mr. Winsley also announced that the following Settlement Agreement with Clinton Medical Transport had been signed by all parties:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY (Docket No. D-990824-015)

In the Matter of:

CLINTON MEDICAL TRANSPORT

c/o Ron G. Seaman, M.D., Responsible Person
100 North Lincoln Street
Wilmington, Ohio 45177
(Terminal Distributor No. 02-0768600)

This Settlement Agreement is entered into by and between Clinton Medical Transport 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.

Clinton Medical Transport voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Clinton Medical Transport acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, 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 on the license holder for violation of any of the enumerated grounds of Section 4729.57 of the Revised Code.

Whereas, Clinton Medical Transport is a licensed terminal distributor of dangerous drugs in the state of Ohio.

Whereas, on or about August 24, 1999, pursuant to Chapter 119. of the Ohio Revised Code, Clinton Medical Transport was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Further, a hearing was requested and scheduled in accordance with Chapter 119. of the Ohio Revised Code. The August 24, 1999, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Ohio State Board of Pharmacy indicate that, during the relevant time periods, Russell Cameron, M.D. was the Responsible Medical Physician at Clinton Medical Transport pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Clinton Medical Transport did, between January 1, 1996, and February 1, 1996, possess dangerous drugs for sale, at retail, when not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Clinton Medical Transport possessed intravenous lactated ringers solution, a dangerous drug, during the lapsed dates of its terminal distributor license. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (3) Clinton Medical Transport did, between January 1, 1998, and February 11, 1998, possess dangerous drugs for sale, at retail, when not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Clinton Medical Transport possessed intravenous normal saline solution, a dangerous drug, during the lapsed dates of its terminal distributor license. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (4) Clinton Medical Transport did, between January 1, 1999, and April 28, 1999, possess dangerous drugs for sale, at retail, when not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Clinton Medical Transport possessed atropine, a dangerous drug, during the lapsed dates of its terminal distributor license. Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.
- (5) Clinton Medical Transport did, on or about April 28, 1999, produce, process, prepare, pack, or hold under unsanitary conditions, medical oxygen, whereby it may be contaminated with filth, or whereby it may be rendered injurious to health, to wit: Clinton Medical Transport stored and transfilled medical oxygen in an unsanitary and dangerous area of the garage with gas, paint, paint thinner, oil, and mineral spirits in close proximity. Such conduct is in violation of Rule 4729-9-16 of the Ohio Administrative Code and Section 3715.63(B) of the Ohio Revised Code.
- (6) Clinton Medical Transport did, on December 30, 1996, knowingly make a false statement with purpose to secure issuance by a governmental agency of a license, to wit: Russell Cameron, Medical Director, declared on the renewal application for a terminal distributor license that within the prior eighteen (18) months Clinton Medical Transport had not been the subject of disciplinary action by any state or federal agency. On or about October 28, 1996, Clinton Medical Transport had been the subject of disciplinary action by the Ohio Ambulance Licensing Board. Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.

- (7) Clinton Medical Transport did, on October 16, 1997, knowingly make a false statement with purpose to secure issuance by a governmental agency of a license; permit, or registration, to wit: Russell Cameron, Medical Director, declared on the renewal application for a terminal distributor license that within the prior eighteen (18) months Clinton Medical Transport had not been the subject of disciplinary action by any state or federal agency. On or about October 28, 1996, Clinton Medical Transport had been the subject of disciplinary action by the Ohio Ambulance Licensing Board. Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.

Wherefore, the parties, in consideration of the mutual covenants and promises contained herein, and in lieu of any further formal proceedings at this time, and intending to be bound by said covenants, agree as follows:

- (1) Clinton Medical Transport agrees that it will not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (2) Clinton Medical Transport agrees to abide by the rules of the Ohio State Board of Pharmacy.
- (3) Clinton Medical Transport agrees to the imposition of a monetary penalty one thousand dollars (\$1,000.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (4) Clinton Medical Transport must comply with the terms of this Agreement.
- (5) Clinton Medical Transport denies some or all of the allegations or charges. Notwithstanding Clinton Medical Transport's denial of the allegations, the Board hereby adjudicates the same.
- (6) Clinton Medical Transport admits and acknowledges that it is not a "prevailing eligible party" for purposes of Revised Code Sections 119.092 and 2335.39. Further Clinton Medical Transport waives any rights it may have under Revised Code Sections 119.09 and 2335.39.
- (7) Clinton Medical Transport, with intention of binding itself and its successors in interest and assigns, hereby releases, and holds harmless from liability and forever discharges the State of Ohio, the Board, the Ohio Attorney General, and any and all of their present and former members, officers, attorneys, agents and employees, personally and in their official capacities, from any and all claims, demands, causes of actions, judgments, or executions that Clinton Medical Transport ever had, or now has or may have, known or unknown, or that anyone claiming through or under it may have or claims to have, created by or arising out of the allegations or charges filed by the Board against Clinton Medical Transport, set forth in the Notice of Opportunity for Hearing.
- (8) Clinton Medical Transport 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.
- (9) This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.
- (10) The parties hereto acknowledge that this 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/</u>	<u>Ronald Seaman</u>	<u>/d/</u>	<u>12/8/99</u>
Ronald G. Seaman, M.D., Medical Director and Responsible Person		Date of Signature	
Clinton Medical Transport			

