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Minutes Of The Meeting

Ohio State Board of Pharmacy
Columbus, Ohio
November 2, 3, 4, 1998

MONDAY, NOVEMBER 2, 1998

8:06 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. (Vice-President); Ann D. Abele, R.Ph.; Diane C. Adelman, R.Ph.; Paul F. Lamping, R.Ph.; Amonte B. Littlejohn, R.Ph.; Suzanne L. Neuber, R.Ph.; Ruth A. Plant, R.Ph.; and Nicholas R. Repke, Public Member.

8:08 a.m.

RES. 99-067 Board staff reported that the following settlement agreements had been signed by all parties:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY (Docket No. D-980610-064)

In the Matter of:

THE PHARM #912
c/o Ming Fai Yu, R.Ph.
710 West Market Street
Tiffin, Ohio 44883
(Terminal Distributor No. 02-0590150)

This Settlement Agreement is entered into by and between The Pharm #912 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.

The Pharm #912 enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

The Pharm #912 is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against The Pharm #912, and in order to obviate the need to conduct an administrative hearing to consider disciplinary sanctions against the license of The Pharm #912, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings. The Pharm #912 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 10, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

- (1) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew, or impose a monetary penalty on any terminal distributor of dangerous drugs for violation of any of the enumerated grounds.
- (2) Records of the Board of Pharmacy indicate that Ming Fai Yu is the Responsible Pharmacist at The Pharm #912 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (3) The Pharm #912 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code, to wit: The Pharm #912 has employed several known drug addicts who have been found guilty of violating state and/or federal drug laws, but the pharmacy has not instituted any additional safeguards or controls to prevent the recurrence of the violations.
- (4) The Pharm #912, from April 30, 1995, through November 7, 1995, failed to notify the Board of Pharmacy, the Drug Enforcement Administration, and/or law enforcement authorities upon discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: the following losses were discovered by The Pharm #912 but were not reported until after a Board agent discovered them during an inspection and directed the pharmacist to file the necessary reports:

<u>Drug</u>	<u>Quantity</u>
Dilaudid 2mg	31
Dilaudid 4mg	12
MS Contin 30mg	7

Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code.

- (5) The Pharm #912 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code, to wit: The Pharm #912 failed to employ a Responsible Pharmacist from September of 1995, through January 1, 1996.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, The Pharm #912 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The Pharm #912 agrees to implement the following attached Seaway Food Town, Inc.'s Company Policies dated June, 1997: Pharmacy Associate Hiring, Reporting Drug Shortages, Associate Responsibility to Report Drug Diversion, Professional Liability, and Destruction of Dangerous Drugs.
- (B) The Pharm #912 agrees to the imposition of a monetary penalty of one thousand five hundred dollars (\$1,500.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, The Pharm #912 appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

The Pharm #912 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

The Pharm #912 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. The Pharm #912 agrees that should the Board reject this Agreement and if this case proceeds to hearing, it will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

/s/ Charles V. Baumgartner VP-HR
Representative on behalf of The Pharm #912

/d/ 10-2-98
Date of Signature

/s/ Mark D Senff
Mark D. Senff, Attorney for Respondent

/d/ 9/30/98
Date of Signature

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

/d/ 10/23/98
Date of Signature

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

/d/ 10-8-98
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-980610-066)

In the Matter of:

THE PHARM #918
c/o Robert C. Ferguson, R.Ph.
1560 W. Michigan Street
Sidney, Ohio 45365
(Terminal Distributor No. 02-0697800)

This Settlement Agreement is entered into by and between The Pharm #918 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.

The Pharm #918 enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

The Pharm #918 is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against The Pharm #918, and in order to obviate the need to conduct an administrative hearing to consider disciplinary sanctions against the license of The Pharm #918, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings. The Pharm #918 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 10, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

- (1) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew, or impose a monetary penalty on any terminal distributor of dangerous drugs for violation of any of the enumerated grounds.
- (2) Records of the Board of Pharmacy indicate that Robert C. Ferguson is the Responsible Pharmacist at The Pharm #918 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (3) The Pharm #918 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code, to wit: The Pharm #918 has employed several known drug addicts who have been found guilty of violating

state and/or federal drug laws, but the pharmacy has not instituted any additional safeguards or controls to prevent the recurrence of the violations.

- (4) The Pharm #918, from January 15, 1996, through March 18, 1997, failed to notify the Board of Pharmacy, the Drug Enforcement Administration, and/or law enforcement authorities upon discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: the following losses were discovered by The Pharm #918 but were not reported:

<u>Drug</u>	<u>Quantity</u>
Xanax 1mg	10,996
Phentermine 37.5mg	2,547
Adipex - P	5,256
Phentermine 30mg	1,216
Fastin 30mg	382
Diazepam 5mg	786
Valium 5mg	62
Valium 10mg	663
Alprazolam 1mg	100
Dexedrine 5gm	97
Dexedrine 10mg	300
Dexedrine 15mg	37
Tuinal 200mg	120
Percocet	206
Oxycodone with APAP	251
Tylox	117
Roxilox	385

In addition, numerous dosage units were discovered missing when the pharmacists employed by The Pharm #918 prepared perpetual inventories; the pharmacists did not mention the shortages to Board agents when inspections were conducted, nor were any required written reports filed. Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, The Pharm #918 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The Pharm #918 agrees to implement the following Seaway Food Town, Inc.'s Company Policies dated June, 1997: Pharmacy Associate Hiring, Reporting Drug Shortages, Associate Responsibility to Report Drug Diversion, Professional Liability, and Destruction of Dangerous Drugs.
- (B) The Pharm #918 agrees to the imposition of a monetary penalty of one thousand five hundred dollars (\$1,500.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, The Pharm #918 appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

The Pharm #918 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

The Pharm #918 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. The Pharm #918 agrees that should the Board reject this Agreement and if this case proceeds to hearing, it will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

/s/ Charles V. Baumgartner VP-HR
Representative on behalf of The Pharm #918

/d/ 10-2-98
Date of Signature

/s/ Mark D Senff
Mark D. Senff, Attorney for Respondent

/d/ 9/30/98
Date of Signature

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

/d/ 10/23/98
Date of Signature

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

/d/ 10-8-98
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-980610-065)

In the Matter of:

THE PHARM #924
c/o Andrea A. Long, R.Ph.
713 S. Sandusky
Bucyrus, Ohio 44820
(Terminal Distributor No. 02-0791150)

This Settlement Agreement is entered into by and between The Pharm #924 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.

