



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980209-036)

In The Matter Of:

**HENRY N. HINER, R.Ph.**  
607 Country Club Lane  
Ashland, Ohio 44805  
(R.Ph. No. 03-1-07532)

### INTRODUCTION

THE MATTER OF HENRY N. HINER CAME TO HEARING ON MAY 4, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

HENRY N. HINER WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Paul Kover, R.Ph., Ohio State Board of Pharmacy
- (2) Kevin J. Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Henry N. Hiner, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Notice of Opportunity for Hearing letter dated February 9, 1998.
- (2) Exhibit 1A--Notice of Appearance and Certificate of Service in the Matter of Henry N. Hiner dated February 24, 1998; and Request for Hearing and Certificate of Service in the Matter of Henry N. Hiner dated February 24, 1998.

- (3) Exhibit 1B--Copy of Hearing Schedule letter dated February 24, 1998.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated February 26, 1998.
- (5) Exhibit 1D--Copy of Pharmacist File Front Sheet of Henry Norton Hiner showing original date of registration as August 28, 1961; and two-page copy of Renewal Application for Pharmacist License, No. 03-1-07532, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Henry N. Hiner dated July 13, 1997.
- (6) Exhibit 2--Prescription No. 64458.
- (7) Exhibit 3--Prescription No. 16670.
- (8) Exhibit 4--Rite Aid Pharmacy #02394 Refill Listing Register report dated August 29, 1996.
- (9) Exhibit 5--Four-page handwritten statement of Henry N. Hiner signed and notarized on November 6, 1996.
- (10) Exhibit 6--Two-page handwritten statement of Ingrid Griffiths signed and notarized on December 11, 1996.
- (11) Exhibit 7--Three-page handwritten statement of Colleen Shaughency signed and notarized on December 11, 1996.
- (12) Exhibit 8--Two-page handwritten statement of Susan E. Price signed and notarized on December 11, 1996.
- (13) Exhibit 9--Five-page copy of vial, prescription number 16670, for Betty Kegley dated August 28, 1996.
- (14) Exhibit 10--Three-page Dangerous Drug Distributor Inspection Report of Rite Aid Store #2394, Terminal Distributor No. 02-361100, dated November 6, 1996.
- (15) Exhibit 11--Ohio State Board of Pharmacy Prescription Room Barricade Inspection Report of Terminal Distributor License No. 02-361100 dated November 6, 1996.
- (16) Exhibit 12--Notification of Change of Responsible Person form of Rite Aid Pharmacy #2394, signed by Henry N. Hiner effective August 30, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Copy of letter from Diane Pearson dated April 23, 1998.
- (2) Exhibit B--Letter from Robert B. Davis dated March 5, 1998.
- (3) Exhibit C--Letter from Chris McClain dated March 1, 1998.
- (4) Exhibit D--Letter from David G. Young dated March 23, 1998.
- (5) Exhibit E--Letter from Larry Grandy dated March 25, 1998.
- (6) Exhibit F--Copy of letter from Henry N. Hiner dated March 9, 1998

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Henry N. Hiner was originally licensed in the state of Ohio on August 28, 1961, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Henry N. Hiner did, on or about August 28, 1996, misbrand and sell a drug that was misbranded, to wit: when presented a prescription for chlorpromazine 50mg, Henry N. Hiner dispensed chlorpropamide 250mg but labeled the vial as if chlorpromazine 50mg had been dispensed therein, causing serious, life-threatening physical harm to the patient. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.

- (3) Henry N. Hiner did, on or about November 6, 1996, while practicing pharmacy at Rite Aid in Crestline, Ohio, fail to provide personal supervision of the dangerous drugs, to wit: Henry N. Hiner left the pharmacy unattended by a pharmacist without locking the barricade, setting the alarm, or otherwise assuring the security and control for the dangerous drugs or adequate safeguards against diversion as required by Sections 4729.27 and 4729.55 of the Ohio Revised Code. Such conduct is in violation of Rules 4729-9-05 and 4729-9-11 of the Ohio Administrative Code.

#### CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 4729. of the Revised Code as provided in Division (A)(5) 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 Henry N. Hiner:

- (A) On the basis of paragraph (2) of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby reprimands Henry N. Hiner.
- (B) On the basis of paragraph (3) of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one hundred dollars (\$100.00) 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.