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## **Minutes Of The Meeting**

Ohio State Board of Pharmacy  
Columbus, Ohio  
June 14, 15, 16, 1999

### **MONDAY, JUNE 14, 1999**

8:10 a.m. ROLL CALL

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

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

8:15 a.m.

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

8:55 a.m.

**RES. 99-188** The Executive Session ended. Mr. Winsley announced that the following Settlement Agreements have been signed by all parties and are in effect:

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Docket No. D-980311-046)

In The Matter Of:

**DARSHAN SINGH BAMBRAH, R.Ph.**  
33196 Lisa Lane  
Solon, Ohio 44139  
(R.Ph. No. 03-2-11464)

This Settlement Agreement is entered into by and between Darshan Singh Bambrah 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.

Darshan Singh Bambrah enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Darshan Singh Bambrah is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions

against Darshan Singh Bambrah's license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Darshan Singh Bambrah neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
  - (1) Records of the Board of Pharmacy indicate that Darshan Singh Bambrah was originally licensed in the state of Ohio on October 8, 1975, pursuant to reciprocity, and is currently licensed to practice pharmacy in the state of Ohio. Further, Darshan Singh Bambrah is the Responsible Pharmacist at Finast Pharmacy #33, located in Bedford, Ohio pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-16 of the Ohio Administrative Code.
  - (2) Darshan Singh Bambrah did, on or about August 5, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Darshan Singh Bambrah sold 28 units of Ionamin 30mg for diet to patient #1 pursuant to prescription number 33454111, when not for a legitimate medical purpose and contrary to Rule 4731-11-04 of the Ohio Administrative Code, thus failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
  - (3) Darshan Singh Bambrah did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Darshan Singh Bambrah sold 28 units of Adipex-P 37.5mg for diet to patient #2 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Rule 4731-11-04 of the Ohio Administrative Code, thus failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

| <u>Rx Number</u> | <u>Written</u> | <u>Filled</u> |
|------------------|----------------|---------------|
| 33448779         | 04/23/96       | 04/23/96      |
| 33450181         | 05/07/96       | 05/18/96      |
| 33458532         | 10/29/96       | 10/29/96      |
| 33459847         | 11/12/96       | 11/23/96      |
| 33464315         | 02/13/97       | 02/15/97      |

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

- (4) Darshan Singh Bambrah did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Darshan Singh Bambrah sold 28 units of Ionamin 30mg for diet to patient #3 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Rule 4731-11-04 of the Ohio Administrative Code, thus failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

| <u>Rx Number</u> | <u>Written</u> | <u>Filled</u> |
|------------------|----------------|---------------|
| 33444314         | 01/27/96       | 02/06/96      |
| 33453710         | 07/22/96       | 07/28/96      |

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

- (5) Darshan Singh Bambrah did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Darshan Singh Bambrah sold 28 units of a controlled substance stimulant for diet to patient #4 pursuant to the following prescriptions when not for a legitimate medical purpose and contrary to Rule 4731-11-04 of the Ohio Administrative Code, thus failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

| <u>Rx Number</u> | <u>Written</u> | <u>Filled</u> | <u>Drug</u>     |
|------------------|----------------|---------------|-----------------|
| 33442988         | 12/29/95       | 01/15/96      | lonamin 30mg    |
| 33445053         | 02/10/96       | 02/20/96      | lonamin 30mg    |
| 33446367         | 03/09/96       | 03/12/96      | Adipex-P 37.5mg |
| 33447261         | 02/24/96       | 03/27/96      | lonamin 30mg    |
| 33448730         | 03/23/96       | 04/22/96      | Adipex-P 37.5mg |
| 33450730         | 05/28/96       | 05/28/96      | lonamin 30mg    |
| 33452719         | 06/11/96       | 07/08/96      | lonamin 30mg    |
| 33454346         | 07/19/96       | 08/11/96      | lonamin 30mg    |
| 33455714         | 09/06/96       | 09/07/96      | lonamin 30mg    |
| 33458013         | 10/04/96       | 10/20/96      | Adipex-P 37.5mg |
| 33459592         | 09/20/96       | 11/18/96      | lonamin 30mg    |
| 33461816         | 12/06/96       | 12/31/96      | lonamin 30mg    |
| 33463155         | 10/18/96       | 01/24/97      | Adipex-P 37.5mg |
| 33463556         | 12/20/96       | 02/03/97      | lonamin 30mg    |

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

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

| <u>Rx Number</u> | <u>Written</u> | <u>Filled</u> |
|------------------|----------------|---------------|
| 33444245         | 02/02/96       | 02/06/96      |
| 33445052         | 02/16/96       | 02/20/96      |
| 33445882         | 03/01/96       | 03/05/96      |
| 33446686         | 03/14/96       | 03/18/96      |
| 33448144         | 04/12/96       | 04/12/96      |
| 33448938         | 04/26/96       | 04/26/96      |
| 33450341         | 05/09/96       | 05/21/96      |
| 33452563         | 05/23/96       | None          |
| 33453922         | 06/21/96       | 08/01/96      |
| 33454509         | 08/02/96       | 08/15/96      |
| 33455185         | 08/16/96       | 08/28/96      |
| 33458858         | 07/19/96       | 11/05/96      |
| 33459783         | 10/25/96       | 11/22/96      |
| 33461303         | 11/08/96       | 12/20/96      |
| 33461853         | 11/22/96       | 12/31/96      |
| 33463434         | 12/20/96       | 01/31/97      |

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

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Darshan Singh Bambrah knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Darshan Singh Bambrah's pharmacist identification card, No. 03-2-11464, will be placed on probation for two years from the effective date of this agreement. The terms of probation are as follows:
- (1) Darshan Singh Bambrah must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (2) Darshan Singh Bambrah must abide by the rules of the Ohio State Board of Pharmacy.
  - (3) Darshan Singh Bambrah must comply with the terms of this Agreement.
- (B) Darshan Singh Bambrah agrees to the imposition of a monetary penalty of two thousand five hundred dollars (\$2,500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Darshan Singh Bambrah appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

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

/s/ D S Bambrah  
Darshan Singh Bambrah, Respondent

/d/ 4-5-99  
Date of Signature

/s/ Samuel V. Butcher  
Samuel V. Butcher, Attorney for Respondent

/d/ 4/05/99  
Date of Signature

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

/d/ 4/14/99  
Date of Signature

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

/d/ 4-14-99  
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY  
(Docket No. D-9713031-019) (*sic D-971031-019*)

In The Matter Of:

**ISAAC BLAIR, R.Ph.**  
6809 Mayfield Road, Apt. 271  
Mayfield Heights, Ohio 44124  
(R.Ph. No. 03-2-21537)

This Settlement Agreement is entered into by and between Isaac Blair 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.

Isaac Blair enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel.