The Pharm #924 enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

The Pharm #924 is knowingly and voluntarily acknowledging that, in order to settle the charges that have been filed by the Board against The Pharm #924, and in order to obviate the need to conduct an administrative hearing to consider disciplinary sanctions against the license of The Pharm #924, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings. The Pharm #924 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 10, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

- (1) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew, or impose a monetary penalty on any terminal distributor of dangerous drugs for violation of any of the enumerated grounds.
- (2) Records of the Board of Pharmacy indicate that Andrea A. Long is the Responsible Pharmacist at The Pharm #924 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (3) The Pharm #924 has continually failed to provide effective and approved controls and procedures to guard against theft and diversion of dangerous drugs, to wit: controls were inadequate to prevent, detect, rectify, and/or report the theft of the following controlled substances during the time period preceding May of 1996:

<u>Drug</u>	<u>Quantity</u>
Demerol 10mg	158ml
Demerol 50 mg	46
Percocet 5mg	58
Methylphenidate 5mg	7
Methylphenidate 10mg	10
Roxilox 5mg	12
Roxicet	5

Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.

- (4) The Pharm #924, from November 1, 1995, through May 1, 1996, failed to notify the Board of Pharmacy, the Drug Enforcement Administration, and/or law enforcement authorities upon discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: the following losses were discovered by The Pharm #924 but were not reported until after a Board agent discovered them during a routine inspection:

<u>Drug</u>	<u>Quantity</u>
Demerol 10mg	158ml
Demerol 50 mg	46
Percocet 5mg	58
Methylphenidate 5mg	7
Methylphenidate 10mg	10
Roxilox 5mg	12
Roxicet	5

Additionally, when a pharmacy technician saw a pharmacist steal a unit dose of a dangerous drug and also consume what appeared to be a Schedule V cough syrup while practicing pharmacy on April 19, 1996, the technician reported it to another pharmacist employed by The Pharm. However, the felonious conduct (theft of drugs, Section 2913.02 of the Ohio Revised Code) was not reported to law enforcement, which is in violation of Section 2921.22 of the Ohio Revised Code. Such conduct is in violation of Rule 4729-9-15 of the Ohio Administrative Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, The Pharm #924 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The Pharm #924 agrees to implement the following Seaway Food Town, Inc.'s Company Policies dated June, 1997: Pharmacy Associate Hiring, Reporting Drug Shortages, Associate Responsibility to Report Drug Diversion, Professional Liability, and Destruction of Dangerous Drugs.
- (B) The Pharm #924 agrees to the imposition of a monetary penalty of two thousand dollars (\$2,000.00) due and owing within 30 days of the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, The Pharm #924 appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

The Pharm #924 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

The Pharm #924 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. The Pharm #924 agrees that should the Board reject this Agreement and if this case proceeds to hearing, it will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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

/s/ Charles V. Baumgartner VP-HR
Representative on behalf of The Pharm #924

/d/ 10-2-98
Date of Signature

/s/ Mark D Senff
Mark D. Senff, Attorney for Respondent

/d/ 9/30/98
Date of Signature

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

/d/ 10/23/98
Date of Signature

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

/d/ 10-8-98
Date of Signature

RES. 99-068 Mrs. Plant moved that the Board approve a continuance for the hearing scheduled in the matter of Jeffrey Scott Dannemiller, R.Ph. that had been scheduled for Wednesday, November 4, 1998 at 1:30 p.m. The continuance was requested by Mr. Dannemiller's attorney. The motion was seconded by Mr. Lamping and approved (Aye-8/Nay-0).

RES. 99-069 Mrs. Plant moved that the Board appoint William McMillen, R.Ph. as the Director of Internship for the Board. The motion was seconded by Ms. Abele and approved (Aye-8/Nay-0).

RES. 99-070 Mrs. Neuber moved that the Board approve the NAPLEX Letter of Agreement with the National Association of Boards of Pharmacy (NABP) for the 1999 testing year. The motion was seconded by Mr. Littlejohn and approved (Aye-8/Nay-0).

Mr. Winsley reported that the proposed rules approved during the October Board meeting that are to be considered at the December 7, 1998 Public Hearing were filed on October 26, 1998 with the appropriate agencies and the public notices distributed.

RES. 99-071 Mr. Lamping, Ms. Abele, and Mr. Winsley reported on the NABP/AACP District IV meeting that they attended in Indianapolis between October 30 and November 1, 1998. Mr. Lamping was appointed as the District IV Alternate Delegate to the NABP Resolutions Committee and Mr. Winsley was appointed as the District IV Delegate to the NABP Nominations Committee during the District IV meeting.

RES. 99-072 Mrs. Plant moved that the Board approve a request for a pick-up station variance pursuant to Rule 4729-5-10 of the Ohio Administrative Code from the Hospice at Riverside and Grant. The Hospice requested the ability to store patient comfort care kits at the inpatient Hospice location until the patient is sent home. The motion was seconded by Mr. Lamping and approved (Aye-8/Nay-0).

9:10 a.m.

The meeting was recessed for 10 minutes.

9:20 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 Mary Elizabeth Starr, R.Ph., Gahanna, Ohio.

9:24 a.m.

The hearing was recessed to allow the Board to review the documentation submitted by Ms. Starr in support of her reinstatement petition.

9:50 a.m.

The hearing resumed.

9:52 a.m.

Mrs. Plant moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against licensees and registrants. Mr. Lamping seconded the motion. Vice-President Cavendish then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

10:10 a.m.

RES. 99-073 The Executive Session was concluded and the meeting opened to the public. Mrs. Plant moved that the Board deny the reinstatement of the identification card issued to Mary Elizabeth Starr at this time, that Mary Elizabeth Starr be instructed to obtain monthly urine screens that include testing for alcohol until the hearing is resumed, and that Mary Elizabeth Starr may not appear before the Board for reconsideration of her petition of reinstatement until at least the March, 1999 Board meeting. The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-8/Nay-0).

RES. 99-074 After the Board discussed the motion with Ms. Starr, Mrs. Plant moved that Ms. Starr be allowed to continue her employment at Target stores that involves employment in areas outside of the pharmacy departments. This motion was made with the understanding that the Board expects to approve all such employment arrangements prior to the initiation of the employment by the respondent. Mr. Lamping seconded the motion and it was approved (Aye-8/Nay-0).

10:42 a.m.

Nancy Little, Information Systems Administrator, joined the Board to discuss the following letter about the Year 2000 computer problem which would be included in the packets with the Terminal Distributor of Dangerous Drugs licenses that would soon be mailed out.

Why should You be concerned about the Year 2000 Problem?

The Year 2000 Problem involves the inability of information systems and their applications to recognize the date change to the new millennium and presents special difficulties for the health care industry.

