



# OHIO STATE BOARD OF PHARMACY

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Equal Opportunity Employer and Service Provider.

ORDER OF THE STATE BOARD OF PHARMACY  
(Docket No. D-930623-095)

In The Matter Of:

**D. JACK BUROKER, R.Ph.**  
10 N. Main Street  
Kenton, Ohio 43326  
(R.Ph. No. 03-1-07629)

THE MATTER OF D. JACK BUROKER CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON AUGUST 4, 1993, AS A RESULT OF THE REPORT AND RECOMMENDATION SUBMITTED TO THE BOARD BY HEARING OFFICER AND BOARD MEMBER, TIMOTHY D. MOORE. FOLLOWING CONSIDERATION OF THE REPORT AND RECOMMENDATION, THE TRANSCRIPT OF THE HEARING HELD JULY 9, 1993, AND EVIDENCE ADDUCED AT THE HEARING, MOTIONS WERE MADE AND RECORDED THAT THE FOLLOWING ORDER BE ADOPTED:

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

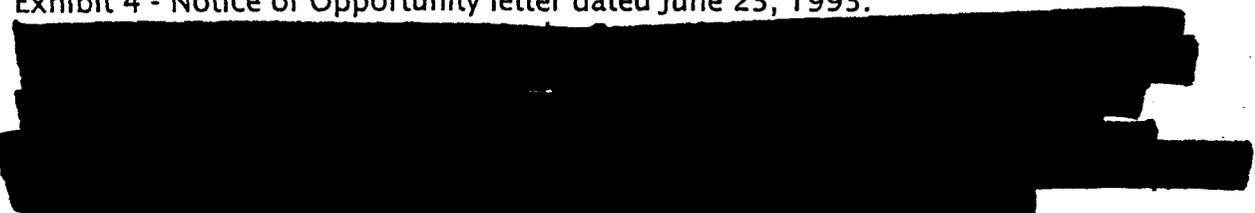
- (1) Susan H. Baldwin, R.Ph.  
[REDACTED]
- (3) Richard L. Rob, Blue Cross & Blue Shield of Northern Ohio
- (4) David L. Avery, Ohio State Board of Pharmacy
- (5) Robert Amiet, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Edison L. Klingler
- (2) James Spencer Campbell, Jr., M.D.
- (3) D. Jack Buroker, R.Ph., Respondent
- (4) Susan Elaine Cooper
- (5) Craig Douglas Leegh
- (6) Rev. Ralph W. Middleton

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order dated April 26, 1993.
- (2) Exhibit 2 - Notice of Appearance and Certificate of Service dated May 12, 1993; and Request for Hearing and Certificate of Service dated May 12, 1993.
- (3) Exhibit 3 - Hearing Schedule letter dated May 17, 1993.
- (4) Exhibit 4 - Notice of Opportunity letter dated June 23, 1993.
- (5) 
- (6) 
- (7) Exhibit 7 - Hearing Schedule letter dated July 2, 1993.
- (8) Exhibit 8 - Handwritten statement of D. Jack Buroker signed and notarized on May 22, 1990.
- (9) Exhibit 8A - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dilaudid 4mg tablets dated May 9, 1990.
- (10) Exhibit 8B - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Desoxyn 15mg tablets dated May 9, 1990.
- (11) Exhibit 8C - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dexedrine 5mg tablets dated May 9, 1990.
- (12) Exhibit 8D - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dexedrine 15mg spansules dated May 9, 1990.
- (13) Exhibit 8E - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Percodan tablets dated May 9, 1990.
- (14) Exhibit 8F - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Oxycodone & APAP tablets dated May 9, 1990.
- (15) Exhibit 8G- Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Tylox capsules dated May 9, 1990.
- (16) Exhibit 9 - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Nembutal 50mg capsules dated May 9, 1990.
- (17) Exhibit 9A - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Ritalin 10mg tablets dated May 9, 1990.
- (18) Exhibit 9B- Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Desoxyn 10mg tablets dated May 9, 1990.
- (19) Exhibit 9C- Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Desoxyn 5mg tablets dated May 9, 1990.