The matter of Isaac Blair was heard on May 4, 1998. The Ohio State Board of Pharmacy issued an Order on June 10, 1998. The Order was appealed to the Cuyahoga County Common Pleas Court as provided in Section 119. (*sic*) of the Ohio Revised Code.

Isaac neither admits nor denies (i) the allegations stated in the Notice of the State Board of Pharmacy and (ii) the Findings of Fact and Conclusions of Law in the Board's Order. However, Isaac Blair agrees that in order to settle the mater (*sic*) between the parties, the Order will be changed to reflect the following:

**ACTION OF THE BOARD**

Pursuant to Section 4729.25(B) of the Ohio Revised Code, the State Board of Pharmacy hereby reprimands Isaac Blair.

The parties waive any and all claims or causes of action they may have against the other, and/or any officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Isaac Blair waives any rights of further appeal pursuant to Chapter 119. of the Ohio Revised Code.

/s/ Isaac Blair  
Isaac Blair, Respondent

/d/ 3-30-99  
Date of Signature

/s/ David W. Grauer  
David W. Grauer, Attorney for Respondent

/d/ 3-31-99  
Date of Signature

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

/d/ 5/3/99  
Date of Signature

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

/d/ 4-22-99  
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY  
(Docket No. D-981009-019)

In The Matter Of:

**JEROME C. BROERING, R.Ph.**  
78 Bobby Lane N.  
Westerville, Ohio 43081  
(R.Ph. No. 03-2-10130)

This Settlement Agreement is entered into by and between Jerome C. Broering 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.

Jerome C. Broering enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

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

(A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.

(B) Jerome C. Broering neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing dated October 9, 1998; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:

(1) Records of the Board of Pharmacy indicate that Jerome C. Broering was originally licensed in the State of Ohio on July 20, 1972, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that during the relevant time periods stated herein, Jerome C. Broering was the Responsible Pharmacist at Linden Medical Pharmacy, Inc., pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

(2) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, knowingly sell controlled substances in amounts exceeding fifty times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jerome C. Broering and/or persons under his control sold the following controlled substances without prescriptions and not for a legitimate medical purpose:

| <u>Drug</u>            | <u>Schedule</u> | <u>Shortage</u> | <u>% of Stock</u> |
|------------------------|-----------------|-----------------|-------------------|
| APAP with Codeine #4   | III             | 14,124          | 49%               |
| Diazepam 10mg          | IV              | 48,900          | 38.5%             |
| Adipex-P               | IV              | 6,919           | 12.0%             |
| Phentermine HCl 37.5mg | IV              | 10,702          | 14.9%             |

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

(3) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, knowingly sell controlled substances in an amount exceeding five times the bulk amount but not exceeding fifty times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jerome C. Broering and/or persons under his control sold the following controlled substances without prescriptions and not for a legitimate medical purpose:

| <u>Drug</u> | <u>Schedule</u> | <u>Shortage</u> | <u>% of Stock</u> |
|-------------|-----------------|-----------------|-------------------|
| Talwin NX   | IV              | 2,715           | 6.7%              |

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

(4) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, fail to keep a record of all controlled substances received or dispensed by the pharmacy which contained name and place of residence of each person to whom controlled substances were dispensed, to wit: the pharmacy and/or its employees sold the controlled substances listed

in paragraphs (2) and (3) above but kept no records of the sales. Such conduct is in violation of Section 3719.07 of the Ohio Revised Code and Rule 4729-9-14 of the Ohio Administrative Code.

- (5) Jerome C. Broering as the Responsible Pharmacist did, from August 18, 1995, through October 15, 1996, fail to provide effective and approved controls and procedures to guard against theft and diversion of dangerous drugs, to wit: the pharmacy had inadequate supervision and control over the controlled substances so as to prevent, deter, or detect the diversion of the controlled substances noted in paragraphs (2) and (3) above. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.
- (6) Jerome C. Broering as the Responsible Pharmacist did, on or about October 15, 1996, and dates prior thereto, fail to maintain the minimum standards for a pharmacy, to wit: the pharmacy did not possess a current copy of federal and state laws, regulations, and rules governing the legal distribution of drugs in Ohio. Such conduct is in violation of Rule 4729-9-02 of the Ohio Administrative Code.
- (7) Jerome C. Broering did, from September 16, 1997, through November 4, 1997, while not being a registered pharmacist or pharmacy intern under the personal supervision of a registered pharmacist, dispense or sell dangerous drugs, to wit: after failing to renew his license to practice pharmacy Jerome C. Broering dispensed drugs pursuant to prescription. The following are representative samples of some of the prescriptions Mr. Broering dispensed:

| <u>Rx No.</u> | <u>Date</u> | <u>Drug</u>            | <u>Quantity</u> |
|---------------|-------------|------------------------|-----------------|
| 870221        | 09/24/97    | APAP/Codeine #3        | 20              |
| 870224        | 09/24/97    | Adipex-P               | 14              |
| 874119        | 10/16/97    | Propoxyphene N-100     | 60              |
| 874125        | 10/16/97    | Oxazepam 30mg          | 60              |
| 877055        | 11/04/97    | Propoxyphene N-100     | 50              |
| 877061        | 11/04/97    | Phentermine HCl 37.5mg | 14              |

Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Jerome C. Broering knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) A 90-day suspension of his pharmacist identification card, No. 03-2-10130, and such suspension is effective April 23, 1999. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jerome C. Broering may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.
- (C) Upon reinstatement, Jerome C. Broering's pharmacist identification card, No. 03-2-10130, will be placed on probation for two years. The terms of probation are as follows:
  - (1) The State Board of pharmacy hereby declares that Jerome C. Broering'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) Jerome C. Broering may not serve as a responsible pharmacist for one year.

- (3) Jerome C. Broering must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (4) Jerome C. Broering must abide by the rules of the Ohio State Board of Pharmacy.
- (5) Jerome C. Broering must comply with the terms of this Order.

If, in the judgment of the Board, Jerome C. Broering appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

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

/s/ Jerome C. Broering  
Jerome C. Broering, Respondent

/d/ 5-19-1999  
Date of Signature

/s/ K P Byers  
Kevin P. Byers, Attorney for Respondent

/d/ 5/19/99  
Date of Signature

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

/d/ 6/14/99  
Date of Signature

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

/d/ 6-14-99  
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY  
(Docket No. D-980618-069)

In The Matter Of:

**LINDA M. MAHONEY, R.Ph.**  
6230 Eagles Lake Drive  
Cincinnati, Ohio 45248  
(R.Ph. No. 03-1-16312)

This Settlement Agreement is entered into by and between Linda M. Mahoney 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.