/s/ Larry V. Chamberlain
Larry V. Chamberlain, Owner and EMS Contact
Clinton Medical Transport

/d/ 12/8/99
Date of Signature

/s/ Judy A. Gano
Judy A. Gano, Attorney for Clinton Medical Transport

/d/ 12/7/99
Date of Signature

/s/ Robert B Cavendish
Robert B. Cavendish, President, Ohio State Board of Pharmacy

/d/ 12/13/99
Date of Signature

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

/d/ 12-13-99
Date of Signature

12:16 p.m.

Ms. Abele moved that the Board go into Executive Session for the purpose of conferring with the Assistant Attorney General regarding pending and imminent court matters pursuant to Section 121.22(G)(3) of the Revised Code, and for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Ms. Eastman and a roll call vote was conducted by President Cavendish as follows: Abele-Yes, Adelman-Yes, Eastman-Yes, Giacalone-Yes, Kost-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

1:35 p.m.

RES. 2000-090 The Board came out of Executive Session and the meeting was opened to the public. Ms. Abele moved that the Board refuse the settlement offer in the matter of James S. Patton, R.Ph., Columbus, that was offered by the Respondent through his attorney, but that the Board grant Mr. Patton's continuance request for the hearing scheduled for Tuesday, December 14, 1999. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-8/Nay-0).

1:37 p.m.

RES. 2000-091 Mr. Repke then moved that the Board summarily suspend the license of Robert F. Tschinkel, R.Ph. (03-1-10969) pursuant to Section 3719.121 of the Revised Code due to the fact that there is clear and convincing evidence that continuation of his professional practice or method of personally furnishing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Ms. Eastman and was approved by the Board (Aye-8/Nay-0).

1:40 p.m.

RES. 2000-092 Mrs. Neuber then moved that the Board summarily suspend the license of Raymond Strahley, R.Ph. (03-1-20621) pursuant to Section 3719.121 of the Revised Code due to the fact that there is clear and convincing evidence that continuation of his professional practice or method of personally furnishing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Littlejohn and was approved by the Board (Aye-8/Nay-0).

1:43 p.m.

RES. 2000-093 Mrs. Neuber then moved that the Board deny the request for reconsideration of the Order issued by the Board in the matter of Robert Paul Blasko. The request for reconsideration was sent to the Board by Mr. Blasko's attorney. The motion was seconded by Mr. Repke and approved by the Board (Aye-7/Nay-0/Abstain-1[Giacalone]).

1:45 p.m.

The Board took a brief recess.

2:11 p.m.

The Board 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 Matthew E. Fisher, R.Ph., Columbus.

4:00 p.m.

The hearing ended and the record was closed.

4:10 p.m.

The meeting was recessed until Tuesday, December 14, 1999.

TUESDAY, DECEMBER 14, 1999

8:16 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:

Robert B. Cavendish, R.Ph. (President); Diane C. Adelman, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Robert P. Giacalone, R.Ph.; Lawrence J. Kost, R.Ph.; and Suzanne L. Neuber, R.Ph.

Mr. Winsley and Mr. Benedict distributed a copy of the following policy that had been received recently from the Drug Enforcement Administration (DEA):

SUBJECT: Information That Can Be Changed on a Schedule II Prescription

POLICY: The majority of changes can be made only after the pharmacist contacts the prescribing practitioner. After consultation with the prescribing practitioner, the pharmacist is permitted to change the patient's address, drug strength, drug quantity and directions for use. The pharmacist is permitted to make information additions that may be provided by the patient or bearer such as the patient's address, and such additions should be verified. The pharmacist may also add the dosage form to the prescription order after verification with the prescribing practitioner.

The pharmacist is never permitted to make changes to the patient's name, controlled substance prescribed (except for generic substitution permitted by state law) or the prescriber's signature. These types of changes challenge the necessity of the original prescription and would require a new prescription from the prescribing practitioner.

RES. 2000-094 Mr. Winsley and Mr. Benedict also distributed a copy of a document received from Endo Laboratories, Inc. showing that Percocet is now available in four different strengths. After discussion, the Board felt that pharmacists could utilize the DEA policy previously distributed when faced with a Percocet prescription that lacked any strength designation.

8:27 a.m.

Mr. Repke arrived and joined the meeting.

