



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

AMENDED ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-910311-061)

In The Matter Of:

STEPHEN DUBOS, R.Ph.
479 Robinson Road
Campbell, Ohio 44405
(R.Ph. No. 03-1-04759)

INTRODUCTION

THE MATTER OF STEPHEN DUBOS WAS RECONSIDERED BY THE FOLLOWING MEMBERS OF THE BOARD ON SEPTEMBER 24, 1992 PURSUANT TO REMAND BY THE MAHONING COUNTY COURT OF COMMON PLEAS: TIMOTHY D. MOORE, R.Ph. (presiding); METTA LOU HENDERSON, R.Ph.; PAUL F. LAMPING, R.Ph.; WAYNE C. MILLER, R.Ph.; RUTH A. PLANT, R.Ph.; NICHOLAS R. REPKE; JOSEPH R. SABINO, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

SUMMARY OF EVIDENCE

(A) State's Exhibits

- (1) Letter from Joseph M. Kolmacic dated September 16, 1992.
- (2) Letter from Franklin Z. Wickham, signed by William T. Winsley, dated September 11, 1992.
- (3) Judgment Entry in the Court of Common Pleas, Mahoning County, Ohio, of Campbell Pharmacy and Stephen Dubos vs. The Ohio State Board of Pharmacy, Case numbers 91 CV 1521, and 91 CV 1522, dated August 26, 1992.
- (4) Addendum to Certification letter to Anthony Vivo, Clerk of Courts, Mahoning County Common Pleas Court, from Franklin Z. Wickham, Ohio State Board of Pharmacy, dated December 13, 1991.
- (5) Ohio State Board of Pharmacy, Order of Stephen Dubos, R.Ph., Docket No. D-910311-061, dated June 28, 1991.
- (6) Ohio State Board of Pharmacy, Order of Campbell Pharmacy, Docket No. D-910311-062, dated June 28, 1991.
- (7) Appeal Certification letter to Anthony Vivo, Clerk of Courts, Mahoning County Common Pleas Court, from Franklin Z. Wickham, Ohio State Board of Pharmacy, dated July 31, 1991.
- (8) Notice of Appeal in the Court of Common Pleas, Mahoning County, Ohio of Stephen Dubos vs. The Ohio State Board of Pharmacy, dated July 8, 1991.
- (9) Notice of Appeal in the Court of Common Pleas, Mahoning County, Ohio of Campbell Pharmacy vs. The Ohio State Board of Pharmacy, dated July 8, 1991.
- (10) Transcript of hearing in the matter of Stephen Dubos, R.Ph., and Campbell Pharmacy, held on April 23, 1991.

- (11) Exhibit A - Notice of Opportunity letter for Stephen Dubos dated March 11, 1991.
- (12) Exhibit B - Notice of Opportunity letter for Campbell Pharmacy dated March 11, 1991.
- (13) Exhibit C - Hearing Request letter from Attorney C.D. Rafoth for Stephen Dubos dated March 22, 1991.
- (14) Exhibit C1 - Hearing Request letter from Attorney C.D. Rafoth for Campbell Pharmacy dated March 22, 1991.
- (15) Exhibit D - Hearing Schedule letter for Stephen Dubos and Campbell Pharmacy dated March 29, 1991.
- (16) Exhibit E - Notice of Appearance on behalf of Stephen Dubos from David W. Grauer; and Certificate of Service dated April 2, 1991.
- (17) Exhibit E1 - Notice of Appearance on behalf of Campbell Pharmacy from David W. Grauer; and Certificate of Service dated April 2, 1991.
- (18) Exhibit F - Signed receipt for hand-delivered Hearing Schedule letter to David W. Grauer dated April 2, 1991.
- (19) Exhibit F1 - Copy of Hearing Schedule letter to David W. Grauer dated April 2, 1991.
- (20) Exhibit 1 - Pharmacist File Front Sheet of Stephen Dubos showing original date of licensure as November 2, 1950.
- (21) Exhibit 2 - Renewal Application for a Terminal Distributor of Dangerous Drugs for Campbell Pharmacy dated September 29, 1990.
- (22) Exhibit 3 - Five-page Dangerous Drug Distributor Inspection Report dated August 27, 1990.
- (23) Exhibit 4 - Prescription number 674161.
- (24) Exhibit 6 - Prescription number 730724; customer receipt for prescription number 730724; clerk's price slip for prescription number 730724; and medication vial number 730724.
- (25) Exhibit 7 - Prescription number 661059; customer receipt for prescription number 661059; and medication vial number 661059.
- (26) Exhibit 8 - Prescription number 708429; customer receipt for prescription number 708429; clerk's price slip for prescription number 708429; and medication vial number 708429.
- (27) Exhibit 9 - Prescription number 645514; clerk's price slip for prescription number 645514; and medication vial number 645514.
- (28) Exhibit 10 - Prescription number 726023; customer receipt for prescription number 726023; clerk's price slip for prescription number 726023; and prescription container 726023.
- (29) Exhibit 11 - Prescription number 731816.