Linda M. Mahoney enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Linda M. Mahoney neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
  - (1) Records of the Board of Pharmacy indicate that Linda M. Mahoney was originally licensed in the State of Ohio on January 28, 1986, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that, during relevant time periods alleged herein, Linda M. Mahoney was the Responsible Pharmacist at Kroger Pharmacy #310, 2421 Harrison Avenue, Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
  - (2) Linda M. Mahoney did, from July 4, 1995, through January 3, 1997, fail to provide "supervision and control" of dangerous drugs as required in Division (B) of Section 4729.55 of the Ohio Revised Code, and "adequate safeguards" to assure that dangerous drugs were being distributed in accordance with all state and federal laws as required in Section 4729.55 of the Revised Code, to wit: as the Responsible Pharmacist, Linda M. Mahoney failed to provide personal supervision over the dangerous drugs in the pharmacy; Linda Mahoney failed to require pharmacists employed under her direction to provide personal supervision over the dangerous drugs; and, Linda M. Mahoney failed to ensure adequate safeguards over the dangerous drugs to prevent diversion. Technicians were permitted to remain in the pharmacy during times when no pharmacists were present. The following drugs were diverted from the pharmacy without detection:

| <u>Drug</u>                  | <u>Quantity</u> | <u>% of Stock</u> |
|------------------------------|-----------------|-------------------|
| Oxycodone with Acetaminophen | 197             | 0.48%             |
| Oxycodone with ASA           | 19              | 0.46%             |
| Methylphenidate 5mg          | 96              | 0.70%             |
| Methylphenidate 10mg         | 263             | 1.75%             |
| Methylphenidate SR 20mg      | 15              | 0.75%             |
| Hydrocodone 5mg              | 22,853          | 47.97%            |
| Hydrocodone 7.5mg            | 1,310           | 5.59%             |
| Hydrocodone 10mg             | 101             | 50.50%            |
| Diazepam 5mg                 | 184             | 0.53%             |
| Diazepam 10mg                | 1,773           | 7.04%             |
| Morphine Sulfate 60mg        | 52              | 0.78%             |

Such conduct is in violation of Section 4729.27 of the Ohio Revised Code and Rules 4729-5-11 and 4729-9-11 of the Ohio Administrative Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Linda M. Mahoney knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Linda M. Mahoney may not serve as a responsible pharmacist for one year from the effective date of this agreement.

- (B) Linda M. Mahoney's pharmacist identification card, No. 03-1-16312, will be placed on probation for two years from the effective date of this agreement. The terms of probation are as follows:
- (1) The State Board of pharmacy hereby declares that Linda M. Mahoney'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) Linda M. Mahoney must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (3) Linda M. Mahoney must abide by the rules of the Ohio State Board of Pharmacy.
  - (4) Linda M. Mahoney must comply with the terms of this Agreement.
- (B) Linda M. Mahoney agrees to the imposition of a monetary penalty of Seven Hundred Fifty Dollars (\$750.00) due and owing within thirty days from the effective date of this agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

If, in the judgment of the Board, Linda M. Mahoney appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

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

|                              |                    |
|------------------------------|--------------------|
| <u>/s/ Linda M. Mahoney</u>  | <u>/d/ 1-12-99</u> |
| Linda M. Mahoney, Respondent | Date of Signature  |

|                                       |                     |
|---------------------------------------|---------------------|
| <u>/s/ Jay S Cohen</u>                | <u>/d/ 12/29/98</u> |
| Jay S. Cohen, Attorney for Respondent | Date of Signature   |

|  |                   |
|--|-------------------|
| <u>/s/ Joseph J Maslak</u>                                     | <u>/d/ 2/9/99</u> |
| Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy | Date of Signature |

|  |                   |
|--|-------------------|
| <u>/s/ Sally Ann Steuk</u>                       | <u>/d/ 2-9-99</u> |
| Sally Ann Steuk, Ohio Assistant Attorney General | Date of Signature |

**RES. 99-189** Mrs. Plant moved that the Board summarily suspend the license of Joseph E. Geiser, R.Ph. (03-1-10865) for the reason that there is clear and convincing evidence that the continuation of his professional practice and method of distributing controlled substances presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Lamping and approved by the Board (Aye-8/Nay-0).

9:05 a.m.

The Board took a brief recess.

9:20 a.m.

The meeting resumed. Mr. Cavendish temporarily assumed the Chair to congratulate and offer the Board's appreciation to Ruth Plant, R.Ph.; Paul Lamping, R.Ph.; and Joseph Maslak, R.Ph. for their service and dedication to the citizens of Ohio and to the Ohio State Board of Pharmacy during their terms of office.

9:30 a.m.

Mr. Maslak again assumed the Chair. Mr. Cavendish moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against licensees and registrants and for the consideration of personnel matters pursuant to Section 121.22(G)(1) of the Revised Code. Mr. Repke seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes; Neuber-Yes, Plant-Yes, and Repke-Yes.

10:55 a.m.

**RES. 99-190** The Executive Session ended and the meeting was opened to the public. Mr. Lamping moved that the Board authorize Mr. Maslak to sign the agreement with the Attorney General's office regarding the continuation of legal services provided by the Attorney General's office to the Board. The motion was seconded by Mr. Littlejohn and approved by the Board (Aye-8/Nay-0).

**RES. 99-191** Mr. Winsley and Mr. Benedict then requested that the Board approve the continuation of the Board's participation in the National Association of State Controlled Substance Authorities (NASCSA) and approve the payment of the annual dues in the amount of \$150.00. Mrs. Plant moved that the participation with NASCSA be continued and that the Board authorize the payment of the dues. The motion was seconded by Mr. Lamping and approved by the Board (Aye-8/Nay-0).

For the Board's information, Mr. Winsley distributed copies of a letter received from Robert Carson, Executive Director of the Optometry Board. The letter was notification of changes to the list of drugs authorized for use by properly licensed optometrists as found in Rule 4725-16-02 of the Administrative Code.

Copies of the resolutions approved at the National Association of Boards of Pharmacy Annual Meeting in Albuquerque, New Mexico were distributed and discussed. Reports of the meeting were made by Mr. Winsley, Mr. Maslak, Mr. Repke, and Mr. Benedict.

Mr. Winsley distributed copies of Opinion 99-006 issued by the Attorney General regarding the confidentiality of the records kept by Emergency Medical Squads in Ohio. The Board members were asked to review this Opinion for discussion at a later time.

Mr. Winsley and Mr. Benedict reported on a meeting they had with representatives of the Ohio Association of Medical Equipment Services (OAMES) regarding possible legislation that would require licensure of home medical equipment services providers by the Ohio Respiratory Care Board. A copy of a letter received from OAMES after the meeting was distributed to the members. The Board members had several concerns about the proposed legislation as it was written and did not feel they could endorse the bill at this time. The issue was tabled for discussion at a later time.

11:45 a.m.

The Board recessed for lunch.

12:58 p.m.

The Board reconvened in Room 1914, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with all members present.

**RES. 99-192** The election for Vice-President that had been postponed from the May meeting was held. Mrs. Adelman was elected Vice-President of the Board for the fiscal year beginning July 1, 1999.

1:00 p.m.

Mr. Littlejohn left the meeting for personal reasons.