Mr. Winsley then discussed with the Board the letter that he had sent to Mr. John Rector, General Counsel for the National Community Pharmacists Association (NCPA), in response to a memorandum sent by Mr. Rector to Carmen Catizone, Executive Director of the National Association of Boards of Pharmacy (NABP).

8:30 a.m.

RES. 2000-095 Mr. Winsley presented a request for approval to be a provider of Continuing Pharmacy Education (CPE) from the Veterans Administration office in Columbus, Ohio. After discussion by the Board, Ms. Abele moved that the Board approve the request. The motion was seconded by Mrs. Neuber and approved (Aye-6/Nay-0).

Mr. Littlejohn arrived and joined the meeting.

The Board meeting continued with a discussion of matters not requiring formal action of the Board.

9:00 a.m.

The Board took a brief recess.

9:20 a.m.

The meeting resumed. Mr. Benedict presented his report on the activities of the Medical Board's Prescribing Committee. Mr. Benedict distributed copies of the latest proposed revision to Administrative Code Rule 4731-11-04 which is the rule dealing with the use of controlled substances for weight loss. After discussion, the Board members felt that this revision showed improvement and had no suggestions for any changes.

9:28 a.m.

RES. 2000-096 Mr. Benedict next presented a proposal from St. Charles Mercy Hospital requesting Board approval for the use of the ADDS system of drug packaging. After discussion, Mrs.

Neuber moved that the Board conditionally approve the use of this system by St. Charles subject to a final inspection of the installed system and the implementation of suggested changes to the proposed policies and procedures. The motion was seconded by Ms. Abele and approved by the Board (Aye-7/Nay-0).

10:05 a.m.

Mr. Benedict and the Board held a brief discussion on a proposal from McKesson HBOC. Final action on the proposal was postponed until Wednesday, December 15, 1999 when two members of the field staff would be available to participate in further discussion.

10:12 a.m.

The Board took a brief recess.

10:30 a.m.

Ms. Eastman arrived and joined the meeting. The Board 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 Larry Devonne Shaffer, Jr., R.Ph., Uhrichsville.

11:53 a.m.

The hearing was recessed until after lunch and the reciprocity hearing.

1:00 p.m.

RES. 2000-097 All of the Board members 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, Mrs. Adelman moved that the Board approve the following candidates for licensure. The motion was seconded by Mr. Repke and approved by the Board (Aye-8/Nay-0).

DAVID MICHAEL BRANDEBURA	PENNSYLVANIA
ANGELA DENISE BRATTON	INDIANA
CYNTHIA LYNN FEUCHT	INDIANA
LEAH MARIE FOLEY	PENNSYLVANIA
JULIA REBMANN HADDAD	VIRGINIA
JANINA Z.P. JANES	COLORADO
DANIEL EDWARD MARINO	PENNSYLVANIA
LAURA TUCKER MOSELEY	NORTH CAROLINA
TAMILA SUE PARKER	MICHIGAN
MARY BETH POLLOCK	KENTUCKY
SETH ANDREW ROBY	PENNSYLVANIA
CLAUDIA M. ROCCI	NEW YORK
JASON ALEXANDER TURBA	PENNSYLVANIA
SOOEUN LEE WILLIAMS	MICHIGAN
TRENA WILSON	ILLINOIS

1:54 p.m.

The Board reconvened in Room 1914 to continue with the hearing in the matter of Larry Devonne Shaffer, Jr.

3:55 p.m.

The hearing ended and the record was closed. The Board took a brief recess.

4:12 p.m.

RES. 2000-098 The Board was joined by Martha G. Hull from Johnson & Johnson and by Jim Thornton from McNeil for a discussion of Ultram and the possibility of joint educational efforts on pain control by both groups. The Board indicated a willingness to participate in educational efforts, but made it clear that the educational efforts would not exclude the possibility that the Board would seek to move Ultram into controlled substance status in the future.

4:35 p.m.

Mrs. Neuber gave a report on the Nursing Board Formulary Committee since she attended the last meeting in place of Ms. Abele.

Ms. Abele and Mr. Winsley reported on their attendance at National Association of Boards of Pharmacy task force committee meetings in Chicago.

4:50 p.m.

Ms. Abele moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against a licensee. Mr. Repke seconded the motion. President Cavendish then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Eastman-Yes, Giacalone-Yes, Kost-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

5:30 p.m.

