



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010405-058)

In The Matter Of:

GERALD R. POORBAUGH, R.Ph.

445 Royal Oak Circle

Sebring, Ohio 44672

(R.Ph. No. 03-1-08325)

INTRODUCTION

THE MATTER OF GERALD R. POORBAUGH CAME FOR HEARING ON OCTOBER 3, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

GERALD R. POORBAUGH WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) George Pavlich, Ohio State Board of Pharmacy
- (2) Mark Keeley, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Gerald R. Poorbaugh, R.Ph., Respondent
- (2) Raymond Poorbaugh, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Notice of Opportunity for Hearing letter dated April 5, 2001.

- (2) Exhibit 1A--Hearing Request letter from Gerald R. Poorbaugh dated April 26, 2000.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated May 1, 2001.
- (4) Exhibit 1C--Copy of Ohio Pharmacist Computer Record of Gerald R. Poorbaugh.
- (5) Exhibit 2--Copy of six-page Order of the State Board of Pharmacy in the matter of Gerald R. Poorbaugh, R.Ph., Docket No. D-990914-020, effective December 16, 1999.
- (6) Exhibit 3--Copy of six-page Order of the State Board of Pharmacy in the matter of Gromoll Drug Store, Docket No. D-990914-021, effective December 16, 1999.
- (7) Exhibit 3A--Copy of four-page Judgment Entry of Conviction, State of Ohio vs. Gerald Poorbaugh, R.Ph., Case No. 99CRB149, Mahoning County Court District No. 3 dated June 1, 1999.
- (8) Exhibit 4--Statement of Eva Jacobson, R.N. notarized July 18, 2000.
- (9) Exhibit 5--Statement of Bridget Patton, R.N. notarized July 18, 2000.
- (10) Exhibit 6--Copy of Gromoll Drug Store Pharmacy Error report re Mil Booth for Prescription No. 8015397 dated December 2, 1999, with attached copy of Physician Orders for Mildred Booth dated November 29, 1999, and Gromoll Drug Inc. Medical Expenses report for Mildred Booth covering December 1, 1999 to December 5, 1999.
- (11) Exhibit 7--Copy of eleven-page Dangerous Drug Distributor Inspection Report of Gromoll Drug Store dated August 15, 2000; Copy of seven pages in response to inspection report of August 15, 2000, not dated.
- (12) Exhibit 8--Seven-page Statement of Gerald R. Poorbaugh notarized August 15, 2000.
- (13) Exhibit 9--Four-page Error in Dispensing Report re Gerald Poorbaugh, Case No. 00-1752, dated August 17, 2000.
- (14) Exhibit 10--Copy of Medication Incident Report re Howard Wiant dated December 14, 1999, with attached copy of Physician Orders for Howard Wiant dated from October 13, 1999 to November 10, 1999, copy of Physician Orders for Howard Wiant dated from August 17, 1999 to October 9, 1999, and Gromoll Drug Inc. Medical Expenses report for Howard Wiant covering December 7, 1999 to December 12, 1999.
- (15) Exhibit 11--Copy of Medication Incident Report re W. Abrams dated December 27, 1999, with attached copy of Grandall Medical Center Fax Memo to Dr. Vrable/Dr. Cohen dated December 27, 1999, copy of Grandall Medical Center Fax Memo to Gromoll Drug Store dated December 27, 1999, copy of Physician Orders for Walter Abrams dated from December 21, 1999 to December 29, 1999, and Gromoll Drug Inc. Medical Expenses report re Walter Abrams covering December 23, 1999 to December 28, 1999.
- (16) Exhibit 12--Copy of Medication Incident Report re Rose Brown dated March 20, 2000, with attached copy of Physician Orders for Rose Brown dated from February 15, 2000 to March 19, 2000, and Gromoll Drug Inc. Medical Expenses report re Rose Brown covering March 18, 2000 to March 23, 2000.
- (17) Exhibit 13--Copy of Medication Incident Report re Helen Murphy dated March 15, 2000, with attached copy of Physician Orders for

Helen Murphy dated from March 13, 2000 to March 15, 2000, and Gromoll Drug Inc. Medical Expenses report re Helen Murphy covering March 12, 2000 to March 18, 2000.