1:08 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 Bradley James Heim, Massillon, Ohio.

4:15 p.m.

The hearing concluded and the record was closed. Mrs. Neuber moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. Mr. Repke seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

4:30 p.m.

**RES. 99-193** The Executive Session ended and the meeting was opened to the public. Mrs. Adelman moved that the Board adopt the following Order in the matter of Bradley James Heim, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-990219-031)

In The Matter Of:

**BRADLEY JAMES HEIM, R.Ph.**  
6350 Arlington NW  
Massillon, Ohio 44646  
(R.Ph. No. 03-3-13325)

INTRODUCTION

THE MATTER OF BRADLEY JAMES HEIM CAME TO HEARING ON JUNE 14, 1999, 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.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

BRADLEY JAMES HEIM WAS REPRESENTED BY JOHN S. McCALL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Bradley James Heim, Respondent
- (2) Robert Humphries, Ph.D.
- (3) Mary Ann Fiely

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated February 19, 1999.
- (2) Exhibit 1A--Hearing Request letter dated March 5, 1999.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated March 10, 1999.
- (4) Exhibit 1C--Continuance Request letter dated March 18, 1999.

- (5) Exhibit 1D--Copy of Hearing Schedule letter dated March 19, 1999.
- (6) Exhibit 1E--Two-page copy of Pharmacist File Front Sheet of Bradley James Heim showing original date of registration as August 8, 1979; and two-page copy of Renewal Application for Pharmacist License, No. 03-3-13325, for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999 of Bradley James Heim dated August 7, 1998.
- (7) Exhibit 2--Copy of Investigation Results of Wal-Mart Store #2115 regarding Bradley James Heim, as follows: Definition of Reports; Statement of James R. Ailes, District Loss Prevention for Wal-Mart Stores, Inc.; three pages of theft transaction reports; two-page Pharmacy Sales Comparison; eighteen-page POS Manual Sold Report dated December 10, 1997; pages eighteen and nineteen of POS Manual Sold Report dated December 16, 1997; and POS Manual Sold Report dated from December 16, 1997, through December 18, 1997.
- (8) Exhibit 3--Copy of nine-page transcription of Interview with Brad Heim conducted by Jim Ailes on December 22, 1997.
- (9) Exhibit 4--Two-page copy of New Philadelphia Police Department Report, Case No. CR-7895, regarding Bradley J. Heim dated December 22, 1997; copy of New Philadelphia Police Department Constitutional Rights Wavier of Bradley Heim dated December 22, 1997; copy of notarized, handwritten statement of Brad Heim dated December 22, 1997; and copy of Permission to Search Vehicle of Brad Heim dated December 22, 1997.
- (10) Exhibit 5--Copy of two-page handwritten statement of Brad Heim dated December 22, 1997.
- (11) Exhibit 6--Copy of two-page Indictment for Grand Theft and Tampering with Evidence, in the Tuscarawas County Common Pleas Court, of Bradley J. Heim.
- (12) Exhibit 7--Three-page copy of Judgment Entry on Change of Plea, State of Ohio v. Bradley J. Heim, Case No. 1998 CR 02 0016, Tuscarawas County Common Pleas Court, General Division, dated August 12, 1998.
- (13) Exhibit 8--Three-page copy of Judgment Entry on Sentencing, State of Ohio v. Bradley J. Heim, Case No. 1998 CR 02 0016, Tuscarawas County Common Pleas Court, General Division, dated September 29, 1998.
- (14) Exhibit 8A--Copy of Judgment Entry, State of Ohio v. Bradley J. Heim, Case No. 1998 CR 02 0016, Tuscarawas County Common Pleas Court, General Division, dated March 17, 1999.
- (15) Exhibit 9--Copy of twenty pages of notes of Glicks Department Store (Acme Pharmacy) Security Manager Theresa McKinney dated from June 17, 1996, through June 26, 1996.
- (16) Exhibit 10--Copy of three-page Jackson Police Department Initial Incident Report, No. 96-14427, regarding a theft offense from Glicks Department Store (Acme Pharmacy) dated July 30, 1996.
- (17) Exhibit 11--Copy of check #1088 of Lesh Casner & Miller Co. L.P.A. dated October 10, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of two-page letter from Robert K. Devies, Ph.D. dated July 23, 1998.
- (2) Exhibit B--Copy of three-page Treatment Summary of Bradley Heim by Robert A. Humphries, Ph.D., Date of Intake January 2, 1998.
- (3) Exhibit C--Copy of letter from Darren Longshore dated June 11, 1999.
- (4) Exhibit D--Copy of six-page Akron General Medical Center Performance Management Program for Exempt Staff Review Form of Bradley J. Heim dated February 23, 1998.
- (5) Exhibit E--Letter from Kathleen D. Donley dated May 28, 1999.
- (6) Exhibit F--Two-page letter from Reverend Dr. Cheryl L. Rosenberger dated May 28, 1999.
- (7) Exhibit G--Letter from David and Deborah Bailey dated May 26, 1999.
- (8) Exhibit H--Letter from Rev. Jim Zanni, not dated.
- (9) Exhibit I--Letter from J. Scott Morrison dated May 27, 1999.
- (10) Exhibit J--Two-page letter from Dee and Bruce Ewing dated May 24, 1999.
- (11) Exhibit K--Copy of U.S. Department of Housing and Urban Development Settlement Statement of Bradley J. and Robyn E. Heim, Loan No. 1813002853, for property located at 6350 Arlington Ave. NW, Massillon, Ohio 44646-9301 dated October 6, 1998.
- (12) Exhibit L--Photograph and description of property located at 6350 Arlington Avenue, N.W., Jackson Township.
- (13) Exhibit M--Release of Bradley J. Heim by Wal-Mart Stores, Inc. by James R. Ailes, District Loss Prevention Supervisor, signed and notarized on March 20, 1998; business card of James R. Ailes; copy of check number 1417 of Lesh Casner & Miller Co. LPA dated

March 20, 1998; copy of business card of Rick Ault and copy of Wal-Mart Badge of Jim at 8090.