- (20) Exhibit 10 - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Oxycodone & Aspirin tablets dated May 9, 1990.
- (21) Exhibit 10A - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dolophine 10mg tablets dated May 9, 1990.
- (22) Exhibit 11- Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Codeine Sulfate 60mg tablets dated May 9, 1990.
- (23) Exhibit 11A - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Codeine Sulfate 30mg tablets dated May 9, 1990.
- (24) Exhibit 11B - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dilaudid 2mg. tablets dated May 9, 1990.
- (25) Exhibit 11C - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Preludin Endurets 75mg tablets dated May 9, 1990.
- (26) Exhibit 11D - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Nembutal 100mg capsules dated May 9, 1990.
- (27) Exhibit 11E- Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Demerol 50mg tablets dated May 9, 1990.
- (28) Exhibit 11F - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Dexedrine 10mg spansules dated May 9, 1990.
- (29) Exhibit 11G - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Mepergan Fortis capsules dated May 9, 1990.
- (30) Exhibit 11H - Accountability Statement of Hill Drug Company, terminal distributor license number 02-083050, for Percocet tablets dated May 9, 1990.
- (31) Exhibit 12 - Statement of Susan H. Baldwin, R.Ph. signed and notarized on October 2, 1991.
- (32) Exhibit 12A - Prescription tube number 491128 dated June 19, 1990.
- (33) Exhibit 12B - Prescription number 491128.
- (34) Exhibit 12C - Prescription tube number 491128 dated July 3, 1990.
- (35) Exhibit 12D - Prescription tube number 491128 dated July 31, 1990.
- (36) Exhibit 12E - Prescription tube number 11170 dated July 31, 1990.
- (37) Exhibit 12F - Prescription number 11170.
- (38) Exhibit 12G - Prescription vial number 11170 dated August 22, 1990.
- (39) Exhibit 12H - Prescription tube number 491128 dated August 22, 1990.
- (40) Exhibit 12I - Prescription tube number 491128 dated October 1, 1990.
- (41) Exhibit 12J - Prescription vial number 11170 dated October 1, 1990.
- (42) Exhibit 12K - Prescription tube number 491128 dated November 13, 1990.
- (43) Exhibit 12L - Prescription tube number 503382 dated February 6, 1991.
- (44) Exhibit 12M - Prescriptions numbered 503382 and 503381C.
- (45) Exhibit 12N - Prescription tube number 503382 dated March 19, 1991.
- (46) Exhibit 12O - Prescription tube number 503382 dated May 14, 1991.
- (47) Exhibit 12P - Prescription tube number 503382 dated June 4, 1991.
- (48) Exhibit 12Q - Prescription tube number 503382 dated June 25, 1991.
- (49) Exhibit 12R - Prescription jar number 503382 dated July 16, 1991.

- (50) Exhibit 12S - Handwritten patient profile of Lisa Sacco dated from June 19, 1990, through November 13, 1990; and attached patient profile computer printout of Lisa Sacco dated from November 15, 1990, through September 3, 1991.
- (51) Exhibit 12T - Handwritten patient profile of Charles Hanlon dated from July 31, 1990, through November 13, 1990.
- (52) Exhibit 12U - Copy of two Blue Cross Blue Shield, Blueprint PReview Program insurance cards for the following patients: C. P. Hanlon, Group No. 1916100, Plan Codes 837 and 337; and L. Sacco, Group No. 1916100, Plan Codes 837 and 337.
- (53) Exhibit 13 - Copy of Blue Cross Blue Shield of Ohio, Financial Investigations Department, Statement of D. Jack Buroker signed and dated on September 3, 1991.
- (54) Exhibit 14 - Prescription number 467788.
- (55) Exhibit 14A - Redacted Statement of Dr. Chung A. Chang, M.D. signed and notarized on May 22, 1990.
- (56) Exhibit 14B - Copy of patient record of Mrs. Agnes L. Seabert dated from July 28, 1987, through December 28, 1987.
- (57) Exhibit 14D - Redacted Statement of Dr. James S. Campbell, M.D. signed and notarized on May 22, 1990.
- (58) Exhibit 14E - Copy of patient record of Hobart Ramsey dated from April 13, 1987, through April 15, 1988.
- (59) Exhibit 14F - Prescription number 467972.
- (60) Exhibit 14H - Redacted Statement of Dr. Murli Deshmukh, M.D. signed and notarized on May 22, 1990.
- (61) Exhibit 14I - Prescription number 482400.
- (62) Exhibit 14J - Copy of patient record of Madelyn Swysgood dated May 12, 1989.
- (63) Exhibit 14L - Prescription number 484817.
- (64) Exhibit 14M - Copy of patient record of George Smith dated September 1, 1989.
- (65) Exhibit 14N - Prescription number 465367.
- (66) Exhibit 14O - Copy of patient record of Waneta Lloyd dated from April 1, 1987, through June 17, 1987.
- (67) Exhibit 14P - Prescription number 463995.
- (68) Exhibit 14Q - Copy of patient record of Irene Armstrong dated May 11, 1987.
- (69) Exhibit 14S - Copy of patient record of Madeline Swysgood dated December 1, 1987.
- (70) Exhibit 14U - Redacted Statement of Dr. Jeffrey L. Neuhauser, M.D. signed and notarized on May 22, 1990.
- (71) Exhibit 14W - Prescription number 467371.
- (72) Exhibit 14V - Copy of patient record of Elwood Hottman dated May 27, 1987.
- (73) Exhibit 14X - Copy of patient record of Hazel Lones dated June 12, 1987, and September 11, 1987.
- (74) Exhibit 14AA - Prescription number 484906.
- (75) Exhibit 14CC - Copy of patient record of Minnie Louise Hart dated from September 28, 1987, through January 29, 1988.
- (76) Exhibit 14EE - Redacted Statement of Dr. Leonard K. Smith, M.D. signed and notarized on May 22, 1990.