Many technical, operational, regulatory, and legal factors must be considered as the challenge of avoiding compromise of patient care is met. In addition to the business concerns we share with other service industries (i.e., the need to avoid system failures and operational problems in computer networks, desktop applications, and billing, purchasing, scheduling, and record keeping systems), there are critical issues unique to health care that must be addressed. **Health care providers face technical issues associated with identifying and modifying all non-compliant systems and devices and legal liability related to possible compromise of patient care.**

Few health care entities have begun to deal directly with one of the most difficult issues: potentially non-compliant medical devices and equipment. Microchips (microprocessors) that use date sensitive logic are embedded in many medical devices and equipment and no one is certain to what extent those microchips will be affected by the date change to the year 2000. As in other industries, assessing and correcting the problem is a massive undertaking for health care providers and an enormous amount of work needs to be done in a short period of time.

The Ohio Board of Pharmacy has been studying the potential impact of the year 2000 computer problem on health care delivery, in particular pharmacy practice and the delivery of pharmaceuticals, and is now implementing a series of initiatives to assist its licensed entities in preparing for the date change. One important activity is providing ongoing outreach, education and information and establishing a variety of forums for providers to share experiences and ideas as to how to address the many year 2000 related tasks and challenges they face.

As a part of this outreach, the Ohio Board of Pharmacy will be providing a booklet on our web page entitled "Ohio Board of Pharmacy Year 2000 Information Pack: Guidance for Pharmacists and Practice Managers." In developing this Guidebook, the Board of Pharmacy, in conjunction

with the State of Ohio Year 2000 Competency Center, will be reviewing representative pharmacy practices and providing the results of these reviews as models for the remainder of health care businesses in Ohio.

It must be understood though that the ultimate responsibility for resolving Year 2000 problems resides with the health care provider. Health care providers need to devote significant time, resources and energy to the year 2000 computer problem without detracting from their primary focus of providing high quality patient care. It is, therefore, essential that we all look for ways to assist in preparing the health care delivery system for the year 2000.

The Ohio Board of Pharmacy has an area on our web home page that provides information and links to other web pages containing information on the Y2K (Year 2000) issue in the Medical and Health Care industry. The URL (address on the internet) to get to the Board's home page is:

<http://www.state.oh.us/pharmacy/>

Click on the YEAR 2000 section to access this information. Additionally, the following areas have been identified as potential problem areas and lessons learned:

- ❑ In a Dutch pharmaceutical manufacturing facility, it is common practice that older medicines are sold before the newer ones, however, medicines with an expiration date of "00" were sold first! A new group was destroyed because the expiration date of "00" was passed.
- ❑ A pharmaceutical association reports that two pharmacies had their entire records wiped out while they were testing their PC system for Millennium compliance.
- ❑ An Ohio Year 2000 Competency Center Consultant had identified a problem in a community hospital with intravenous infusion pumps, which give very accurate drug dosages to patients over a period of time. If these pumps are not recalibrated every six months, they shut down as a safety feature. As the clocks are rolled forward to the Year 2000, the clock in the embedded computer chip is not Year 2000 compliant, and the equipment will assume it was last recalibrated 100 years ago and stop functioning. This could have serious consequences for patients.

The Ohio Board of Pharmacy requests that you review your business to determine if you have satisfactorily addressed your potential Year 2000 problems. Remember that this is not just a "computer problem". If not corrected, it could have long reaching effects on business solvency, liability and public health and safety.

RES. 99-075 William McMillen, Licensing Administrator, joined the Board and distributed his licensing report for the Board's review. In addition, Mr. McMillen presented the following two requests for waivers pursuant to Ohio Administrative Code Rule 4729-5-11. Following discussion, Mrs. Plant moved that the request of Robert Wood, R.Ph. for approval to serve as the responsible pharmacist at the following sites be approved for three months:

Medicine Shoppe (02-0175500)
Central Ohio Compounding Pharmacy (02-1050650)

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

RES. 99-076 Ms. Abele then moved that the Board approve the request of Eric Tawney, R.Ph. to serve as the responsible pharmacist at the following sites for three months:

Kaiser Foundation Health Plan Pharmacy (02-0033850)
Kaiser Foundation Health Plan Pharmacy (02-0274600)

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

RES. 99-077 Mr. Winsley presented an application for approval as a provider of continuing pharmacy education (CPE) from Samaritan Regional Health System in Ashland. After discussion, Mr.

Lamping moved that Samaritan Regional Health System be approved as a provider of CPE. The motion was seconded by Mrs. Adelman and approved (Aye-7/Nay-0). Ms. Abele recused herself from the consideration and the vote in this matter.

11:10 a.m.

The Board recessed for lunch.

1:15 p.m.

The Board, except for Mr. Cavendish, reconvened in Room 1914 with President Maslak present and continued discussion of agenda items not requiring Board action. Mr. Winsley distributed copies of letters received regarding the proposed rules that were filed for the December 7, 1998 public hearing. The letters will be made a part of the hearing record on December 7th.

1:40 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 Charles M. Hanifin, Wintersville, Ohio.

2:41 p.m.

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

2:50 p.m.

The Board reconvened in Room 1914. Mrs. Adelman moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearing in the matter of Charles M. Hanifin. The motion was seconded by Mr. Lamping. President Maslak conducted the following roll call vote: Abele-Yes, Adelman-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

3:00 p.m.

RES. 99-078 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980511-058)

In The Matter Of:

CHARLES M. HANIFIN
203 N. Avalon Drive
Wintersville, Ohio 43953
(D.O.B. 6/27/42)

INTRODUCTION

THE MATTER OF CHARLES M. HANIFIN CAME TO HEARING ON NOVEMBER 2, 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.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

CHARLES M. HANIFIN 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) Charles M. Hanifin, Respondent

Respondent's Witnesses:

- (1) David Boyer, Pharmacists Rehabilitation Organization

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated May 11, 1998.
- (2) Exhibit 1A--Hearing Request letter dated May 20, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated May 22, 1998.
- (4) Exhibit 1C--Continuance Request letter dated June 12, 1998.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated June 18, 1998.
- (6) Exhibit 1E--Application for Examination as a Pharmacist of Charles M. Hanifin signed and notarized on March 27, 1998.
- (7) Exhibit 1F--Copy of Pharmacist File Front Sheet of Charles Michael Hanifin dated August 16, 1995.
- (8) Exhibit 1G--Copy of two-page Order, The State Board of Pharmacy vs. Charles M. Hanifin, Docket No. 6-27-3, dated October 3, 1978.
- (9) Exhibit 1H--Copy of Application for Examination as Pharmacist of Charles Michael Hanifin dated May 3, 1989.
- (10) Exhibit 1I--Copy of four-page Order of the State Board of Pharmacy, Docket No. D-890605-132, in the matter of Charles M. Hanifin dated November 9, 1989.
- (11) Exhibit 1J--Copy of three-page Notice of Opportunity for Hearing letter of Charles M. Hanifin dated January 26, 1994.
- (12) Exhibit 1K--Copy of five-page Order of the State Board of Pharmacy, Docket No. D-940126-040, in the matter of Charles Michael Hanifin dated October 31, 1994.