- (18) Exhibit 14--Two-page Statement of Margaret McIlvaine notarized July 18, 2000.
- (19) Exhibit 15--Prescription No. 6292082 for Margaret McIlvain dated July 10, 2000, and copy of Gromoll Drug Inc. Medical Expenses report re Margaret McIlvain covering July 5, 2000 to July 15, 2000.
- (20) Exhibit 16--Gromoll Drug Store prescription label for Prescription No. 4052638 dated January 11, 2000, and July 12, 2000.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Gerald R. Poorbaugh was originally licensed by the State of Ohio on March 2, 1965, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that Gerald R. Poorbaugh is the Responsible Pharmacist at Gromoll Drug Store, Inc. pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code and that Gerald R. Poorbaugh was previously disciplined by the Board, having been placed on probation through December 16, 2001.
- (2) Gerald R. Poorbaugh did, on or about December 2, 1999, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 8015397, written for Dulcolax suppository 10mg, Gerald R. Poorbaugh dispensed Biscodyl tablets with directions as "remove from foil and insert one rectally." Such conduct is in violation of Section 3715.52 of the Ohio Revised Code..
- (3) Gerald R. Poorbaugh did, on or about December 10, 1999, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 6282310, written for Remeron 30mg, Gerald R. Poorbaugh dispensed Remeron 15mg. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (4) Gerald R. Poorbaugh did, on or about December 24, 1999, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 6282960, written for Prevacid 30mg, Gerald R. Poorbaugh dispensed Prilosec 20mg, but labeled the vial as Prevacid 30mg. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.

- (5) Gerald R. Poorbaugh did, on or about March 20, 2000, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 8015797, written for Mylanta Liquid, Gerald R. Poorbaugh dispensed Milk of Magnesia. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (6) Gerald R. Poorbaugh did, on or about March 15, 2000, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 4053147, written for Tussi-Organidin DM 5cc, Gerald R. Poorbaugh dispensed Guiatuss AC with Codeine. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (7) Gerald R. Poorbaugh did, on or about July 10, 2000, misbrand a drug and/or sell a misbranded drug, to wit: when presented with prescription number 6292082, written for Atenolol 25mg, Gerald R. Poorbaugh dispensed Atenolol 50mg. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code.
- (8) Gerald R. Poorbaugh did, on or about August 14, 2000, and dates preceding, when substituting generic equivalent drugs while dispensing pursuant to prescriptions, fail to indicate on the label of the drug dispensed the drug's generic name and distributor, to wit: the pharmacy's computer software, QS-1, was unable to print the manufacturer, and Gerald R. Poorbaugh did not manually include the information. Such conduct is in violation of Section 4729.38(B) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (9) Gerald R. Poorbaugh did, on or about August 14, 2000, and dates preceding, fail to manually initial original prescriptions when dispensing medications when positive identification was not entered into the computerized recordkeeping system. Such conduct is in violation of Rule 4729-5-27(B) of the Ohio Administrative Code.
- (10) Gerald R. Poorbaugh did, on or about August 14, 2000, and dates preceding, fail to sign daily hard-copy printouts of refill data, and Gerald R. Poorbaugh failed to maintain these printouts in chronological order. Such conduct is in violation of Rule 4729-5-28(C) of the Ohio Administrative Code.
- (11) Gerald R. Poorbaugh did, on or about August 14, 2000, and dates preceding, fail to record the full name of the prescribers' agents on original telephone prescriptions. Such conduct is in violation of Rule 4729-5-30(K) of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (11) 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 (2) through (8) 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, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy takes the following actions in the matter of Gerald R. Poorbaugh:

- (A) The State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-08325, held by Gerald R. Poorbaugh effective as of the date of the mailing of this Order.
 - (1) Gerald R. Poorbaugh, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) Gerald R. Poorbaugh, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.
- (B) Further, the State Board of Pharmacy will suspend the suspension imposed above provided that Gerald R. Poorbaugh meets the following conditions:
 - (1) Gerald R. Poorbaugh must take and pass, within ninety days from the effective date of this Order, the Multistate Pharmacy Jurisprudence Examination, or an equivalent examination approved by the Board. If Mr. Poorbaugh does not pass the examination within the ninety-day period, his license will remain suspended until this condition has been achieved.

(2) Gerald R. Poorbaugh must submit a plan of corrective action to the Board within thirty days from the effective date of this Order. An inspection will be performed by the Board after ninety days to determine compliance with this Order. If the inspection determines non-compliance with this condition, Gerald R. Poorbaugh must appear before the State Board of Pharmacy.

(C) The State Board of Pharmacy hereby extends the probation time for Gerald R. Poorbaugh until December 16, 2002.

Gerald R. Poorbaugh 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.



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990914-020)

In The Matter Of:

GERALD R. POORBAUGH, R.Ph.

445 Royal Oak Circle
Sebring, Ohio 44672
(R.Ph. No. 03-1-08325)

INTRODUCTION

THE MATTER OF GERALD R. POORBAUGH CAME TO HEARING ON NOVEMBER 10, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

GERALD R. POORBAUGH WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Gerald Poorbaugh, R.Ph., Respondent
- (2) Karen Ellen Poorbaugh, Wife of Respondent
- (3) Raymond J. Poorbaugh, Pharmacy Intern, Son of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Notice of Opportunity for Hearing letter of Gerald R. Poorbaugh dated September 14, 1999.
- (2) Exhibit 1A--Four-page Notice of Opportunity for Hearing letter of Gromoll Drug Store dated September 14, 1999.
- (3) Exhibit 1B--Hearing Request letter dated September 30, 1999.
- (4) Exhibit 1C--Hearing Schedule letter of Gerald R. Poorbaugh dated October 6, 1999.
- (5) Exhibit 1D--Hearing Schedule letter of Gromoll Drug Store dated October 6, 1999.
- (6) Exhibit 1E--Copy of Pharmacist File Front Sheet of Gerald R. Poorbaugh showing original date of registration as March 2, 1965.
- (7) Exhibit 1F--Two-page copy of Renewal Application for Pharmacist License No. 03-1-08325 for a license to practice pharmacy in Ohio from September 15, 1999, to September 15, 2000, of Gerald R. Poorbaugh dated July 19, 1999; and attached