- (77) Exhibit 14FF - Copy of patient record of Pat Rizor dated from September 28, 1987, through January 29, 1988.
- (78) Exhibit 15 - Prescription number 477154.
- (79) Exhibit 15A - Copy of patient record of Connie Knerr dated from August 24, 1988, through May 23, 1989.
- (80) Exhibit 15B - Prescription number 478771.
- (81) Exhibit 15C - Copy of patient record of Pam Williams dated from November 4, 1988, through December 20, 1988.
- (82) Exhibit 15D - Prescription number 465368.
- (83) Exhibit 15E - Prescription number 467651.
- (84) Exhibit 15F - Copy of patient record of Waneta Lloyd dated September 21, 1987.
- (85) Exhibit 15G - Prescription number 470285.
- (86) Exhibit 15H - Copy of patient record of Waneta Lloyd dated December 15, 1987.
- (87) Exhibit 16 - File containing complete audit records of Hill Drug Co. Audit prepared by David Avery, Compliance Agent, Ohio State Board of Pharmacy.

Respondent's Exhibits:

- (1) Exhibit A - Copy of newspaper article from the Kenton Times, Unsung Heroes column titled "Buroker fits prescription of small-town pharmacist", not dated.
- (2) Exhibit B - Thirty-six page copy of petition regarding Hill Drug, Kenton, Ohio.
- (3) Exhibit C - Letter from Peter A. Previte dated July 8, 1993.
- (4) Exhibit D - Two-page letter from H. Clifford Biddinger, Jr. dated July 8, 1993.
- (5) Exhibit E - Letter from Kathleen Sorgen dated July 8, 1993.
- (6) Exhibit F - Letter from Millard E. Timmons dated July 8, 1993.
- (7) Exhibit G - Two-page letter from Edison Klingler dated July 9, 1993.
- (8) Exhibit H - Letter from Delores Park, not dated; and letter from Quentin R. White dated July 8, 1993.
- (9) Exhibit I - Copy of letter from Charles R. Brading dated January 12, 1993.
- (10) Exhibit J - Copy of letter from Geneva M. Thompson dated Wednesday, Jan. 6.
- (11) Exhibit K - Copy of note from Mary Ann Renfrew dated January 5, 1993.
- (12) Exhibit L - Copy of two notes, one from Left Handed Catholic Boy dated January 8, 1993; and one from Marcile Vermillion, R.Ph., not dated.
- (13) Exhibit M - Copy of photograph of Jack Buroker and a poem by Ole Leo dated January 5, 1993.
- (14) Exhibit N - Letter from David C. Hart dated July 8, 1993.
- (15) Exhibit O - Letter from Billie Thompson dated July 7, 1993.
- (16) Exhibit P - Two-page letter from Janice, Richard, Adam, and Jerry Haudenschild dated July 8, 1993.
- (17) Exhibit Q - Letter from Elizabeth Tackett dated July 7, 1993.
- (18) Exhibit R - Letter from Betty L. Osbun dated July 8, 1993.
- (19) Exhibit S - Letter from James W. Black dated July 7, 1993.
- (20) Exhibit T - Letter from Norman D. Fleming dated July 7, 1993.
- (21) Exhibit U - Letter from Mary S. Hamilton dated July 8, 1993.
- (22) Exhibit V - Letter from Roger E. Crowe dated July 8, 1993.
- (23) Exhibit W - Letter from H. F. Dick, not dated.
- (24) Exhibit X - Letter from Harold L. Cornell dated July 8, 1993.