Respondent's Exhibits:

- (1) Exhibit A--Two-page copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Charles M. Hanifin dated May 18, 1998.
- (2) Exhibit B--Copy of eleven pages of meeting attendance verification sheets of Mike H. dated March 16, 1997, and from April 19, 1998, through September 24, 1998.
- (3) Exhibit C--Copies of three urine drug screen reports of Charles Hanifin dated July 28, 1998; June 16, 1998; and March 19, 1998.
- (4) Exhibit D--Copy of letter from Jerry W. Krupinski dated October 30, 1998; copy of letter from Kathy O'Leary dated October 22, 1998; copy of letter from Francis A. Sunseri dated October 20, 1998; copy of letter from Keith A. Wood, not dated; copy of letter from Richard S. Pflug dated October 9, 1998; copy of letter from Anne Stimmel dated October 13, 1998, with attached documentation dated from May, 1995, through October, 1998; copy of letter from Rev. Msgr. Gerald E. Calovini dated October 15, 1998.
- (5) Exhibit E--Two pages of meeting attendance verification sheets of Mike H. dated from October 5, 1998, through October 29, 1998.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that on or about March 30, 1998, Charles M. Hanifin submitted an Application for Examination as a Pharmacist.
- (2) Records further indicate that Charles M. Hanifin was originally licensed to practice pharmacy in the State of Ohio on August 16, 1965, pursuant to examination. On or about October 3, 1978, the Board concluded Charles M. Hanifin was guilty of three felony violations and guilty of "willfully violating, more than one time, provisions of Chapter 2925. of the Ohio Revised Code." For these reasons, Charles M. Hanifin's license, No. 03-1-08386, was revoked. The State Board of Pharmacy vs. Charles M. Hanifin, Docket No. 6-27-3.
- (3) On or about May 3, 1989, Charles M. Hanifin submitted an Application for Examination as a Pharmacist. The Board granted Charles M. Hanifin permission to sit for the examination provided he comply with certain conditions pursuant to the Order of the Board, Docket No. D-890605-132, dated November 9, 1989. Charles M. Hanifin was licensed in the State of Ohio for the second time as a pharmacist on February 23, 1990. Charles M. Hanifin's license was summarily suspended on Janu-

ary 26, 1994, in accordance with Section 3719.121(B) of the Ohio Revised Code. On or about October 31, 1994, the Board concluded that Charles M. Hanifin was guilty of dishonesty and unprofessional conduct in the practice of pharmacy; addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy; and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Ohio Revised Code. For these reasons, Charles M. Hanifin's second license, No. 03-2-18212, was revoked.

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 paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) 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 having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

ACTION OF THE BOARD

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

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

MOTION CARRIED.

SO ORDERED.

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

3:10 p.m.

The Board recessed the meeting until Tuesday, November 3, 1998.

TUESDAY, NOVEMBER 3, 1998

10:00 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.; Suzanne L. Neuber, R.Ph.; and Nicholas R. Repke, Public Member.

The Board members discussed information and agenda items not requiring Board action.

10:47 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 Mary Berk Mortus, R.Ph., Strongsville, Ohio.

12:23 p.m.

The hearing was concluded and the Board recessed until 1:00 p.m.

1:00 p.m.

All of the Board members, with the exception of Ruth Plant, reconvened in Room 1919 for the purpose of meeting with the following candidates for licensure by reciprocity:

ABUELKHAIR, MOHAMMED A.	03-2-23325	NEBRASKA
FINLEY, RICHARD KEITH	03-2-23336	WEST VIRGINIA
HOCKENBERRY, ROBERT GARY	03-2-23327	WEST VIRGINIA
JOHNSON, CARRIE L.	03-2-23297	KENTUCKY
KIHLSTROM, SHANNON PATRICK	03-2-23333	INDIANA
MANTESE, GARY V.	03-2-23317	ILLINOIS
MAZLOUM, ZIAD N.	03-2-23272	PENNSYLVANIA
MILLER, THOMAS R.	03-2-23301	PENNSYLVANIA
PAISLEY, GREGORY ALLEN	03-2-23334	PENNSYLVANIA
PATEL, BHAVESH	03-2-23299	MARYLAND
TAMMEN, JON D.	03-2-23318	INDIANA
TERRY, MONICA B.	03-2-23323	WEST VIRGINIA
WISNIESKI, KAREN M.	03-2-23330	PENNSYLVANIA

1:25 p.m.

RES. 99-079 Following presentations by Board members and self-introductions by the candidates for licensure by reciprocity, Mr. Littlejohn moved that the Board approve the candidates for licensure. The motion was seconded by Mr. Lamping and approved by the Board (Aye-7/Nay-0). The Board then recessed the meeting until Wednesday, November 4, 1998.

WEDNESDAY, NOVEMBER 4, 1998

8:11 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.; Suzanne L. Neuber, R.Ph.; and Nicholas R. Repke, Public Member.

Mrs. Adelman moved that the Minutes of the October 5, 6, 7, 1998 meeting be approved as amended. The motion was seconded by Mr. Cavendish and approved (Aye-6/Nay-0/-Abstain-1[Repke]).

8:25 a.m.

Mr. Lamping moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearing in the matter of Mary Berk Mortus R.Ph, Strongsville, Ohio. The motion was seconded by Mr. Cavendish. President Maslak conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

8:50 a.m.