RES. 2000-099 The Executive Session ended and the Board meeting resumed in Public Session. Mr. Giacalone moved that the Board adopt the following Order in the matter of Matthew E. Fisher:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-990527-050)

In The Matter Of:

MATTHEW EARL FISHER, R.Ph.
100 Winding Way, Apt. B
Kenton Hills, Kentucky 41011
(R.Ph. No. 03-2-12681)
INTRODUCTION

THE MATTER OF MATTHEW EARL FISHER CAME TO HEARING ON DECEMBER 13, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MATTHEW EARL FISHER 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) Matthew Earl Fisher, R.Ph., Respondent
- (2) Wayne Miller, Advocate, Pharmacists Rehabilitation Organization
- (3) David W. Baker, President, Pharmacists Rehabilitation Organization

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Order of the State Board of Pharmacy, Docket No. D-980820-008, in the matter of Matthew Earl Fisher dated May 5, 1999.
- (2) Exhibit 1A--Copy of five-page Settlement Agreement With The State Board of Pharmacy, Docket No. D-971210-025, in the matter of Matthew Earl Fisher effective April 6, 1998.
- (3) Exhibit 1B--Request For Hearing And Motion To Address The Board submitted by Douglas E. Graff with attached Certificate of Service dated May 24, 1999.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated May 27, 1999.

Respondent's Exhibits:

- (1) Exhibit A--Binder with subsections containing copies of the following: five-page Settlement Agreement With The State Board of Pharmacy, in the matter of Matthew Earl Fisher, Docket No. D-971210-025, not effective. Section 1-Treatment Records: letter from Gloria J. Bryan, not dated; University Hospitals East Release Of Information Concerning Alcohol/Drug Treatment of Matthew Fisher dated November 9, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated November 1, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated July 27, 1999; Talbot Recovery Services Continuing Care Program report regarding Matt Fisher dated May 20, 1999; two copies of letter from Gloria J. Bryan dated March 24, 1999; Talbot Recovery Services Release Of Information Concerning Alcohol/Drug Treatment of Matthew E. Fisher dated March 23, 1999; letter from Gloria J. Bryan dated

December 16, 1998; letter from Gloria J. Bryan dated December 15, 1998; two-page Park Medical Center Talbot Recovery Services Policy No. 59 regarding urine drug screens approved August 25, 1995, and reviewed August 21, 1997; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated February 23, 1999; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated December 9, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated October 21, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated September 1, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated July 28, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated June 16, 1998; Talbot Recovery Services Continuing Care Program report regarding Matthew Fisher dated April 28, 1998; and two-page Talbot Recovery Services Continuing Care Plan of Matthew Fisher dated March 3, 1998. Section 2-Urine Drug Screens: thirty-eight pages consisting of twenty-five urine drug screen reports of Mathew (sic Matthew) Fisher for samples collected between March 13, 1998, and November 9, 1999; memorandum from Kevin B. Hawkins dated March 25, 1999; and St. Elizabeth Medical Center Breath Alcohol Testing Form of Matthew E. Fisher dated November 16, 1998. Section 3-Pharmacist Recovery Organization: letter from Wayne C. Miller dated November 16, 1999; letter from David W. Baker dated March 28, 1999, letter from Wayne C. Miller dated March 22, 1999; page one of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Matthew Fisher dated March 7, 1998; and Pharmacists Helping Fellow Pharmacists Rehabilitation Contract of Matthew Earl Fisher dated October 31, 1998. Section 4-AA/NA Attendance: forty-five pages of meeting attendance verification of Matthew E. Fisher dated from December 13, 1997, through November 16, 1999. Section 5-Continuing Education: fourteen pages consisting of fourteen continuing education certificates of Matthew Earl Fisher numbered 424-999-97-010-H01, 071-000-96-007-H01, 332-000-96-001-H03, 332-000-96-006-H01, 332-000-96-002-H01, 332-000-96-005-H01, 202-000-96-027-H04, 202-000-96-026-H04, 202-000-99-074-H04, 202-000-96-010-H01, 032-999-98-008-H01, 049-999-96-005-L04, 057-999-97-077-H01, and 1100-479-S; program notification titled "Recent Advances in Drug Therapy"; three-page handwritten summary of continuing pharmacy education courses of Matthew E. Fisher; Provider Information sheet listing program numbers 022-00098128L01, 022-00098140L03, 022-00098159L04, and 022-00098139L01; and three certificates numbered 014-999-96-122-H04. Section 6-Letters of Support: letter from Gerauld Gismondi dated November 17, 1999; letter from Christina M. Moreland dated November 15, 1999; letter from Greg Jacobs dated November 18, 1999; two letters from Brian Fingerson dated November 3, 1999, and August 13, 1999; letter from Doug Ingle, not dated; letter from Thomas W. Ashelman dated March 19, 1999; letter from Jerome Bayer dated March 22, 1999; letter from John F. Richard, not dated; letter from Greg Jacobs dated March 22, 1999; and letter from Thomas L. Geraci dated March 23, 1999. Section 7-Kentucky Board of Pharmacy: letter from Matthew E. Fisher dated November 8, 1999; three Kentucky Board of Pharmacy invoices dated April 8, 1999; June 21, 1999; and September 27, 1999; letter from Michael A. Moné dated July 29, 1998; five-page Commonwealth of Kentucky, Kentucky Board of Pharmacy Order on Reinstatement of Matthew E. Fisher dated September 11, 1998. Section 8-Letters Submitted to Kentucky Pharmacy Board: letter from Robert J. Dougherty dated August 19, 1998; letter from Benjamin P. Kelch dated August 19, 1998; and letter from Thomas C. Harris, not dated. Section 9-South Carolina Pharmacy Board: letter from Matthew E. Fisher dated September 25, 1998. Section 10-Material on 48 Hour Testing: pages two through nineteen of a facsimile from Charlie Broussard sent on November 16, 1999, regarding urine drug screening.