(B) Respondent's Exhibits

- (1) Exhibit 1 - Copy of prescription number 754677; copy of prescription number 754708.
- (2) Exhibit 2 - Copy of Affidavit from Attorney John P. Almasy dated April 15, 1991; copy of letter from Michael Katula dated April 14, 1991; copy of letter from John F. Galida, D.D.S. dated April 15, 1991; copy of Affidavit of V.R. Monsignor Victor G. Romza dated April 15, 1991.
- (3) Exhibit 3 - Two-page copy of Inventory Close of Business dated May 1, 1986.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Stephen Dubos is the responsible pharmacist at Campbell Pharmacy, 135 12th Street, Campbell, Ohio 44405,

pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (2) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on dates immediately preceding August 27, 1990, fail to maintain the pharmacy's original outpatient prescription files in separate files, to wit: controlled substance prescriptions were not separated into a three-part file system. Such conduct is in violation of Rule 4729-5-09(A) and (B) of the Ohio Administrative Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, during a continuous course of conduct preceding August 27, 1990, fail to assign new serial prescription numbers to telephone prescriptions, to wit: when taking telephone orders to renew prescriptions which had been previously issued and had expired, Stephen Dubos as responsible pharmacist did not assign new prescription numbers to the new orders. Such conduct is in violation of Section 4729.37 of the Ohio Revised Code as is amplified by Rule 4729-5-17(E)(1) of the Ohio Administrative Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about October 15, 1988, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period for filling Prescription No. 674161 had expired, Campbell Pharmacy dispensed 100 units of Poly-Vi-Flor lmg to patient Shelly Armeni. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about August 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period for filling Prescription No. 674161 had expired, Campbell Pharmacy dispensed 100 units of Poly-Vi-Flor lmg to patient Shelly Armeni. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about August 26, 1990, sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Campbell Pharmacy sold 30 units of Valium 5mg to Shirley Ferraccio after the six-month period for Prescription No. 661059 had expired. Such conduct is in violation of Section 3719.05(A) of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about December 8, 1988, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about January 11, 1989, sell or deliver at retail to the consumer without a prescription from a practi-

tioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (9) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about February 9, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about March 13, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (11) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about June 16, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about July 19, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about August 21, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about October 21, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (15) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about November 20, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (16) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about December 13, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about January 15, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (18) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about February 16, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (19) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about March 22, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (20) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about April 23, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (21) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about May 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (22) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about June 22, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (23) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about August 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (24) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about September 10, 1987, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired on original Prescription No. 645514, Campbell Pharmacy dispensed 100 units of Lanoxin .125mg to patient Anthony Calabrese. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (25) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as responsible pharmacist did, on or about August 17, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired on original Prescription No. 726023, Campbell Pharmacy dispensed 5mg of Kenalog in Orabase to patient Mary Beth Brunelli. Such conduct is in violation of Section 3715.52(L) 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 (3) through (6), and (8) through (25) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (25) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting

STEPHEN DUBOS, R.Ph.
Page Seven
Order of the Board

to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 3719. or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-04759, held by Stephen Dubos:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Stephen Dubos for twelve months, effective February 1, 1993.

(B) Further, the Board will suspend eleven months of the twelve-month suspension imposed provided that Stephen Dubos:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board before the effective date;
- (2) does not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (3) abides by the rules of the State Board of Pharmacy; and
- (4) complies with the terms of this Order.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Stephen Dubos' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of twelve months.