- (25) Exhibit Y - Letter from Carol Shick dated July 7, 1993.
- (26) Exhibit Z - Letter from Cliff Keel, not dated.
- (27) Exhibit AA - Letter from M. Wayne, Kathy, and Jeremy Todd Baldwin dated July 8, 1993.
- (28) Exhibit BB - Two-page letter from Mary L. Shirk dated July 8, 1993.
- (29) Exhibit CC - Letter from Edgar & Mary Lou Rush dated July 7, 1993.
- (30) Exhibit DD - Letter from Russ and Jan Spearman dated July 7, 1993.
- (31) Exhibit EE - Letter from John and Cloris Cook dated July 7, 1993.
- (32) Exhibit FF - Letter from E. F. Lephart dated July 8, 1993.
- (33) Exhibit GG - Letter from Kenneth and Charlene Hilty dated July 7, 1993.
- (34) Exhibit HH - Letter from Harry C. Bailey dated July 8, 1993.
- (35) Exhibit II - Letter from Thomas Stout dated July 7, 1993.
- (36) Exhibit JJ - Two-page letter from Julie A. Crowe dated July 7, 1993.
- (37) Exhibit KK - Letter from Ella Mae Marquis, not dated.
- (38) Exhibit LL - Letter from John Jester dated July 8, 1993.
- (39) Exhibit MM - Letter not signed, dated July 7, 1993.
- (40) Exhibit NN - Letter from Bruce and Barbara Burk dated July 8, 1993.
- (41) Exhibit OO - Letter from J. C. Cavalier dated July 5, 1993.
- (42) Exhibit PP - Letter from Paul R. Nicely, O.D., not dated.
- (43) Exhibit QQ - Letter from John C. Hatcher dated July 8, 1993.
- (44) Exhibit RR - Letter from Dorma Cratis, not dated.
- (45) Exhibit SS - Letter from Joe and Ruth Ann Cook dated July 7, 1993.
- (46) Exhibit TT - Letter from Shari Longbrake dated July 8, 1993.
- (47) Exhibit UU - Copy of letter from Betty J. Ward, not dated.
- (48) Exhibit VV - Copy of note from Alice and Lou dated May 18, 1993.
- (49) Exhibit WW - Copy of note from Quentin and Bev, not dated.
- (50) Exhibit XX - Copy of note from Marilyn Woods dated Friday.
- (51) Exhibit YY - Copy of note from Mary Althausser, not dated.
- (52) Exhibit ZZ - Copy of note from Tom dated April 26, 1993.
- (53) Exhibit AAA - Copy of letter from Melvin and Agnes Seabect, not dated.
- (54) Exhibit BBB - Copy of note from the Sanders, not dated.
- (55) Exhibit CCC - Copy of note from Lisa, not dated.
- (56) Exhibit DDD - Copy of note from Maxine Norton, not dated.
- (57) Exhibit EEE - Copy of note from Jim, "Sam", and Susan Millard, not dated.
- (58) Exhibit FFF - Copy of happy gram from G. L. Bellris, not dated.
- (59) Exhibit GGG - Copy of note from Kay, not dated.
- (60) Exhibit HHH - Copy of letter from Lorain and Patty (last name illegible) dated April 19, 1993.
- (61) Exhibit III - Copy of letter from Aunt Irene, not dated.
- (62) Exhibit III - Copy of card from Audrey Reese, not dated.
- (63) Exhibit KKK - Copy of card from Kay Steiner, not dated.
- (64) Exhibit LLL - Copy of card from George and Pat, not dated.
- (65) Exhibit MMM - Copy of card from Carol and Family, not dated.
- (66) Exhibit NNN - Copy of card from Shirley Gould dated Tues. evening.
- (67) Exhibit OOO - Copy of card from Dick and Mary Jo Stewart, not dated.
- (68) Exhibit PPP - Copy of card from Aunt Betty and Uncle Ray, not dated.
- (69) Exhibit QQQ - Copy of card from Jane and Harold, not dated.