RES. 99-080 The Executive Session was concluded and the meeting opened to the public. Mrs. Neuber moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980616-068)

In The Matter Of:

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

INTRODUCTION

THE MATTER OF MARY BERK MORTUS CAME TO HEARING ON NOVEMBER 3, 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.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARY BERK MORTUS WAS REPRESENTED BY MICHAEL E. MURMAN, 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) Mary Berk Mortus, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Notice of Opportunity for Hearing letter dated June 16, 1998.
- (2) Exhibit 1A--Hearing Request letter dated July 8, 1998, with attached copy of urine drug screen report of Mary Mortus dated May 13, 1998, and copy of breathalyzer report of Mary B Mortus dated May 13, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 14, 1998.
- (4) Exhibit 1C--Copy of Pharmacist File Front Sheet of Mary Berk Mortus showing original date of registration as July 26, 1971, and two-page copy of Renewal Application for Pharmacist License, No. 03-2-09832, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, signed and dated on July 17, 1997.
- (5) Exhibit 1D--Letter from Michael E. Murman dated July 22, 1998.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated July 27, 1998.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated August 3, 1998.
- (8) Exhibit 2--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-970327-035, in the matter of Mary Berk Mortus dated October 8, 1997.
- (9) Exhibit 3--Typewritten statement of Holly L. Reilly signed and notarized on October 23, 1998.
- (10) Exhibit 4--Handwritten statement of Vincent May signed and notarized on May 18, 1998.
- (11) Exhibit 5--Three-page handwritten statement of Gina Marie Rogers signed and notarized on May 18, 1998.
- (12) Exhibit 6--Three-page handwritten statement of George J. Lemke, Jr. signed and notarized on May 18, 1998.

- (13) Exhibit 7--Copy of ARUP Laboratories urine drug screen report of Client No. 05783 dated May 14, 1998.
- (14) Exhibit 8--Copy of University Hospitals Health Systems Laboratory Report, Accession No. 8133-GL2716, dated May 13, 1998.
- (15) Exhibit 9--Copy of note on a 4" x 6" Premarin notepad regarding a prescription error, dated July 10, 1997.
- (16) Exhibit 10--Copy of Community Hospital Bedford Anecdotal Note regarding sediment in Walter Hoenigman's IVPB dated May 9, 1997.

Respondent's Exhibits:

- (1) Exhibit A--Copy of three-page Glenbeigh Health Sources Discharge Summary of Mary Mortus, date of discharge: July 20, 1998.
- (2) Exhibit B--Copy of University Hospitals Health System Bedford Medical Center Agreement to Submit to an Alcohol and/or Drug Screen of Mary B. Mortus dated May 13, 1998; copy of ARUP Laboratories urine drug screen report of Client No. 05783 dated May 14, 1998; and copy of University Hospitals Health Systems Laboratory Report, Accession No. 8133-GL2716, dated May 13, 1998.
- (3) Exhibit C--Letter from Marilou Mertz dated August 31, 1998.
- (4) Exhibit D--Letter from Marilou J. Mertz dated October 19, 1998.
- (5) Exhibit E--Letter from Kathy Fussell Springer dated October 29, 1998, and attached two-page copy of credentials of Kathy Fussell Springer, not dated.
- (6) Exhibit F--Copy of Breath Alcohol Testing Form of Mary Mortus dated August 28, 1998.
- (7) Exhibit G--Copy of LabCorp urine drug screen report of Mary Mortus dated August 30, 1998.
- (8) Exhibit H--Copy of Breath Alcohol Testing Form of Mary Mortus dated September 30, 1998.
- (9) Exhibit I--Copy of Breath Alcohol Testing Form of Mary Mortus dated October 30, 1998.
- (10) Exhibit J--Copy of LabCorp urine drug screen report of Mary Mortus dated October 2, 1998.
- (11) Exhibit K--Copy of seven pages of AA/NA Attendance Verification of Mary Mortus dated from June 21, 1998, through October 26, 1998.
- (12) Exhibit L--Copy of letter from Pat Pusateri dated October 28, 1998.
- (13) Exhibit M--Letter from Ronald E. Mortus, not dated.
- (14) Exhibit N--Letter from B. Jeanette Zuffa dated October 26, 1998.
- (15) Exhibit O--Copy of letter from Kathy Seibyl dated August 17, 1998, with attached copy of two-page University Hospitals Health System Bedford Medical Center Corrective Action of Mary Mortus dated August 13, 1998.
- (16) Exhibit P--Letter from Antoinette Leiser, not dated.
- (17) Exhibit Q--Letter from Emil G. Dontenville dated November 11, 1998.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Mary Berk Mortus was originally licensed in the state of Ohio on July 26, 1971, pursuant to examination; however, on June 16, 1998, Mary Berk Mortus' license was suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Mary Berk Mortus was disciplined pursuant to the Order of the State Board of Pharmacy, Docket No. D-970327-035, dated October 8, 1997. The Board placed Mary Berk Mortus on probation for five years for the following cause:

Mary Berk Mortus is addicted to or abusing liquor or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy within the meaning of Section 4729.16(A)(3) of the Ohio Revised Code, to wit: Mary Berk Mortus admitted to a Board agent that she had a seven-year history of alcohol use which increased to "problematic drinking" during 1992-1993; Mary Berk Mortus indicated that she had been drinking to escape problems attendant to the practice of pharmacy, e.g. working too many hours due to "scheduling problems" and becoming physically exhausted. Further, Mary Berk

Mortus admitted herself to a two-week inpatient treatment program, followed by an aftercare program for her alcohol abuse problems in July, 1994, after having been subjected to disciplinary action by her employer, Lakewood Hospital, for having ingested enough alcohol to test 0.1 blood-alcohol level; and, her employment with Lakewood Hospital was terminated subsequent to December 28, 1995, for having violated her PRO (Pharmacists' Rehabilitation Organization, Inc.) contract by drinking alcohol, practicing pharmacy, and substituting water for urine when giving urine and blood samples for analysis. On March 27, 1996, Mary Berk Mortus had a meeting with a Board agent at which time she smelled of an alcoholic beverage.

- (3) Mary Berk Mortus was, on or about May 13, 1998, addicted to or abusing liquor and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: while on probation with the Board of Pharmacy, and while engaged in the practice of pharmacy at University Bedford Hospital, Mary Berk Mortus came to work under the influence of alcohol: she was acting "silly" and she smelled of alcohol. Though Mary Berk Mortus first denied drinking, she later admitted it when giving blood and urine samples. Further, Mary Berk Mortus admitted herself to Glenbeigh Hospital for a detoxification program and treatment; while there, Mary Berk Mortus telephoned the Board office and admitted drinking after having been placed on probation by the Board. Mary Berk Mortus has committed numerous errors while practicing pharmacy during her period of addiction to alcohol, at least one of which was a potentially deadly threat to a patient.

CONCLUSIONS OF LAW

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

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued June 16, 1998.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Mary Berk Mortus:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-09832, held by Mary Berk Mortus effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-09832, held by Mary Berk Mortus effective as of the date of the mailing of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

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

8:53 a.m.

The Board took a brief recess.

9:05 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 Henry B. Eyman, R.Ph., Springfield, Ohio.

9:57 a.m.

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

10:25 a.m.

Mr. Lamping moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearing in the matter of Henry B. Eyman, R.Ph. The motion was seconded by Mr. Cavendish. President Maslak conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

10:33 a.m.