- (14) Exhibit N--Two-page certified copy of U.S. Department of Housing and Urban Development Settlement Statement of Julia F. Parsons, for property located at 6350 Arlington Ave. NW, Massillon, Ohio dated May 5, 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 Ohio State Board of Pharmacy indicate that Bradley James Heim was originally licensed in the State of Ohio on August 8, 1979, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Bradley James Heim was, on or about February 3, 1998, indicted by a Tuscarawas County Grand Jury for one count of Grand Theft, a felony of the fourth degree, in violation of Section 2913.02 of the Ohio Revised Code, and one count of Tampering with Records, a felony of the third degree, in violation of Section 2913.42 of the Ohio Revised Code. From November 1, 1996, through December 22, 1997, Bradley James Heim stole cash from his employer, Wal-Mart #2115, the value being between \$5,000.00 and \$100,000.00. To accomplish this theft, Bradley James Heim falsified or altered computer records. State of Ohio vs. Bradley J. Heim, Case No. 1998-CR-02-0016, Tuscarawas County Common Pleas Court. Bradley James Heim did, on or about August 11, 1998, enter a guilty plea to the Indictment. On September 23, 1998, Bradley James Heim was sentenced to sixty (60) days beginning on September 26, 1998, to be served on weekends in the Tuscarawas County Justice Center; three years of Community Control; counseling as ordered; court costs; must disclose this conviction to all current and prospective employers; and, maintain full-time employment.
- (3) Bradley James Heim did, on or about June 26, 1996, admit to the theft of monies from Acme Pharmacy #59 for a period of approximately one and one-half to two years, taking about \$1,000.00 per week from the store's cash register. The total sum of the theft was approximately \$140,000.00. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Bradley James Heim:

- (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 imposes a monetary penalty of five thousand five hundred dollars (\$5,500.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (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 suspends indefinitely the pharmacist identification card, No. 03-3-13325, held by Bradley James Heim. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Bradley James Heim

may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs while on active suspension.

(C) Further, the Board stays the indefinite suspension, and places Bradley James Heim's identification card on probation for ten years. The terms of probation are as follows:

- (1) Bradley James Heim must abide by the treatment plan as designed by Dr. Robert A. Humphries or other professional psychologist/psychiatrist. The psychologist/psychiatrist must submit quarterly reports that document Bradley James Heim's compliance with the treatment plan and his progress for the duration of treatment.
- (2) Bradley James Heim must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation (unless released by the Board), that includes written description of his progress towards recovery and what he has been doing during the previous three months.
- (3) The State Board of Pharmacy hereby declares that Bradley James Heim'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.
- (4) Bradley James Heim may not serve as a responsible pharmacist.
- (5) Bradley James Heim must immediately inform the Board of all changes in employment.
- (6) Bradley James Heim must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (7) Bradley James Heim must abide by the rules of the Ohio State Board of Pharmacy.
- (8) Bradley James Heim must comply with the terms of this Order.

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

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-5/Nay-2).

4:35 p.m.

The Board recessed until Tuesday, June 15, 1999.

## **TUESDAY, JUNE 15, 1999**

8:40 a.m. ROLL CALL

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

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

8:45 a.m.

Ms. Abele moved that the Minutes of the May 3, 4, 5, 1999 meeting be approved as corrected. The motion was seconded by Mrs. Neuber and approved by the Board (Aye-7/Nay-0).

Mr. Winsley distributed a news release from the National Association of Boards of Pharmacy (NABP) announcing the implementation of the Verified Internet Pharmacy Practice Sites (VIPPS) program.

**RES. 99-194** The Board then discussed the Attorney General's Opinion 99-006 that had been distributed previously. Mrs. Neuber moved that the Board authorize Board staff to work with the Emergency Medical Services Board on a letter to the Attorney General expressing the concern of both boards about the Opinion's conclusions and asking that the Opinion be reconsidered. The motion was seconded by Mr. Cavendish and approved by the Board (Aye-7/Nay-0).

Ms. Abele reported that the Nursing Formulary Committee had not met since the last Board meeting, but was scheduled to meet the following week.

Mr. Benedict reported on his meeting with the Medical Board's Prescribing Committee.

9:45 a.m.

The Board took a brief recess.

10:15 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 Elizabeth R. Murcia, R.Ph., Indian Springs, Ohio.

10:59 a.m.

The hearing concluded and the record was closed. Mr. Cavendish moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. Mrs. Adelman seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Lamping-Yes, Littlejohn-Yes, Neuber-Yes, and Repke-Yes.

11:20 a.m.

**RES. 99-195** The Executive Session ended and the meeting was opened to the public. Mr. Lamping moved that the Board adopt the following Order in the matter of Elizabeth R. Murcia, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-990323-041)

In The Matter Of:

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

INTRODUCTION

THE MATTER OF ELIZABETH R. MURCIA, R.Ph. CAME TO HEARING ON JUNE 15, 1999, 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.

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



## SUMMARY OF EVIDENCE

### (A) Testimony

State's Witnesses:

- (1) None

Respondent's Witnesses:

- (1) Elizabeth R. Murcia, R.Ph., Respondent
- (2) David R. Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.

### (B) Exhibits

State's Exhibits:

- (1) Exhibit 1—Copy of eight-page Order of the State Board of Pharmacy in the matter of Elizabeth R. Murcia dated February 11, 1998.
- (2) Exhibit 1A—Hearing Request letter dated March 1, 1999.
- (3) Exhibit 1B—Copy of Hearing Schedule letter dated March 23, 1999.

Respondent's Exhibits:

- (1) Exhibit A—Clear cover booklet bound with binding comb containing a copy of eight-page Order of the State Board of Pharmacy in the matter of Elizabeth R. Murcia dated February 11, 1998 and seven tabbed sections containing the following documents: Section 1—Copy of letter from Steven A. Fahnestock dated January 8, 1998; copy of Discharge Summary of Elizabeth Murcia dated June 10, 1997; letter from Steven A. Fahnestock dated September 17, 1997; and letter from Wallace Comer dated September 11, 1997. Section 2—Copy of letter from Rodney E. Stone dated June 8, 1999; copies of sixteen urine drug screen reports of Liz Murcia dated March 6, 1998; April 7, 1998; April 28, 1998; May 29, 1998; June 25, 1998; August 5, 1998; September 9, 1998; October 7, 1998; November 2, 1998; December 2, 1998; December 4, 1998; January 6, 1999; February 9, 1999; March 4, 1999; April 6, 1999; May 5, 1999; and June 3, 1999. Section 3—Copy of letter from David W. Baker dated June 1, 1999; copy of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Liz Murcia dated July 1, 1997. Section 4—Copies of nine pages of AA/NA attendance log sheets dated from January 6, 1998 through May 12, 1999. Section 5—Copy of thirteen certificates of continuing education of Elizabeth R. Murcia numbered and dated as follows: 342-000-98-026-H01 dated May 5, 1999; 036-300-99-01-H03 dated May 15, 1999; 022-000-96-003-H01 dated December 31, 1998; 424-000-95-023-H01 dated January 11, 1999; 421-000-95-010-H01 dated December 30, 1998; 038-799-96-005-H01 dated December 31, 1998; 316-999-96-044-H01 dated October 23, 1998; 680-038-95-028 dated September 11, 1998; 424-000-95-013-H01 dated September 4, 1998; 424-999-96-009-H04 dated September 2, 1998; 679702-94-018 dated December 30, 1997; 036-106-97-003 and 036-106-97-004-J dated April 27, 1997; and original certificate of attendance of Liz Murcia, Program Number 036-106-99-004-L01 and 036-106-99-005-L03-J dated May 16, 1999. Section 6—Copy of letter from Alicia Aumentado dated June 9, 1999; letter from Charles Broussard dated June 6, 1999; copy of letter from Mary E. Starr dated June 10, 1999; copy of letter from Henry B. Eyman dated June 7, 1999; copy of letter from Susan M. Fesus-Stone dated June 7, 1999; letter from Mark S. Wenzel dated June 4, 1999; copy of letter from Margaret (Marge) M. Ott dated June 3, 1999. Section 7—Copy of letter from Jeffrey A. Heller dated June 14, 1999.