FINDING OF FACT

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

- (1) Matthew Earl Fisher has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-980820-008, effective May 5, 1999.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-12681, held by Matthew Earl Fisher to practice pharmacy in the state of Ohio and places him on probation for five years from the date the identification card is issued, with the following conditions:

- (A) Matthew Earl Fisher must enter into a new contract, after the effective date of this Order, 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 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 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. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.
 - (c) Results of all 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 screen reports to the Ohio Board of Pharmacy in a timely fashion.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Matthew Earl Fisher 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 Matthew Earl Fisher's progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
 - (1) The State Board of Pharmacy hereby declares that Matthew Earl Fisher'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.
 - (2) Matthew Earl Fisher may not serve as a responsible pharmacist.
 - (3) Matthew Earl Fisher may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Matthew Earl Fisher must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.

- (5) Matthew Earl Fisher must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Matthew Earl Fisher must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Matthew Earl Fisher must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Adelman and approved by the Board (Aye-5/Nay-3).

RES. 2000-100 Ms. Abele then moved that the Board adopt the following Order in the matter of Larry Devonne Shaffer, Jr.:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-990916-022)

In The Matter Of:

LARRY DEVONNE SHAFFER, JR., R.Ph.

6366 South Water Street Ext.
Urichsville, Ohio 44683
(R.Ph. No. 03-2-17555)

INTRODUCTION

THE MATTER OF LARRY DEVONNE SHAFFER, JR. CAME TO HEARING ON DECEMBER 14, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LARRY DEVONNE SHAFFER, JR. WAS REPRESENTED BY STEPHEN B. YURIK, 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) Larry Devonne Shaffer, Jr., Respondent
- (2) Larry D. Shaffer, Sr., R.Ph., Father of Respondent
- (3) Sherie Shaffer, Wife of Respondent
- (4) Wesley W. Bailey, Polygraph Examiner
- (5) Charles McNatt, Pastor, Calvary United Methodist Church
- (6) Joseph McCartney, Owner, Pioneer Programming

(B) Exhibits

State's Exhibits:

- (1) Copy of five-page "Larry D. Shaffer's Motion to Exclude" in the matter of Ohio State Board of Pharmacy vs. Larry Devonne Shaffer, Jr., not dated.
- (2) Exhibit 1--Copy of five-page Order of the State Board of Pharmacy, Docket No. D-980320-050, in the matter of Larry Devonne Shaffer, Jr., R.Ph., dated April 13, 1998.
- (3) Exhibit 1A--Hearing Request letter dated May 13, 1998.
- (4) Exhibit 1B--Copy of letter from David L. Rowland dated May 19, 1998.
- (5) Exhibit 1C--Hearing Request letter dated July 14, 1999.
- (6) Exhibit 1D--Hearing Schedule letter dated July 16, 1999.
- (7) Exhibit 1E--Two-page Continuance Request letter dated September 29, 1999.
- (8) Exhibit 1F--Hearing Schedule letter dated October 5, 1999.
- (9) Exhibit 1G--Letter of Representation in the matter of Larry D. Shaffer, Jr., R.Ph. dated October 14, 1999.
- (10) Exhibit 1H--Copy of Pharmacist File Front Sheet of Larry Devonne Shaffer, Jr. showing original date of registration as October 31, 1988, with attached two-page copy of Renewal Application For Pharmacist License No. 03-2-17555, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Larry Devonne Shaffer, Jr. dated August 4, 1997.
- (11) Exhibit 2--Copy of four-page Consent Order Before the Virginia Board of Pharmacy certified on August 16, 1993.
- (12) Exhibit 3--Two-page copy of Renewal Application For Pharmacist License No. 03-1-17555, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Larry Devonne Shaffer, Jr., dated July 9, 1994.
- (13) Exhibit 4--Copy of handwritten statement of Larry Shaffer dated September 1, 1994.
- (14) Exhibit 5--Copy of two-page Indictment in the matter of State of Ohio vs. Larry Shaffer, Case No. 94-CR-189, Wayne County Common Pleas Court, dated October 11, 1994.
- (15) Exhibit 6--Certified copy of two-page Journal Entry in the matter of State of Ohio vs. Larry Shaffer, Case No. 94-CR-189, Wayne County Common Pleas Court, dated March 29, 1995.
- (16) Exhibit 7--Copy of seven-page Order of the State Board of Pharmacy, Docket No. D-940915-016, in the matter of Larry Devonne Shaffer, Jr., R.Ph. dated June 30, 1995.
- (17) Exhibit 8--Copy of five-page Order of the State Board of Pharmacy, Docket No. D-960126-037, in the matter of Larry Devonne Shaffer, Jr., R.Ph., dated October 29, 1996.
- (18) Exhibit 9--Two-page copy of Pharmacist's Recovery Contract of Larry Shaffer dated November 16, 1996.
- (19) Exhibit 10--Copy of two-page Client Reporting Sheet/Client Monitoring Sheet for the period from July 1, 1997, to September 30, 1997.
- (20) Exhibit 11--Copy of two-page Client Reporting Sheet/Client Monitoring Sheet for the period from October 1, 1997, to December 31, 1997.
- (21) Exhibit 12--Copy of letter from Christopher Hart dated March 9, 1998.
- (22) Exhibit 13--Copy of letter from Nick A. Kallis dated March 15, 1998.