RES. 99-081 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980727-004)

In The Matter Of:

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

INTRODUCTION

THE MATTER OF HENRY B. EYMAN CAME TO HEARING ON NOVEMBER 4, 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.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

HENRY B. EYMAN 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) Henry B. Eyman, Respondent
- (2) David W. Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Rodney Stone, M.D.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Settlement Agreement with the State Board of Pharmacy, Docket No. D-970423-037, in the matter of Henry B. Eyman effective September 8, 1997.
- (2) Exhibit 1A--Hearing Request letter dated July 22, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 27, 1998.

Respondent's Exhibits:

- (1) Exhibit A--Copies of the following: two-page Curriculum Vitae of Henry B. Eyman, four-page Settlement Agreement with the State Board of Pharmacy, Docket No. D-970423-037, in the matter of Henry B. Eyman effective September 8, 1997, and bound, tabbed sections as follows: PRO--Two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Henry Eyman dated September 8, 1997; five letters from Henry B. Eyman dated October 8, 1997; January 14, 1998; April 1, 1998; July 6, 1998; and October 1, 1998; and four letters from Rodney E. Stone, M.D. dated October 7, 1997; January 29, 1998; April 30, 1998; and July 22, 1998. Urines--Twenty-three urine drug screen reports of Henry B. Eyman dated as follows: July 16, 1997; July 24, 1997; two dated September 4, 1997; August 8, 1997; August 27, 1997; two dated September 3, 1997; October 6, 1997; September 23, 1997; October 1, 1997; October 21, 1997; November 21, 1997; December 19, 1997; January 23, 1998; February 21, 1998; March 20, 1998; April 17, 1998; May 26, 1998; June 30, 1998; September 18, 1998; August 20, 1998; September 24, 1998; and October 10, 1998. Meetings--Thirteen pages of meeting attendance verification sheets of Henry B. Eyman dated from May 6, 1997, through October 28, 1998. Legal--Bill of Information in the Montgomery County Common Pleas Court, Case No. 98-CR-181, State of Ohio vs. Henry B. Eyman, dated March 20, 1998; Entry and Order For Fingerprints in the Montgomery County Common Pleas Court, Case No. 98-CR-181, State of Ohio vs. Henry B. Eyman, dated March 20, 1998; Record regarding probation, court costs, and restitution; Montgomery County Adult Probation Department Drug Testing Instructions of Henry B. Eyman dated April 6, 1998; Results History of Henry B. Eyman dated from March 27, 1998, through May 1, 1998, with business card of Peter L. Geraci; Results History of Henry B. Eyman dated May 7, 1998, through June 4, 1998, with business card of Peter L. Geraci; and Termination Entry in the Montgomery County Common Pleas Court, Case No. 98-CR-181, State of Ohio vs. Henry B. Eyman, dated June 16, 1998. Greene Hall--Letter from Carla C. McConnell dated February 26, 1998; Greene Hall Interdisciplinary Treatment Plan dated from June 10, 1997, through October 22, 1997; two-page Greene Memorial Hospital, Inc. Behavioral Services Clinical Summary of Henry Eyman dated June 5, 1997; Greene Hall Outpatient Services Medical History Review of Henry B. Eyman signed by John Peterangelo, D.O., not dated; and two-page letter from Carla C. McConnell dated September 21, 1998. Letters--Letter from David W. Baker, not dated; letter from Rodney E. Stone dated October 2, 1998; letter from Nick A. Kallis dated November 1, 1998; letter (with original signature) from Stacey Eyman, not dated; letter from Hubert B. Eyman dated October 11, 1998; letter from Thomas E. and Phyllis Kuhn, not dated; letter from Thor G. Ronemus dated September 22, 1998; letter from Susan M. Fesus dated October 4, 1998; letter from Wayne C. Miller dated October 20, 1998; letter from Phyllis Grauer dated October 20, 1998; letter from Charles Broussard dated October, 1998; letter from Rev. Dr. David E. Imhoff dated October 13, 1998; letter from Steve M. Friday dated October 8, 1998; letter from Larry G. Maden dated September 29, 1998; letter from Mark S. Wenzel dated October 4, 1998; letter from Greg Jacobs dated September 30, 1998; letter from Bradford J. Murphy dated October 13, 1998; two-page letter from James F. Liebetrau dated October 6, 1998; and letter from William A. Romer dated October 4, 1998. ACPE--Note regarding continuing education accumulated to date; Continuing pharmacy education participation certificates of Henry Eyman as follows: 036-300-98-01-J dated May 15, 1998; 036-106-98-001 and 036-106-98-002-J dated May 11, 1998; 424-999-96-009-H04 dated August 3, 1998; 680-038-95-028 dated September 2, 1998; 316-999-96-044-H01 dated September 24, 1998; 424-000-95-021-H01 dated September 24, 1998; 424-000-95-013-H01 dated August 24, 1998; 692-424-94-012 dated October 14, 1996; 073-000-96-011-H01 dated October 22, 1998; 424-000-96-007-H01 dated October 21, 1998; 163-999-97-076-H01 dated October 19, 1998; 424-000-95-023-H01 dated October 9, 1998; and 038-799-96-005-H01 dated October 12, 1998; and a list of other programs completed.

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) Henry B. Eyman has complied with the terms set forth in the Settlement Agreement with the State Board of Pharmacy, Docket No. D-970423-037, effective September 8, 1997.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of Henry B. Eyman 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) Henry B. Eyman 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 and Methylphenidate 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) Henry B. Eyman must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
 - (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of his progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Henry B. Eyman'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) Henry B. Eyman may not serve as a responsible pharmacist.
- (3) Henry B. Eyman may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Henry B. Eyman must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) Henry B. Eyman must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Henry B. Eyman must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Henry B. Eyman must comply with the terms of this Order.

Henry B. Eyman 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-7/Nay-0).

RES. 99-082 Mr. Winsley presented an application for approval as a provider of continuing pharmacy education from Highland Hospital. After discussion, Mr. Lamping moved that the Board approve Highland Hospital as a continuing pharmacy education provider. The motion was seconded by Ms. Abele and approved (Aye-6/Nay-0/Not present at time of vote-1[Cavendish]).

William McMillen, Licensing Administrator, then reviewed his monthly activity report with the Board.

11:20 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 Karim Wholesale Inc., Cleveland, Ohio.

1:12 p.m.

The hearing was concluded and Mr. Lamping moved that the Board go into Executive Session for the purpose of deliberating on the evidence and testimony received during the hearing in the matter of Karim Wholesale Inc. The motion was seconded by Mr. Repke. President Maslak conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

1:25 p.m.