## 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) Elizabeth R. Murcia has complied with the terms set forth in the Order of the Board, Docket No. D-970423-038, effective February 11, 1998.

## ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of Elizabeth R. Murcia to practice pharmacy in the state of Ohio and places her on probation for five years from the date her identification card is issued, with the following conditions:

- (A) Elizabeth R. Murcia must abide by the treatment plan as designed by Jeffrey A. Heller, Psy.D. or other professional psychologist/psychiatrist. The psychologist/psychiatrist must submit quarterly reports for the duration of treatment that document Elizabeth R. Murcia's compliance with the treatment plan and her progress, and contain an impression of hours Elizabeth R. Murcia is able to work.
- (B) Elizabeth R. Murcia must inform all prospective employers of the actions taken by the Board of Pharmacy.
- (C) Elizabeth R. Murcia must maintain a current treatment contract with the Pharmacists Rehabilitation Organization or an ODADAS provider acceptable to the Board for the duration of the probation period which must include the following:
  - (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) 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.
- (D) Elizabeth R. Murcia 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,
  - (2) A written description of her progress towards recovery and what she has been doing during the previous three months, and
  - (3) A written report of her work history, including hours worked.
- (E) Other terms of probation are as follows:
  - (1) The State Board of Pharmacy hereby declares that Elizabeth R. Murcia'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) Elizabeth R. Murcia may not serve as a responsible pharmacist.

- (3) Elizabeth R. Murcia may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Elizabeth R. Murcia must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) Elizabeth R. Murcia must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Elizabeth R. Murcia must abide by the rules of the Ohio State Board of Pharmacy.
- (7) Elizabeth R. Murcia must comply with the terms of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

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

11:30 a.m.

The Board recessed for lunch.

1:00 p.m.

**RES. 99-196** All of the Board members, with the exception of Mrs. Plant, convened in Room 1919 for the purpose of meeting with the candidates for licensure by reciprocity. Following presentations by Board members and self-introductions by the candidates for licensure by reciprocity, Mr. Lamping moved that the Board approve the following candidates for licensure. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-7/Nay-0).

|                           |               |
|---------------------------|---------------|
| AMUNDSON, DAVID LEE       | NORTH DAKOTA  |
| BAKER, GARRY J.           | KENTUCKY      |
| BARR, AMY L.              | PENNSYLVANIA  |
| CALLOWAY, THOMAS J.       | MICHIGAN      |
| COFFEY, SHANNON L.        | WEST VIRGINIA |
| CRABTREE, RHODOM E.       | KENTUCKY      |
| DAISLEY-KYDD, RACQUEL E.  | MICHIGAN      |
| EDWARDS, MARCIE K.        | WISCONSIN     |
| IMWALLE, ANITA R.         | ILLINOIS      |
| KEETON, JEFFERY S.        | KENTUCKY      |
| McNEELEY, TERRY DWAIN     | TEXAS         |
| MILEY, JEFFREY J.         | PENNSYLVANIA  |
| MUNCHMEYER, AMY L.        | WEST VIRGINIA |
| RAHILLY, SHIRLEY ANN      | IOWA          |
| TAYLOR, SUZANNE M.        | VIRGINIA      |
| TRAN, MINH S.             | TEXAS         |
| VAN VALKENBURG, AMANDA    | MASSACHUSETTS |
| VAN VALKENBURG, SHAWN H.  | MASSACHUSETTS |
| WASHBURN, DANA M.         | WEST VIRGINIA |
| WILLIAMS, JR., JOE E.     | MICHIGAN      |
| YANNOPOULOS, HELEN SOPHIA | PENNSYLVANIA  |
| YANTZ, DAVID R.           | WEST VIRGINIA |
| YANTZ, ELAINE M.          | WEST VIRGINIA |

1:30 p.m.

The Board recessed until Wednesday, June 16, 1999.

## **WEDNESDAY, JUNE 16, 1999**

8:40 a.m. ROLL CALL

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

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

The Board began a discussion about the approval process for certification programs that are proposed for use as an alternative method of meeting the continuing pharmacy education requirements pursuant to Rule 4729-7-08 of the Administrative Code.

9:07 a.m.

The discussion of the certification programs was tabled until later. 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 the Hamilton County SPCA, Cincinnati, Ohio.

10:05 a.m.

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

10:24 a.m.

**RES. 99-197** The meeting resumed and the Board continued the discussion about the certification programs proposed for use as an alternative method of meeting the continuing pharmacy education pursuant to Rule 4729-7-08 of the Administrative Code. Ms. Abele moved that the following three certification programs be approved for use pursuant to the requirements of Rule 4729-7-08 of the Administrative Code:

Board of Pharmaceutical Specialties - Certification in Nuclear Pharmacy,  
Board of Pharmaceutical Specialties - Certification in Psychiatric Pharmacy, and  
Commission for Certification in Geriatric Pharmacy - Certification in Geriatric Pharmacy.

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

10:30 a.m.

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

10:47 a.m.

**RES. 99-198** The Executive Session ended and the meeting was opened to the public. Mrs. Neuber moved that the Board accept the settlement offer in the matter of John James Ragaji, R.Ph. The motion was seconded by Ms. Abele and approved by the Board (Aye-7/Nay-0).

10:48 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 Ronald Dean Shimko, Akron, Ohio.

11:50 a.m.

The hearing ended and the record was closed. Mr. Cavendish moved that the Board go into Executive Session for the purpose of the investigation of charges or complaints against licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. Mrs. Plant seconded the motion. President Maslak then conducted the following roll call vote: Abele-Yes, Adelman-Yes, Cavendish-Yes, Littlejohn-Yes, Neuber-Yes, Plant-Yes, and Repke-Yes.

12:10 p.m.