- (70) Exhibit RRR - Copy of note from the Deacons Trinity Presbyterian Church, not dated..
- (71) Exhibit SSS - Copy of card from Larry and Shirley dated March, 1993.
- (72) Exhibit TTT - Copy of card from Corrine and Janice, not dated.
- (73) Exhibit UUU - Copy of card from Don and Kay Dall, not dated.
- (74) Exhibit VVV - Copy of card from Joe, not dated.
- (75) Exhibit WWW - Copy of card from Gene and Shirley, not dated.
- (76) Exhibit XXX - Copy of card from Dick, Bonnie and Eric Pavlonic, not dated.
- (77) Exhibit YYY - Copy of card from Kathy, not dated.
- (78) Exhibit ZZZ - Copy of letter from Gary and Rosemary, not dated.
- (79) Exhibit AAAA - Copy of card from Betty and Ray, not dated.
- (80) Exhibit BBBB - Copy of card from Ed and Rosie, not dated.
- (81) Exhibit CCCC - Copy of card from Millie and Les Parker, not dated.
- (82) Exhibit DDDD - Copy of letter from Bob, not dated, and copy of card regarding Holy Sacrifice of Mass for the intentions of D. Jack Buroker, not dated.
- (83) Exhibit EEEE - Copy of letter from Dorothy D. Downing dated May 17, 1993.
- (84) Exhibit FFFF - Copy of letter from Melvin and Agnes Seabert, not dated.
- (85) Exhibit GGGG - Copy of letter from Mary Ann Renfrew dated May 17, 1993.
- (86) Exhibit HHHH - Copy of letter from Robert E. Syzmanski dated May 16, 1993.
- (87) Exhibit IIII - Copy of letter from Janice and Corrine Brown dated May 27, 1993.
- (88) Exhibit JJJJ - Copy of note from Merle Shane and note from Rosie, not dated.
- (89) Exhibit KKKK - Copy of card from Aunt Irene, not dated.
- (90) Exhibit LLLL - Two-page letter from Lorain A. Basinger, not dated.
- (91) Exhibit MMMM - Letter from Trudy Cornell dated July 8, 1993.
- (92) [REDACTED]
- (93) Exhibit OOOO - Copy of Kenton Times newspaper article titled "[REDACTED]"
- (94) Exhibit PPPP - Copy of two newspaper articles (newspaper name unknown) from the reader editorials section titled "Community has compassion" and "Rumors can be devastating" with a hand-written date of June 9, 1993.
- (95) Exhibit QQQQ - Copy of two newspaper articles (newspaper name unknown,) from the reader editorials section titles "Show support for pharmacy" with handwritten date of May 15, 1993, and "Speaking up for Buroker" with handwritten date of May 14, 1993.
- (96) Exhibit RRRR - Copy of newspaper article (newspaper name unknown) titled [REDACTED]
- (97) Exhibit SSSS - Copy of newspaper article from the Kenton Times titled "Kenton pharmacist fights attempt to suspend his license" dated May 5, 1993.
- (98) Exhibit TTTT - Copy of newspaper article (newspaper name unknown) titled "Kenton pharmacist awaits ruling on license" with a handwritten date of Thursday, June 3, 1993.
- (99) Exhibit UUUU - Copy of newspaper article (newspaper name unknown) titled "Pharmacist to learn status of license Monday", not dated.
- (100) Exhibit VVVV - Copy of photograph of the inside of Hill Drug Co.
- (101) Exhibit WWWW - Copy of photograph of the front of Hill Drug Co.
- (102) Exhibit XXXX - Copy of letter from Pauline Clermont dated May 4, 1993.

- (103) Exhibit YYYY - List of Charities and Accts he carries, not dated.
- (104) Exhibit ZZZZ - Copy of letter from David W. Grauer dated July 8, 1993.
- (105) Exhibit 1 - Errand Request from Squire, Sanders & Dempsey dated July 9, 1993, attorney initials are D. W. G., addressee is Board of Pharmacy, received and signed by Franklin Z. Wickham on July 8, 1993, at 5:03 p.m.
- (106) Exhibit 2 - Seventeen prescriptions written for Percocet for either Viosa or Euel Bussey dated from August 31, 1989 through January 2, 1990; and one prescription for Methadone for Joe Dyer dated January 11, 1990.