Respondent's Exhibits:

- (1) Exhibit A--Copy of two-page Shepherd Hill Hospital Recovery Monitoring Services Agreement of Larry Shaffer dated January 25, 1995.
- (2) Exhibit B--Copy of RMS Extended Service Agreement of Larry Shaffer dated November 20, 1996.
- (3) Exhibit C--Copy of letter from Christine Lindskog dated December 8, 1999.
- (4) Exhibit D--Copy of letter from Chris Lindskog dated April 8, 1998, with attached copy of letter from Christine Lindskog dated August 9, 1999.
- (5) Exhibit E--Forty-eight pages of copies of urine drug screen reports of Larry Shaffer for samples collected between January 6, 1997, and November 9, 1999.
- (6) Exhibit F--Copy of three pages of meeting attendance records dated from April 7, 1998, through December 10, 1999.
- (7) Exhibit G--Copy of letter from Gregory M. Weber dated October 4, 1999.
- (8) Exhibit H--Copy of letter from Rev. Charles McNatt dated September 15, 1999.
- (9) Exhibit I--Copy of Calvary United Methodist Church service program for December 13, 1998.

- (10) Exhibit J--Copy of letter from Joseph R. McCartney dated September 24, 1999.
- (11) Exhibit K--Copy of letter from Victor W. Roth dated September 24, 1999.
- (12) Exhibit L--Copy of two-page letter from Mariann Moneymaker dated October 1, 1999.
- (13) Exhibit M--Copy of letter from Robert S. Carnahan dated September 28, 1999.
- (14) Exhibit N--Copy of letter from Tom Haugh dated September 9, 1999.
- (15) Exhibit O--Copy of letter from Patricia Ready dated September 12, 1999.
- (16) Exhibit P--Copy of letter from Bob Swickard not dated.
- (17) Exhibit Q--Copy of letter from Larry D. Shaffer, Sr., dated September 21, 1999, with attached copy of two-page letter from Larry D. Shaffer, Sr. and Betty L. Shaffer.
- (18) Exhibit R--Copy of letter from Christopher A. Shaffer dated September 23, 1999.
- (19) Exhibit S--Copy of letter from Mrs. Rachel Shaffer dated September 13, 1999.
- (20) Exhibit T--Copy of letter from Michelle McLaughlin dated September 28, 1999.
- (21) Exhibit U--Copy of letter from Helen Culbertson and Terry Culbertson dated September 28, 1999.
- (22) Exhibit V--Copy of letter from Pamela L. Oliver dated September 23, 1999.
- (23) Exhibit W--Copy of letter from Cathy Burdette dated September 1, 1999.
- (24) Exhibit X--Copy of letter from Denise Groves dated September 25, 1999.
- (25) Exhibit Y--Copy of letter from Joan Reed dated September 22, 1999.
- (26) Exhibit Z--Copy of letter from Ohio Rep. Jerry W. Krupinski dated February 9, 1999.
- (27) Exhibit AA--Copy of page Z6-13 from "The Shopper" dated October 1989.
- (28) Exhibit BB--Copy of pages one and three of "AMS System" dated August 1992.
- (29) Exhibit CC--Copies of a Fax Cover Sheet from Chris Lindskog dated December 14, 1999, a letter from Christine Lindskog dated December 14, 1999, and two urine drug screen reports of Larry Shaffer for samples collected on October 9, 1997 and on (date illegible).

FINDING OF FACT

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

- (1) Larry Devonne Shaffer, Jr. has not complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-980320-050, dated April 13, 1998.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby denies the reinstatement petition of Larry Devonne Shaffer, Jr. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Larry Devonne Shaffer, Jr. may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during suspension.