RES. 99-083 The Executive Session was concluded and the meeting opened to the public. Mr. Lamping moved that the Board adopt the following Order:

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-980714-002)

In The Matter Of:

KARIM WHOLESALE, INC.
c/o Azza Mohamed, President
13014 Lorain Avenue
Cleveland, Ohio 44111

INTRODUCTION

THE MATTER OF KARIM WHOLESALE, INC. CAME TO HEARING ON NOVEMBER 4, 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.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KARIM WHOLESALE, INC. 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) Azza Mohamed, President
- (2) James Reye, Compliance Agent, Ohio State Board of Pharmacy
- (3) Lynn Mudra, Compliance Agent, Ohio State Board of Pharmacy
- (4) Attila Daray, Special Agent, U.S. Department of Justice, Immigration and Naturalization Service, Cleveland, Ohio

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Notice of Opportunity for Hearing letter dated July 14, 1998.
- (2) Exhibit 1A--Hearing Request letter dated July 21, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated July 28, 1998.
- (4) Exhibit 1C--Two-page Application for Registration as a Wholesale Distributor of Dangerous Drugs of Karim Wholesale, Inc. dated May 11, 1998, and attached two-page copy of Articles of Incorporation of Karim Wholesale, Inc. dated May 5, 1998; and copy of Original Appointment of Statutory Agent of Karim Wholesale, Inc., not dated.
- (5) Exhibit 1D--Application for a Controlled Substance License of Karim Wholesale, Inc. dated May 11, 1998, with attached Application for Registration under Domestic Chemical Diversion Act of 1993.
- (6) Exhibit 2--Two-page Application for Registration as a Wholesale Distributor of Dangerous Drugs of Oasis Wholesale Distribution, Inc. dated November 26, 1997, and attached two-page copy of Articles of Incorporation of Oasis Wholesale Distribution, Inc. dated May 21, 1997; copy of Original Appointment of Statutory Agent of Oasis Wholesale Distribution, Inc. not dated; and letter from Mohamed Ghanem dated November 26, 1997.
- (7) Exhibit 3--Information sheet regarding the site, photographer, camera, lens, film and photolab of the attached twenty captioned 4" x 6" color photos of Karim Wholesale, Inc.

- (8) Exhibit 4--Copy of eight pages of Oasis Wholesale purchase records from Hammer Corp. dated from October 6, 1997, through April 7, 1998.
- (9) Exhibit 5--Copy of two-page letter from Robert L. Brown dated March 26, 1996, copy of two-page letter from Robert L. Brown dated March 25, 1998; copy of two-page U.S. Department of Labor Employment and Trading Administration Application for Alien Employment Certification of Mohamed Ghanem dated February 22, 1994.

Respondent's Exhibits:

- (1) Exhibit A--CVS Photo Envelope #254761 containing twenty-eight 4" x 6" color photos of Karim Wholesale, Inc.
- (2) Exhibit B--Copy of Requests for Criminal Record in the Cuyahoga County Sheriff's Office Criminal Record Unit of Mohamed A. Ghanem and Azza H. Mohamed dated November 2, 1998; copy of letter from Damaris Santiago dated November 3, 1998; copy of two-page lease agreement signed by Lessee Azza Mohamed and notarized on May 2, 1998; copy of four-page list of sixty customers of Karim Wholesale, not dated.

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 Azza Mohamed is the President of Karim Wholesale, Inc., and that on May 13, 1998, Ms. Mohamed applied for registration as a Wholesale Distributor of Dangerous Drugs and Licensure as a Wholesaler of Controlled Substances.
- (2) Karim Wholesale, Inc. has not furnished satisfactory proof to the Board that its past experience in the manufacture or distribution of dangerous drugs, including controlled substances, is acceptable to the Board.
- (3) Karim Wholesale, Inc. has not furnished satisfactory proof to the Board that there are adequate safeguards assured to prevent the sale of dangerous drugs to any person other than those named in division (B) of Section 4729.51 of the Revised Code, to wit: the owners have not, when requested, provided any record or other indication that the facility would sell dangerous drugs to individuals or entities permitted to purchase dangerous drugs; further, security requirements set forth in Section 1301.72 of the Code of Federal Regulations and Rule 4729-9-05 of the Ohio Administrative Code have not been satisfied in any manner.
- (4) Karim Wholesale, Inc., has not furnished satisfactory proof to the Board that it meets the requirements for a license to possess, store, and sell controlled substances as set forth in Section 3719.03 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute not meeting the qualifications as forth in Section 4729.53 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute not furnishing satisfactory proof to the Board that its managing officers are of good moral character and that the granting of such license is in the public interest as provided in Sections 3719.021 and 3719.03 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.02, 3719.021, and 4729.52 of the Ohio Revised Code, the State Board of Pharmacy hereby refuses to grant licenses and, therefore, denies the Applications for Registration as a Wholesale Distributor of Dangerous Drugs and Licensure as a Wholesaler of Controlled Substances.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 99-084 Mr Cavendish then moved that the Board approve the following Cease and Desist letters to be sent by staff immediately:

CEASE AND DESIST

FLU CENTRAL
c/o Melissa L. Zantop, President
9749 W. Fairview Avenue
Littleton, Colorado 80127

Dear Ms. Zantop:

Board of Pharmacy records indicate that you are the president of Flu Central which causes the distribution of dangerous drugs and/or controlled substances at wholesale in the state of Ohio. It has come to the attention of the Board that your company has sold dangerous drugs to persons and/or facilities which are not licensed by the Board nor otherwise authorized to possess dangerous drugs.

Please be reminded that Section 4729.60(A) of the Ohio Revised Code states in pertinent part:

(A) Before a registered wholesale distributor of dangerous drugs may sell dangerous drugs at wholesale to any person other than a licensed health professional authorized to prescribe drugs, a registered wholesale distributor of dangerous drugs, a manufacturer of dangerous drugs, a carrier or a warehouser but only for the purpose of carriage or storage, or a terminal distributor of dangerous drugs who is not engaged in the sale of dangerous drugs within this state, such wholesale distributor shall obtain from the purchaser and the purchaser shall furnish to the wholesale distributor a certificate indicating that the purchaser is a licensed terminal distributor of dangerous drugs.