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 notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

STEPHEN DUBOS, R.Ph.
Page Eight
Order of the Board

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED
AND EFFECTIVE: NOVEMBER 10, 1992

CERTIFIED MAIL
Return Receipt
P 497 579 047

FZW/so

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

cc: Ronda Anderson, Assistant Attorney General
Joseph M. Kolmacic, Attorney for Respondent; 206 Legal Arts Centre;
Youngstown, Ohio 44503

OHIO STATE BOARD OF PHARMACY

THE STATE BOARD OF PHARMACY
(Docket No. D-910311-061)

In The Matter Of:

STEPHEN DUBOS, R.Ph.
479 Robinson Road
Campbell, Ohio 44405
(R.Ph. No. 03-1-04759)

INTRODUCTION

THE MATTER OF STEPHEN DUBOS CAME TO HEARING ON APRIL 23, 1991 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (pre-siding); METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

STEPHEN DUBOS WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY JEANNY VORYS, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Stephen Dubos, Respondent
- (2) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) John Matisi, R.Ph., Campbell Pharmacy

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter for Stephen Dubos dated March 11, 1991.
- (2) Exhibit B - Notice of Opportunity letter for Campbell Pharmacy dated March 11, 1991.
- (3) Exhibit C - Hearing Request letter from Attorney C.D. Rafoth for Stephen Dubos dated March 22, 1991.
- (4) Exhibit C1 - Hearing Request letter from Attorney C.D. Rafoth for Campbell Pharmacy dated March 22, 1991.
- (5) Exhibit D - Hearing Schedule letter for Stephen Dubos and Campbell Pharmacy dated March 29, 1991.
- (6) Exhibit E - Notice of Appearance on behalf of Stephen Dubos from David W. Grauer; and Certificate of Service dated April 2, 1991.
- (7) Exhibit E1 - Notice of Appearance on behalf of Campbell Pharmacy from David W. Grauer; and Certificate of Service dated April 2, 1991.

OHIO STATE BOARD OF PHARMACY

- (8) Exhibit F - Signed receipt for hand-delivered Hearing Schedule letter to David W. Grauer dated April 2, 1991.
- (9) Exhibit F1 - Copy of Hearing Schedule letter to David W. Grauer dated April 2, 1991.
- (10) Exhibit 1 - Pharmacist File Front Sheet of Stephen Dubos showing original date of licensure as November 2, 1950.
- (11) Exhibit 2 - Renewal Application for a Terminal Distributor of Dangerous Drugs for Campbell Pharmacy dated September 29, 1990.
- (12) Exhibit 3 - Five-page Dangerous Drug Distributor Inspection Report dated August 27, 1990.
- (13) Exhibit 4 - Prescription number 674161.
- (14) Exhibit 6 - Prescription number 730724; customer receipt for prescription number 730724; clerk's price slip for prescription number 730724; and medication vial number 730724.
- (15) Exhibit 7 - Prescription number 661059; customer receipt for prescription number 661059; and medication vial number 661059.
- (16) Exhibit 8 - Prescription number 708429; customer receipt for prescription number 708429; clerk's price slip for prescription number 708429; and medication vial number 708429.
- (17) Exhibit 9 - Prescription number 645514; clerk's price slip for prescription number 645514; and medication vial number 645514.
- (18) Exhibit 10 - Prescription number 726023; customer receipt for prescription number 726023; clerk's price slip for prescription number 726023; and prescription container 726023.
- (19) Exhibit 11 - Prescription number 731816.

Respondent's Exhibits:

- (1) Exhibit 1 - Copy of prescription number 754677; copy of prescription number 754708.
- (2) Exhibit 2 - Copy of Affidavit from Attorney John P. Almsy dated April 15, 1991; copy of letter from Michael Katula dated April 14, 1991; copy of letter from John F. Galida, D.D.S. dated April 15, 1991; copy of Affidavit of V.R. Monsignor Victor G. Romza dated April 15, 1991.
- (3) Exhibit 3 - Two-page copy of Inventory Close of Business dated May 1, 1986.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that Stephen Dubos is the Responsible Pharmacist at Campbell Pharmacy, 135 12th Street, Campbell, Ohio 44405, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on dates immediately preceding August 27, 1990, fail to maintain the pharmacy's original outpatient prescription files in separate

OHIO STATE BOARD OF PHARMACY

files, to wit: controlled substance prescriptions were not separated into a three-part file system. Such conduct is in violation of Rule 4729-5-09(A) and (B) of the Ohio Administrative Code.