Further, on November 1, 2000, or thereafter, the Board will consider any petition filed by Larry Devonne Shaffer, Jr. for a hearing, pursuant to Ohio Revised Code Chapter 119., upon the question of reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Larry Devonne Shaffer, Jr. must enter into a new contract, after the effective date of this Order, 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 and, upon signing, submit a copy of the contract to the Board office. 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 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. 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 all 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) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
- (3) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Larry Devonne Shaffer, Jr. must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Compliance with the contract required in paragraph (A) above (e.g.- copies of all urine screen reports, proof of giving the urine sample within twelve hours of notification, copies of meeting attendance records, copies of treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code (if applicable);
 - (3) Compliance with the terms of this Order.
- (C) If reinstatement is not accomplished within three years of the effective date of this Order, Larry Devonne Shaffer, Jr. must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

5:40 p.m. The motion was seconded by Ms. Eastman and approved by the Board (Aye-8/Nay-0).

The Board meeting recessed until Wednesday, December 15, 1999.

WEDNESDAY, DECEMBER 15, 1999

10:06 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:

Robert B. Cavendish, R.Ph. (President); Diane C. Adelman, R.Ph. (Vice-President); Ann D. Abele, R.Ph.; Suzanne Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; and Amonte Littlejohn, R.Ph.

10:13 a.m.

The Board was joined by Paul Kover, R.Ph. and Joann Predina, R.Ph., Compliance Specialists for the Board. The discussion about the McKesson/HBOC dispensing proposal continued from Tuesday. After the discussion, the Board gave Mr. Kover and Mrs. Predina direction on several areas of concern that they needed to examine further.

10:28 a.m.

Mr. Repke arrived and joined the meeting.

RES. 2000-101 William McMillen, R.Ph., Licensing Administrator for the Board, joined the meeting and discussed his Licensing Report with the Board. Mr. McMillen also presented the following

proposed policy on refunds for the Board's approval. Following discussion, Ms. Eastman moved that the Board adopt the following policy regarding refunds and renewals of Distributors' licenses:

BOARD POLICY ON FAILURE TO OPEN A BUSINESS WITHIN A REASONABLE PERIOD OF TIME

When a facility submits an application for a Dangerous Drug Distributor License and, through no fault of the Board of Pharmacy, fails to accept delivery of the license prior to the license expiration date, the Board office may issue one replacement distributor license.

If the facility has still not accepted delivery of the license by the expiration date of the replacement distributor license, the application shall be void and the fees shall be forfeited.

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

11:19 a.m.

The Board 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 Janice Marie Greavu, R.Ph., Stow.

12:12 p.m.

The hearing ended and the record was closed. The Board took a brief recess.

12:17 p.m.

Ms. Abele moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against a licensee. Ms. Eastman seconded the motion. President Cavendish then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Eastman-Yes, Giacalone-Yes, Littlejohn-Yes, and Repke-Yes.

1:10 p.m.

RES. 2000-102 The Executive Session ended and the meeting was opened to the public. Ms. Adelman moved that the Board adopt the following Order in the matter of Janice Marie Greavu, R.Ph., Stow:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-991007-028)

In The Matter Of:

JANICE MARIE GREAVU, R.Ph.

3045 Ridgeline Trail
Stow, Ohio 44224
(R.Ph. No. 03-2-19509)

INTRODUCTION

THE MATTER OF JANICE MARIE GREAVU CAME TO HEARING ON DECEMBER 15, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JANICE MARIE GREAVU WAS REPRESENTED BY THOMAS J. CABRAL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Louis Mandi, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Janice Marie Greavu, R.Ph., Respondent
(2) Karen T. Houser, R.Ph., Pharmacy Field Coordinator, Tops Markets, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated October 7, 1999.
- (2) Exhibit 1A--Hearing Request letter dated October 27, 1999.
- (3) Exhibit 1B--Hearing Schedule letter dated November 2, 1999.
- (4) Exhibit 1C--Copy of Letter of Representation from Thomas J. Cabral dated November 26, 1999.
- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of Janice Marie Sterling Greavu showing original date of registration as July 30, 1992, and two-page copy of Renewal Application for Pharmacist License No. 03-2-19509 for a license to practice pharmacy in Ohio from September 15, 1999, to September 15, 2000, of Janice Marie Greavu dated July 27, 1999.
- (6) Exhibit 2--Copy of Finast Pharmacy #857 Advanced Pharmacy Systems Patient Medical Expenses from January 1, 1998, to March 31, 1999, report dated March 31, 1999; copy of prescription for Christine Paolucci dated May 22, 1998, and copy of five prescription labels for prescription number 6020275 dated May 22, 1998; June 20, 1998; July 21, 1998; August 20, 1998, with dispensing pharmacist's initials JG; and August 20, 1998, with dispensing pharmacist's initials CS.
- (7) Exhibit 3--Copy of pages four and five of Finast Pharmacy #857 Advanced Pharmacy Systems Prescription Daily Audit report dated March 31, 1999.
- (8) Exhibit 4--Handwritten statement of Janice Greavu dated October 29, 1999.
- (9) Exhibit 5--Handwritten statement of Charles Segfreid dated October 29, 1999.