Violation of this provision constitutes a violation of Section 4729.51(B) of the Ohio Revised Code, a misdemeanor of the first degree, and is punishable by a fine of \$1,000.00 and incarceration up to 6 months for an individual, and is punishable by a fine of \$5,000.00 for an organization. Additionally, Section 2925.03 of the Ohio Revised Code prohibits the sale of controlled substances unless the seller is acting in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, each of which requires licensure. A violation of this section is a felony depending upon the amount of the substance, and is punishable by a mandatory fine of up to \$15,000.00 and incarceration up to the lifetime of the offender for an individual, and is punishable by a fine of \$25,000.00 for an organization. The purchaser of your drugs is not so licensed and therefore cannot legally receive in commerce dangerous drugs. To so distribute is in violation of Ohio law.

YOU ARE HEREBY ADVISED that pursuant to Section 4729.25(B) of the Ohio Revised Code the Board of Pharmacy may issue notice or warning to an alleged offender of any of the provisions of Chapter 4729. of the Ohio Revised Code; thus, you are hereby notified to immediately CEASE distribution, sale, or delivery of dangerous drugs in the state of Ohio unless your purchaser is properly licensed, and DESIST from any further violations of Chapter 4729. of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

cc: Sally Ann Steuk, Assistant Attorney General

CEASE AND DESIST

HENRY SCHEIN, INC.
c/o Michael Racioppi, V.P.
and General Manager
135 Duripa Road
Melville, New York 11747

Dear Mr. Racioppi:

Board of Pharmacy records indicate that you are the Vice President and General Manager at Henry Schein, Inc. which distributes dangerous drugs and/or controlled substances at wholesale in the state of Ohio. It has come to the attention of the Board that your company has sold dangerous drugs to persons and/or facilities which are not licensed by the Board nor otherwise authorized to possess dangerous drugs.

Please be reminded that Section 4729.60(A) of the Ohio Revised Code states in pertinent part:

(A) Before a registered wholesale distributor of dangerous drugs may sell dangerous drugs at wholesale to any person other than a licensed health professional authorized to prescribe drugs, a registered wholesale distributor of dangerous drugs, a manufacturer of dangerous drugs, a carrier or a warehouse but only for the purpose of carriage or storage, or a terminal distributor of dangerous drugs who is not engaged in the sale of dangerous drugs within this state, such wholesale distributor shall obtain from the purchaser and the purchaser shall furnish to the wholesale distributor a certificate indicating that the purchaser is a licensed terminal distributor of dangerous drugs.

Violation of this provision constitutes a violation of Section 4729.51(B) of the Ohio Revised Code, a misdemeanor of the first degree, and is punishable by a fine of \$1,000.00 and incarceration up to 6 months for an individual, and is punishable by a fine of \$5,000.00 for an organization. Additionally, Section 2925.03 of the Ohio Revised Code prohibits the sale of controlled substances unless the seller is acting in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, each of which requires licensure. A violation of this section is a felony depending upon the amount of the substance, and is punishable by a mandatory fine of up to \$15,000.00 and incarceration up to the lifetime of the offender for an individual, and is punishable by a fine of \$25,000.00 for an organization. The purchaser of your drugs is not so licensed and therefore cannot legally receive in commerce dangerous drugs. To so distribute is in violation of Ohio law.

YOU ARE HEREBY ADVISED that pursuant to Section 4729.25(B) of the Ohio Revised Code the Board of Pharmacy may issue notice or warning to an alleged offender of any of the provisions of Chapter 4729. of the Ohio Revised Code; thus, you are hereby notified to immediately CEASE distribution, sale, or delivery of dangerous drugs in the state of Ohio unless your purchaser is properly licensed, and DESIST from any further violations of Chapter 4729. of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

cc: Sally Ann Steuk, Assistant Attorney General

CEASE AND DESIST

PHYSICIAN SALES AND SERVICES, INC.
c/o Charles Miller, O.P.L.D.
2003-3 Case Parkway South
Twinsburg, Ohio 44087

Dear Mr. Miller:

Board of Pharmacy records indicate that you are the Responsible Person at Physician Sales and Services, Inc. which distributes dangerous drugs and/or controlled substances at wholesale in the state of Ohio. It has come to the attention of the Board that your company has sold dan-

gerous drugs to persons and/or facilities which are not licensed by the Board nor otherwise authorized to possess dangerous drugs.

Please be reminded that Section 4729.60(A) of the Ohio Revised Code states in pertinent part:

(A) Before a registered wholesale distributor of dangerous drugs may sell dangerous drugs at wholesale to any person other than a licensed health professional authorized to prescribe drugs, a registered wholesale distributor of dangerous drugs, a manufacturer of dangerous drugs, a carrier or a warehouser but only for the purpose of carriage or storage, or a terminal distributor of dangerous drugs who is not engaged in the sale of dangerous drugs within this state, such wholesale distributor shall obtain from the purchaser and the purchaser shall furnish to the wholesale distributor a certificate indicating that the purchaser is a licensed terminal distributor of dangerous drugs.

Violation of this provision constitutes a violation of Section 4729.51(B) of the Ohio Revised Code, a misdemeanor of the first degree, and is punishable by a fine of \$1,000.00 and incarceration up to 6 months for an individual, and is punishable by a fine of \$5,000.00 for an organization. Additionally, Section 2925.03 of the Ohio Revised Code prohibits the sale of controlled substances unless the seller is acting in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, each of which requires licensure. A violation of this section is a felony depending upon the amount of the substance, and is punishable by a mandatory fine of up to \$15,000.00 and incarceration up to the lifetime of the offender for an individual, and is punishable by a fine of \$25,000.00 for an organization. The purchaser of your drugs is not so licensed and therefore cannot legally receive in commerce dangerous drugs. To so distribute is in violation of Ohio law.

YOU ARE HEREBY ADVISED that pursuant to Section 4729.25(B) of the Ohio Revised Code the Board of Pharmacy may issue notice or warning to an alleged offender of any of the provisions of Chapter 4729. of the Ohio Revised Code; thus, you are hereby notified to immediately CEASE distribution, sale, or delivery of dangerous drugs in the state of Ohio unless your purchaser is properly licensed, and DESIST from any further violations of Chapter 4729. of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

cc: Sally Ann Steuk, Assistant Attorney General

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

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

PER DIEM	<u>10/30</u>	<u>10/31</u>	<u>11/01</u>	<u>11/02</u>	<u>11/03</u>	<u>11/04</u>	<u>Total</u>
Abele	-	-	-	1	1	1	3
Adelman	-	-	-	1	1	1	3
Cavendish	-	-	-	1	1	1	3
Lamping	-	-	-	1	1	1	3
Littlejohn	-	-	-	1	1	1	3
Maslak	1	1	1	1	1	1	6
Neuber	-	-	-	1	1	1	3
Plant	-	-	-	1	-	-	1
Repke	-	-	-	1	1	1	3

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

1:45 p.m.

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

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

/d/ 12/9/98
Date

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