**RES. 99-199** The Executive Session ended and the meeting was opened to the public. Mrs. Plant moved that the Board adopt the following order in the matter of the Hamilton County SPCA:

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-990129-028)

In The Matter Of:

**HAMILTON COUNTY SPCA**  
c/o Tamara C. Goforth, D.V.M.  
3949 Colerain Avenue  
Cincinnati, Ohio 45223

INTRODUCTION

THE MATTER OF HAMILTON COUNTY SPCA CAME TO HEARING ON JUNE 16, 1999, 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.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

HAMILTON COUNTY SPCA WAS REPRESENTED BY DEBORAH K. SINKULA, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Mike Cluxton, Compliance Agent, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Harold F. Dates, General Manager, Hamilton County SPCA

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1—Copy of three-page Proposal to Deny/Notice of Opportunity for Hearing letter in the matter of Hamilton County SPCA dated January 29, 1999.
- (2) Exhibit 1A—Hearing Request letter submitted by John J. Kropp, Esquire dated February 24, 1999.
- (3) Exhibit 1B—Copy of Hearing Schedule letter dated March 1, 1999.
- (4) Exhibit 1C—Copy of Request for Continuance submitted by John C. Greiner, Esquire dated March 24, 1999.
- (5) Exhibit 1D—Copy of Hearing Schedule letter dated March 25, 1999.
- (6) Exhibit 1E—Application for Registration as a Terminal Distributor of Dangerous Drugs signed by Tamara C. Goforth, D.V.M., dated December 28, 1998, with attachments: Limited License Personnel List; Hamilton County SPCA Mission Statement; two-page information sheet titled "The Hamilton County SPCA Responds To Our Community's Needs"; list of Hamilton County SPCA 1998 Trustees; twelve Conviction Record Transcripts for Gwen Crawford, Donald C. Simpson, Raphael Cook, Lenette Mulder, Claudine McConnell, Todd A. Manser, Lorie Roden, McKinley P. Mitchell, Cheryl A. Brown, Virginia M. Black, Virginia M. Kenney, and Charles B. Andrews; certificate for Successful Completion of The Ohio Euthanasia Technician Certification Course of Virginia Black dated June 16-17, 1998; certificate for Successful Completion of The Ohio Euthanasia Technician Certification Course of Virginia Keeney dated June 16-17, 1998; certificate for Successful Completion of The Ohio Euthanasia Technician Certification Course of Joyce Smith dated February 28-March 1, 1995; certificate for Successful Completion of the Euthanasia-By-Injection Workshop of Carolyn V. Powell dated November 16-17, 1994; certificate for Successful Completion of the Euthanasia-By-Injection Workshop of Cheryl A. Brown Neal dated November 14-15, 1994; certificate for Successful Completion of the

Euthanasia-By-Injection Workshop of Sharon A. Martin dated November 16-17, 1994; Certificate of Records of Incorporation and Miscellaneous Filings of The Hamilton County Society for the Prevention of Cruelty to Animals dated May 13, 1994; Certificate of Articles of Incorporation of The Hamilton County Society for the Prevention of Cruelty to Animals dated December 16, 1963; Statement of Continued Existence of Corporation Not For Profit for The Hamilton County Society for the Prevention of Cruelty to Animals dated May 13, 1994.

Respondent's Exhibits:

- (1) Exhibit A—Copy of three-page Pharmaceutical Protocol.
- (2) Exhibit B—Copy of quotation for infrared beam, four door contacts, and a master panel for The Hamilton County SPCA from Dick Tessorf dated May 24, 1999.
- (3) Exhibit C—Copy of Personal Information Release Form.
- (4) Exhibit D—Copy of Pentothal Ledger-Clinic Surgeries dated from April 8, 1999 through April 14, 1999.

#### 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 Ohio State Board of Pharmacy indicate that Tamara C. Goforth, D.V.M. is the applicant signing on behalf of Hamilton County SPCA pursuant to Section 4729.55 of the Ohio Revised Code.
- (2) Upon initial inspection, the Hamilton County SPCA did not qualify for registration under Division (C) of Section 4729.55 of the Revised Code in that the facility failed to assure adequate safeguards to prevent the sale or other distribution of dangerous drugs by any person other than those named in Division (B) of Section 4729.51 of the Revised Code, to wit: twelve different individuals employed by the company had been convicted of a variety of criminal charges that indicated a lack of honesty and/or integrity. As such, the facility did not assure adequate safeguards to prevent the illegal acquisition, distribution, or utilization of dangerous drugs or their diversion into illicit channels.
- (3) The Hamilton County SPCA presented good faith evidence to bring the facility into compliance with the requirements.

#### 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 failing to provide adequate safeguards to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs pursuant to Division (C) of Section 4729.55 of the Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes failing to provide adequate safeguards to prevent the illegal acquisition, distribution, or utilization of dangerous drugs or their diversion into illicit channels pursuant to paragraph (A)(3) of Rule 4729-14-03 of the Ohio Administrative Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.55 of the Ohio Revised Code, and on the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby approves the issuance of a Terminal Distributor of Dangerous Drugs license to Hamilton County SPCA with the following stipulations:

- (A) Hamilton County SPCA must make immediate changes to its policies and procedures wherein the final accountability for the acquisition, distribution, or utilization of all dangerous drugs is assigned to the responsible veterinarian.

- (B) The responsible veterinarian shall maintain supervision and control over the possession and custody of all dangerous drugs that may be acquired by or on behalf of Hamilton County SPCA.

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. 99-200** Mrs. Neuber then moved that the Board adopt the following Order in the matter of Ronald Dean Shimko:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990506-045)

In The Matter Of:

**RONALD DEAN SHIMKO**

1063 East Avenue  
Tallmadge, Ohio 44728  
(D.O.B. 07/23/1970)

INTRODUCTION

THE MATTER OF RONALD DEAN SHIMKO CAME TO HEARING ON JUNE 16, 1999, 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.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

RONALD DEAN SHIMKO WAS REPRESENTED BY GREGORY T. PLESICH, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Ronald Shimko, Father of Respondent  
(2) Bonnie Gray  
(3) Ronald Dean Shimko, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated May 6, 1999.  
(2) Exhibit 1A--Hearing Request letter dated May 17, 1999.  
(3) Exhibit 1B--Copy of Hearing Schedule letter dated May 20, 1999.  
(4) Exhibit 1C--Application for Pharmacy Intern Registration of Ronald Dean Shimko signed and notarized on December 11, 1998, and received in the Board Office on March 3, 1999, with the following attachments: typewritten explanation to Section 5 of the application; Certificate of Acceptance to the University of Toledo of Ron Shimko dated December 10, 1998; and University of Toledo Official Academic Transcript of Ronald Dean Shimko dated December 30, 1998; and two-page University of Akron Academic Record of Ronald D. Shimko dated January 11, 1999.