Respondent's Exhibits:

- (1) Exhibit A--Letter from Steve Scalzo dated December 6, 1999.
- (2) Exhibit B--Letter from Barry M. Adelman dated November 27, 1999.
- (3) Exhibit C--Letter from Elizabeth M. Molnar dated November 30, 1999.
- (4) Exhibit D--Letter from Ronald C. Foster dated November 28, 1999.
- (5) Exhibit E--Copy of letter from Dawn Dennis dated September 13, 1996.
- (6) Exhibit F--Copy of Tops Markets, Inc. memorandum to all pharmacists from Steve Scalzo dated July 14, 1999; pages one and seven of Tops Market, Inc. Pharmacy Law Operations Manual revised July 2, 1998; and procedure for Prescription Quality Review.
- (7) Exhibit G--Copy of Memorandum from Steve Scalzo dated December 2, 1999.
- (8) Exhibit H--Tops Pharmacy #857 Patient Medical Expenses from February 1, 1998, to August 20, 1998, report dated November 26, 1999; and Tops Pharmacy #857 Patient Medical Expenses from August 21, 1998, to March 1, 1999, report dated November 26, 1999.

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Janice Marie Greavu was originally licensed in the state of Ohio on July 30, 1992, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Janice Marie Greavu did, on or about August 20, 1998, sell a misbranded drug, to wit: Janice Marie Greavu recorded a telephone prescription for 120 unit doses of carbamazepine 200mg (Tegretol™) with directions to take 2 tablets twice a day; however, the vial, labeled as prescription number 6020275, contained 120 unit doses of Theophylline 200mg sustained-release tablets. The patient took the medication as stated in the directions for use and thus needed medical intervention. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (3) Janice Marie Greavu did, on or about August 20, 1998, and again on or about August 22, 1998, fail to perform patient counseling, to wit: after dispensing prescription number 6020275, Janice Marie Greavu failed to review the original prescription and/or refill information for over-utilization, incorrect drug or drug dosage and duration of drug treatment, and/or misuse; and Janice Marie Greavu

failed to offer patient counseling. The patient had been prescribed carbamazepine 200mg but was dispensed Theophylline 200mg sustained-release tablets. The patient called the pharmacy prior to ingesting any of the medication to inquire about the difference in shape, color, and size. Janice Marie Greavu responded to the inquiry, telling the patient that the medication was correct and that the difference was due to a change in the generic manufacturer, even though she had the knowledge, resources, and capability to correct the error and prevent patient harm. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

CONCLUSION OF LAW

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 unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Based on the foregoing Findings of Fact and Conclusion of Law, the State Board of Pharmacy takes the following actions in the matter of Janice Marie Greavu:

- (A) Janice Marie Greavu is hereby admonished for her actions in this matter; however, this shall not be considered a disciplinary action by the Board.
- (B) Further, the Board confirms the importance of appropriate patient counseling and careful prospective drug utilization review.

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

MOTION CARRIED.

SO ORDERED.

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

1:15 p.m.

RES. 2000-103 Ms. Steuk and Mr. Rowland presented a request to separate the hearings for Imogene Maynard, Suellen Ogden, and John Lafferty that had been received from Ms. Maynard's attorney. Mr. Littlejohn moved that the Board deny the request for separation of the hearings and hold the hearings as originally scheduled. The motion was seconded by Ms. Eastman and approved by the Board (Aye-6/Nay-0).

1:21 p.m.

Ms. Abele moved that the Minutes of the November 8, 9, 10, 1999 meeting be approved as amended. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-6/Nay-0).

1:22 p.m.

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

PER DIEM	<u>11/5</u>	<u>11/6</u>	<u>11/7</u>	<u>11/22</u>	<u>12/13</u>	<u>12/14</u>	<u>12/15</u>	<u>Total</u>
Abele	-	-	-	-	1	1	1	3
Adelman	-	-	-	-	1	1	1	3
Cavendish	-	-	-	-	1	1	1	3
Eastman	-	-	-	-	1	1	1	3
Giacalone	1	1	1	-	1	1	1	6
Kost	-	-	-	-	1	1	-	2
Littlejohn	-	-	-	-	1	1	1	3
Neuber	-	-	-	1	1	1	-	3
Repke	-	-	-	-	1	1	1	3

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

1:23 p.m.

Mr. Repke moved that the meeting be adjourned. The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-6/Nay-0).

/s/ Robert B. Cavendish
Robert B. Cavendish, President

/d/ 1-11-2000
Date

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