#### FINDINGS OF FACT

After having read the testimony, considered the evidence, and weighed the credibility of the witnesses, the State Board of Pharmacy hereby agrees with and adopts the Findings of Fact set forth in the Report and Recommendation of Hearing Officer and Board Member, Timothy D. Moore, as follows:

- (1) Records of the Board of Pharmacy indicate that D. Jack Buroker was originally licensed in the state of Ohio on March 14, 1962, pursuant to examination, and during said time periods was the Responsible Pharmacist at Hill Drug Company, 10 N. Main St., Kenton, Ohio 43326, 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 May 1, 1987, through February 28, 1990, D. Jack Buroker or persons under his control as responsible pharmacist, sold according to the definition under Section 4729.02(J) of the Ohio Revised Code, controlled substances without prescriptions in amounts greater than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Dilaudid 4mg	II	100
Desoxyn 15mg	II	300
Dexedrine 5mg	II	2,344
Dexedrine 15mg	II	632
Percodan	II	1,044
Oxycodone /APAP	II	404
Tylox	II	286

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (3) From May 1, 1987, through February 28, 1990, D. Jack Buroker or persons under his control as responsible pharmacist, sold according to the definition under Section 4729.02(J) of the Ohio Revised Code, controlled substances in amounts greater than the bulk amount but less than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Nembutal 50mg	II	86
Ritalin 10mg	II	100
Desoxyn 10mg	II	73
Desoxyn 5mg	II	109

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (4) From May 1, 1987, through February 28, 1990, D. Jack Buroker or persons under his control as responsible pharmacist, sold according to the definition under Section 4729.02(J) of the Ohio Revised Code, controlled substances in amounts less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Oxycodone /ASA	II	20

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (5) D. Jack Buroker as responsible pharmacist did, from May 1, 1987, through February 28, 1990, fail to keep a record of controlled substances received or dispensed by him and/or the Hill Drug Company, to wit: D. Jack Buroker possessed in the pharmacy unexplained overages of the following drugs without accurate records for their existence:

<u>Drug</u>	<u>Schedule</u>	<u>Quantity</u>
Codeine S04 60mg	II	10
Codeine S04 30mg	II	1
Dilaudid 2mg	II	70
Preludin 75mg	II	163
Nembutal 100mg	II	30
Demerol 50mg	II	11
Dexedrine 10mg	II	57
Mepergan Fortis	II	16
Percocet	II	285

Such conduct is in violation of Section 3719.07(G) of the Ohio Revised Code.

- (6) D. Jack Buroker did, on or about the following dates, knowingly make or affix a false or forged label to a package or receptacle containing dangerous drugs when the conduct was not in accordance with Chapter 4729. of the Ohio Revised Code, to wit: when filling the following prescriptions, D. Jack Buroker dispensed generic drugs but labeled the vial and billed the insurance company as if brand name drugs had been dispensed:

<u>Date</u>	<u>Rx. No.</u>	<u>Drug Dispensed</u>	<u>Labeled</u>
06-19-90	491128	Nystatin	Mycolog Cream
07-03-90	491128	Nystatin	Mycolog Cream
07-31-90	491128	Nystatin	Mycolog Cream
07-31-90	011170	Diphenoxylate/Atropine	Lomotil
08-22-90	011170	Diphenoxylate/Atropine	Lomotil
08-22-90	491128	Nystatin	Mycolog Cream
10-01-90	491128	Nystatin	Mycolog Cream
10-01-90	011170	Diphenoxylate/Atropine	Lomotil
11-13-90	491128	Nystatin	Mycolog Cream
02-06-91	503382	Nystatin	Mycolog Cream
03-19-91	503382	Nystatin	Mycolog Cream
05-14-91	503382	Nystatin	Mycolog Cream
06-04-91	503382	Nystatin	Mycolog Cream
06-25-91	503382	Nystatin	Mycolog Cream
07-16-91	503382	Nystatin	Mycolog Cream

Such conduct is in violation of Section 2925.23(D) of the Ohio Revised Code.