- (5) Exhibit 2--Copy of Complaint, State of Ohio, County of Summit, City of Akron vs. Ronald D. Shimko, Case No. 92 CRB 4785, Municipal Court of Akron, Summit County, Ohio dated May 9, 1992; copy of Akron Police Department Akron Municipal Court Summons, State of Ohio, Summit County, City of Akron vs. Ronald D. Shimko, No. 38697, dated May 9, 1992; copy of Municipal Court of Akron Docket Sheet, Case No. 92 CRB 4785, of Ronald D. Shimko dated from May 9, 1992, through July 17, 1992; and certified copy of Journal Entry, State of Ohio/City of Akron vs. Ronald Shimko, Case No. 92 CRB-4785, Municipal Court of Akron, Summit County Ohio.
- (6) Exhibit 2A--Copy of letter from Ron Shimko, not dated; and attached two-page copy of handwritten explanation to Section 5 of the Application for Pharmacy Intern Registration.
- (7) Exhibit 3--Copy of Portage County Municipal Court Summons of Ronald D. Shimko, No. 01127, dated September 11, 1993; copy of Portage County Municipal Court Summons of Ronald D. Shimko, No. 01127, dated September 11, 1993, with notes to His Honor, No. 93-13166, from the Kent Police Department dated September 16, 1993; and copy of Suspect/Arrestee Supplement, Incident No. 93-13166, of Ronald Dean Shimko dated September 11, 1993.
- (8) Exhibit 4--Copy of three-page Journal Entry-Order to Seal the Records of Conviction (2925.32 R.C.), City of Kent vs. Ronald D. Shimko, Case Numbers K 93 CRB 1816 K and K 94 CRB 013 K, Portage County Municipal Court dated February 19, 1999; and copy of Ohio Bureau of Criminal Identification and Investigation form to all Police Departments, Sheriff's Offices & Clerks of Courts Re: Sealing and/or Expungements in the matter of Ronald D. Shimko.
- (9) Exhibit 5--Copy of Complaint in the Portage County Municipal Court, Kent Branch, against Ronald D. Shimko, Case No. K 94 CRB 0013-K, dated January 3, 1994; copy of three-page Ohio Uniform Incident Report regarding Ronald Dean Shimko dated December 31, 1993; copy of handwritten statement of Richard Kulmala signed and notarized on April 23, 1999; and copy of disposition sheet for Criminal Trespass/541.05.
- (10) Exhibit 6--Copy of Field Arrest/Summons Form No. 001267, State of Ohio, County of Summit, City of Akron vs Ronald D. Shimko, Case No. 94 CRB 13124, dated November 6, 1994; copy of Complaint, State of Ohio, County of Summit, City of Akron vs Ronald D. Shimko, Case No. 94 CRB 13124, in the Municipal Court of Akron, Summit County, Ohio dated November 6, 1994; and Journal Entry, State of Ohio/City of Akron vs. Ronald Shimko, Case No. 94 CRB-13124, Municipal Court of Akron, Summit County, Ohio dated November 21, 1994.

Respondent's Exhibits:

- (1) Exhibit A--Copy of two-page University of Akron Academic Record of Ronald D. Shimko dated May 21, 1999.
- (2) Exhibit B--Copy of Unofficial Undergraduate Academic Record of Ronald Dean Shimko dated May 20, 1999.
- (3) Exhibit C--Copy of letter from Bradley James Engle dated January 4, 1998.
- (4) Exhibit D--Copy of letter from John E. Mills dated May 20, 1999.
- (5) Exhibit E--Copy of letter from Carolyn L. Kaster dated June 1, 1999.
- (6) Exhibit F--Copy of letter from Joseph M. Millin dated January 1, 1999.
- (7) Exhibit G--Copy of letter from James A. Engle dated June 1, 1999.

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 Ronald Dean Shimko applied to the Board for registration as an intern in the state of Ohio on March 3, 1999.
- (2) Ronald Dean Shimko was, on or about July 21, 1992, convicted of Intoxication and Contempt in the Municipal Court of Akron, Summit County, Ohio. City of Akron vs. Ronald Shimko, 92 CRB-4785.
- (3) Paragraph (3) of the Notice of Opportunity for Hearing is based upon a sealed criminal conviction of Ronald Dean Shimko and/or the underlying facts which a criminal conviction was based. Such conviction was drug or alcohol related and is in violation of Section 2917.11 of the Ohio Revised Code.



- (4) Paragraph (4) of the Notice of Opportunity for Hearing is based upon a sealed criminal conviction Ronald Dean Shimko and/or the underlying facts which a criminal conviction was based. Such conviction was drug or alcohol related and is in violation of Section 2911.21 of the Ohio Revised Code.
- (5) Ronald Dean Shimko was, on or about November 21, 1994, convicted of Disorderly Conduct by Intoxication in the Municipal Court of Akron, Summit County, Ohio. City of Akron vs. Ronald Shimko, 94 CRB-13124.
- (6) Ronald Dean Shimko, when interviewed by Board agents about his past criminal activity, admitted that though he does not have a "per se problem" with drugs or alcohol, he "had a lot of problems at the time" and "would go out on the weekend and drink." When asked about drug usage, Ronald Dean Shimko indicated that "maybe everybody goes through a little experimental stage" and that he "could have experimented;" and Ronald Dean Shimko admitted marijuana use.

#### CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (6) 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.

#### ACTION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Ronald Dean Shimko.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the intern identification card to be issued to Ronald Dean Shimko.

- (A) The State Board of Pharmacy stays the indefinite suspension and places on probation the intern license of Ronald Dean Shimko for three years. The terms of probation are as follows:
  - (1) Ronald Dean Shimko must obtain a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist, that includes a recommended treatment plan.
    - (a) The psychiatrist or psychologist must provide an initial status report to the Board within ninety days of the issuance of this Order.
    - (b) Ronald Dean Shimko must seek counseling and abide by the treatment plan as designed by the psychiatrist or psychologist until such time that the psychiatrist or psychologist releases him from treatment. The psychiatrist or psychologist must submit quarterly reports that document Mr. Shimko's compliance with the treatment plan and his progress for the duration of treatment.
  - (2) Ronald Dean Shimko must not violate the drug laws of the state of Ohio, any other state, or the federal government.
  - (3) Ronald Dean Shimko must abide by the rules of the Ohio State Board of Pharmacy.
  - (4) Ronald Dean Shimko must comply with the terms of this Order.
- (B) Ronald Dean Shimko is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the

period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

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

12:15 p.m.

Mr. Maslak administered the following Oath of Office to President-elect Cavendish:

OATH OF PRESIDENT

I, **Robert B. Cavendish**, as President of the Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

Mr. Maslak then administered the following Oath of Office to Vice-President-elect Adelman:

OATH OF VICE-PRESIDENT

I, **Diane C. Adelman**, as Vice-President of the Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

12:18 p.m.

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

| PER DIEM   | <u>6/14</u> | <u>6/15</u> | <u>6/16</u> | <u>Total</u> |
|------------|-------------|-------------|-------------|--------------|
| Abele      | 1           | 1           | 1           | 3            |
| Adelman    | 1           | 1           | 1           | 3            |
| Cavendish  | 1           | 1           | 1           | 3            |
| Lamping    | 1           | 1           | -           | 2            |
| Littlejohn | 1           | 1           | 1           | 3            |
| Maslak     | 1           | 1           | 1           | 3            |
| Neuber     | 1           | 1           | 1           | 3            |
| Plant      | 1           | -           | 1           | 2            |
| Repke      | 1           | 1           | 1           | 3            |

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

12:19 p.m.

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

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

/d/ 06-30-99  
Date

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