- (3) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, during a continuous course of conduct preceding August 27, 1990, fail to assign new serial prescription numbers to telephone prescriptions, to wit: when taking telephone orders to renew prescriptions which had been previously issued and had expired, Stephen Dubos as Responsible Pharmacist did not assign new prescription numbers to the new orders. Such conduct is in violation of Section 4729.37 of the Ohio Revised Code as is amplified by Rule 4729-5-17(E)(1) of the Ohio Administrative Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 27, 1990, hold or offer for sale drugs which were adulterated as set forth in Rule 4729-9-01(B) of the Ohio Administrative Code, to wit: numerous containers of drugs were held interspersed throughout the pharmacy drug stock which were outdated. Such conduct is in violation of Section 3715.52(A) of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about October 15, 1988, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period for filling Prescription No. 674161 had expired, Campbell Pharmacy dispensed 100 units of Poly-Vi-Flor 1mg to patient Shelly Armeni. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (6) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period for filling Prescription No. 674161 had expired, Campbell Pharmacy dispensed 100 units of Poly-Vi-Flor 1mg to patient Shelly Armeni. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 26, 1990, sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719. and 4729. of the Revised Code, to wit: Campbell Pharmacy sold 30 units of Valium 5mg to Shirley Ferraccio after the six-month period for Prescription No. 661059 had expired. Such conduct is in violation of Section 3719.05(A) of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (8) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about December 8, 1988, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about January 11, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about February 9, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (11) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about March 13, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about June 16, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about July 19, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (14) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 21, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: having no refills listed on previously filled Prescription No. 708429, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (15) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about October 21, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (16) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about November 20, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about December 13, 1989, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (18) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about January 15, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (19) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about February 16, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to

OHIO STATE BOARD OF PHARMACY

wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (20) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about March 22, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (21) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about April 23, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (22) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about May 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (23) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about June 22, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (24) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 25, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired and having no refills listed on original Prescription No. 730724, Campbell Pharmacy dispensed 90 units of Persantine 50mg to patient Josephine Logero. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (25) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about September 10, 1987, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired on original Prescription No. 645514, Campbell Pharmacy dispensed 100 units of Lanoxin .125mg to patient Anthony Calabrese. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.
- (26) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about May 22, 1989, dispense 5gm of Kenalog in Orabase, a dangerous drug, to patient Mary Beth Brunelli pursuant to telephone Prescription No. 726023, without properly recording the patient's full name and address, the practitioner's name and address, any refill information, the date of dispensing, or the name or initials of the dispensing pharmacist. Such conduct is in violation of Section 3715.64 of the Ohio Revised Code and Rules 4729-5-17 and 4729-5-30 of the Ohio Administrative Code.
- (27) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 17, 1990, dispense 5gm of Kenalog in Orabase, a dangerous drug, to patient Mary Beth Brunelli pursuant to a refill of telephone Prescription No. 726023, without properly recording the patient's full name and address, the practitioner's name and address, any refill information, the date of dispensing, or the name or initials of the dispensing pharmacist. Such conduct is in violation of Section 3715.64 of the Ohio Revised Code and Rules 4729-5-17 and 4729-5-30 of the Ohio Administrative Code.
- (28) From the evidence presented, the State Board of Pharmacy finds that Stephen Dubos as Responsible Pharmacist did, on or about August 17, 1990, sell or deliver at retail to the consumer without a prescription from a practitioner a dangerous drug, to wit: after the one-year time period had expired on original Prescription No. 726023, Campbell Pharmacy dispensed 5gm of Kenalog in Orabase to patient Mary Beth Brunelli. Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2), (3), (5), (6), (7), and (9) through (28) of the Findings Of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (28) of the Findings Of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 3719. or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-04759, held by Stephen Dubos:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Stephen Dubos for twelve months, effective November 1, 1991.

(B) Further, the Board will suspend eleven months of the twelve-month suspension imposed provided that Stephen Dubos:

- (1) takes and successfully completes the Jurisprudence examination offered by the Board before the effective date;
- (2) does not violate the drug laws of the state of Ohio, any other state, or the federal government;
- (3) abides by the rules of the State Board of Pharmacy; and
- (4) complies with the terms of this Order.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Stephen Dubos' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of twelve months.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is ..., suspended, ..., shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after ... [the effective date] of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.