- (7) D. Jack Buroker did, from June 19, 1990, through May 14, 1991, with the purpose to deprive, knowingly obtain money from Blue Cross Blue Shield of Ohio by deception, to wit: when dispensing generic drugs, D. Jack Buroker billed the insurance company as if he had dispensed brand name drugs when it was determined that, in purchases made under controlled circumstances during the period of June 19, 1990, through May 14, 1991, 50% of D. Jack Buroker's brand name billings were determined to be fraudulent. On September 3, 1991, D. Jack Buroker gave a written statement to Board agent Dave Avery as follows:

At times I found it necessary to dispense generics and charge Blue Cross for trade name. The reason, weak as it sounds, is that I have found that the insurance companies are increasingly cutting into my margin of profit and knowing that it was wrong I was only trying to stay alive financially. I am sorry this has happened and as I said I knew it was wrong. D. Jack Buroker

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (8) D. Jack Buroker as responsible pharmacist did, on or about the following dates, sell, give away, or deliver at retail without a prescription a dangerous drug, to wit: without having authorization from a practitioner for additional quantity or refills, D. Jack Buroker or a pharmacist under his control dispensed the following medication:

<u>Rx No.</u>	<u>Drug</u>	<u>Authorized</u>	<u>Dispensed</u>
467972	Hydrodiuril 50mg	90	120
482400	Hydrochlorothiazide 50mg	120	180
484817	Atromid S 500mg	360	780

467371	Disalcid 750mg	360	720
484906	Arudis 75mg	350	400

Such conduct is in violation of Section 3715.52(L) of the Ohio Revised Code.

- (9) D. Jack Buroker as the responsible pharmacist did, on or about the following dates, make a false or forged prescription for a dangerous drug, to wit: D. Jack Buroker altered the following prescriptions without approval from the prescribing practitioner:

<u>Rx No.</u>	<u>Drug</u>	<u>Authorized</u>	<u>Dispensed</u>
467788	Isordil S/L 5mg	100	120
465367	Symmetril 100mg	60	100
463995	Inderal 20mg	90	100

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (10) D. Jack Buroker as the responsible pharmacist did, on or about the dates indicated in the prescriptions, knowingly sell a controlled substance in an amount greater than the bulk amount but less than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit:

<u>Rx No.</u>	<u>Drug</u>	<u>Sch.</u>	<u>Authorized</u>	<u>Dispensed</u>
477154	Tylox	II	20	80
478771	Percocet	II	15	45
465368	Ativan 1mg	IV	270	300
467651	Ativan 1mg	IV	180	200
470285	Ativan 1mg	IV	270	300

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (11) D. Jack Buroker as the responsible pharmacist did, on or about the dates indicated on the prescriptions, intentionally create and/or knowingly possess false or forged prescriptions, to wit: D. Jack Buroker altered and/or subsequently possessed in the pharmacy prescriptions numbered 477154, 478771, 465368, 467651, and 470285. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (12) D. Jack Buroker as responsible pharmacist did, on or about May 22, 1990, and dates immediately preceding, permit persons other than a registered pharmacist to have access to the pharmacy which is not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: keys were given to Kathy Hilty and Sue Buroker, neither of whom is a registered pharmacist. Such conduct is in violation of Rule 4729-9-11(A)(2)(d) of the Ohio Administrative Code.

(13)

(14)

#### CONCLUSIONS OF LAW

The State Board of Pharmacy hereby agrees with and adopts the Conclusions of Law set forth in the Report and Recommendation of Hearing Officer and Board Member, Timothy D. Moore, as follows:

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (14) [REDACTED] code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (13) 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (13) constitutes [REDACTED]
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (13) constitute 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 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

The State Board of Pharmacy hereby agrees with and adopts the Findings of Fact and the Conclusions of Law set forth in the Report and Recommendation of Hearing Officer and Board Member, Timothy D. Moore. Therefore, the State Board of Pharmacy takes the following actions in the matter of D. Jack Buroker:

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order, Docket No. D-930426-079, issued to D. Jack Buroker on April 26, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-07629, held by D. Jack Buroker:

- (A) On the basis of the Findings of Fact and paragraphs (1) through (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby places the identification card, No. 03-1-07629, held by D. Jack Buroker on probation effective as of the date of the mailing of this Order.
- (B) Further, D. Jack Buroker must take and successfully complete the Federal Drug Law Examination and the Jurisprudence Examination offered by the Board prior to March 15, 1994.
  - (1) If successful completion is achieved prior to March 15, 1994, D. Jack Buroker will remain on probation for five years from the date of completion. The terms of probation are as follows:
    - (a) D. Jack Buroker must not violate the drug laws of the state of Ohio, any other state, or the federal government;
    - (b) D. Jack Buroker must abide by the rules of the State Board of Pharmacy; and
    - (c) D. Jack Buroker must comply with the terms of this Order.
  - (2) If successful completion is not achieved prior to March 15, 1994, D. Jack Buroker's identification card to practice pharmacy in the state of Ohio will be suspended effective March 15, 1994, until successful completion is accomplished. Upon successful completion, D. Jack Buroker's identification card will be reinstated and placed on probation for five (5) years from the date of completion under the terms as set forth in paragraphs (B)(1)(a), (B)(1)(b), and (B)(1)(c) above.
- (C) On the basis of paragraphs (2), (3), (4), (5), and (10) of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of fifteen thousand five hundred dollars (\$15,500.00) due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that D. Jack Buroker's pharmacist identification card is not in good standing and thereby denies him the privilege of being a preceptor and training pharmacy interns while on probation.

D. JACK BUROKER, R.Ph.  
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Order of the Board

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

MOTION CARRIED.

SO ORDERED.

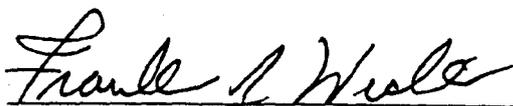
It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

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 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.

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 Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED  
AND EFFECTIVE: August 9, 1993

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

CERTIFIED MAIL  
Return Receipt  
#P 373 708 434

FZW/so

cc: Ronda Anderson, Assistant Attorney General  
David W. Grauer, Attorney for Respondent; Squire, Sanders & Dempsey; 1300  
Huntington Center; 41 S. High Street; Columbus, Ohio 43215  
Keith Lange, Attorney for Respondent; 15 N. Detroit St.; Kenton, Ohio 43326

STATE BOARD OF PHARMACY

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THE STATE BOARD OF PHARMACY

vs

D. JACK BUROKER, R.Ph.

THE MATTER OF D. JACK BUROKER, DOCKET NO. 6-75-3, CAME ON FOR CONSIDERATION BY THE STATE BOARD OF PHARMACY ON WEDNESDAY, MARCH 28, 1984. MOTIONS WERE MADE AND RECORDED THE FOLLOWING ORDER BE ADOPTED:

ORDER

Findings Of Fact

- (1) On January 12, 1984, D. Jack Buroker, R.Ph. No. 03-1-07629, was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of January 13, 1984, D. Jack Buroker received the letter of January 12, 1984 informing him of the allegations regarding the late renewal of his pharmacist identification card, his continual practice without a current identification card, and his rights.
- (3) On February 8, 1984, the Board received a letter dated February 6, 1984 setting forth his position and contentions in writing.

Conclusions Of Law

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that D. Jack Buroker did fail to renew his identification card to practice pharmacy in Ohio, as required by Section 4729.12 of the Revised Code, more than one time.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that D. Jack Buroker did willfully dispense and sell dangerous drugs more than one time during the lapsed dates of his pharmacist license, in violation of the provisions of Section 4729.28 of the Revised Code.

Pursuant to Section 4729.16 of the Ohio Revised Code, and the foregoing Findings Of Fact and Conclusions Of Law set forth above, the State Board of Pharmacy hereby takes the following actions concerning the registered pharmacist license of D. Jack Buroker:

STATE BOARD OF PHARMACY

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(A) On the basis of paragraph (1) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one hundred dollars (\$100.00).

(B) On the basis of paragraph (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00).

(C) Further, the Board suspends the one hundred dollar monetary penalty imposed in paragraph (A) above, and four hundred dollars of the five hundred dollar monetary penalty imposed in paragraph (B) above. Said one hundred dollar monetary penalty imposed to be due and owing within thirty (30) days of the issuance of this Order. Said monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 65 S. Front Street, Room 504, Columbus, Ohio 43215, with the enclosed form.

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

MOTION CARRIED.

SO ORDERED.