copy of four-page "Judgment Entry of Conviction" in the Mahoning County Court, District No. 3, State of Ohio vs. Gerald Poorbaugh, Case No. 99CRB149, dated June 1, 1999.
- (8) Exhibit 1G--Copy of Renewal Application for DDD License No. 02-0079650 for a Terminal Distributor of Dangerous Drugs License from January 1, 1999, to December 31, 1999, of Gromoll Drug Store, Inc. dated October 17, 1998.
- (9) Exhibit 2--Twenty-five prescriptions numbered as follows: 4048941, 6260757, 4047163 with transaction number 000000, 2005722, 4047163 with transaction number 067877, 4047164, 4049014, 2005721, 6261127, 4049009, 6261097, 2005718, 2005720, 2005719, 4048996, 4048994, 6260944, 2005717, 4048978, 6260789, 4048949, 2005703, 2005704, 4048924, and 2005707.
- (10) Exhibit 3--Two-page copy of Renewal Application for Pharmacist License No. 03-1-08325 for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999, of Gerald R. Poorbaugh dated August 5, 1998.
- (11) Exhibit 3A--Copy of Notice of Unacceptable C.P.E. Report Form of Gerald R. Poorbaugh dated September 9, 1998; and copy of Continuing Pharmacy Education Report Form of Gerald R. Poorbaugh dated August 28, 1998, and received September 9, 1998.
- (12) Exhibit 3B--Copy of letter from William F. McMillen dated September 28, 1998, and Notice of Unacceptable C.P.E. Report Form of Gerald R. Poorbaugh dated September 28, 1998.
- (13) Exhibit 3C--Copy of Continuing Pharmacy Education Report Form of Gerald R. Poorbaugh dated August 28, 1998, showing that Mr. Poorbaugh cleared the audit on October 13, 1998.
- (14) Exhibit 3D--Copy of payment stub portion of Gerald R. Poorbaugh's Annual Pharmacist License Renewal, No. 03-1-08325, for licensure period September 15, 1998, to September 15, 1999; and copy of

- Pharmacist's Computer Record Printout of Gerald R. Poorbaugh, License No. 03-1-08325, dated December 29, 1998.
- (15) Exhibit 4A--Copy of five-page Dangerous Drug Distributor Inspection Report of Gromoll Drug Store, Terminal Distributor No. 02-079650, dated February 18, 1992; copy of letter from Gerald R. Poorbaugh dated March 2, 1992; copy of Work Order Invoice for Gromoll Drug dated February 18, 1992; copy of DEA Form 106-Report of Theft or Loss of Controlled Substances (received in the Board office on or about March 9, 1992); and copy of four-page DEA Controlled Substance Inventory of Gromoll Drug dated February 25, 1992.
 - (16) Exhibit 4B--Inspector copy of seven-page Dangerous Drug Distributor Inspection Report of Gromoll Drug Store, Terminal Distributor No. 02-0079650, dated September 30, 1998.
 - (17) Exhibit 4C--Inspector copy of three-page Dangerous Drug Distributor Inspection Report of Gromoll Drug Store, Terminal Distributor No. 02-0079650, dated November 27, 1998.
 - (18) Exhibit 4D--Inspector copy of Dangerous Drug Distributor Inspection Report of Gromoll Drug Store, Terminal Distributor No. 02-0079650, dated January 21, 1999.
 - (19) Exhibit 5--Twenty-eight Accountability Statements of Gromoll Drug, Terminal Distributor No. 02-0079650, dated December 28, 1998, for the following drugs: Daypro 600mg, Hytrin Cap 1mg, Hytrin 2mg, Hytrin 5mg, Hytrin 10mg, Lotensin HCT 20/12.5, Lotensin HCT 20/25, Lotensin 5mg, Lotensin 10mg, Lotensin 40mg, Lotrel cap 2.5/10, Lotrel cap 5/10, Lotrel cap 5/20, Norvasc 2.5mg, Norvasc 5mg, Norvasc 10mg, Serzone 50mg, Serzone 100mg, Serzone 150mg, Serzone 200mg, Serzone 250mg, Covera HS tab 180mg, Covera HS tab 240mg, Calan SR caplet 180mg, Calan SR caplet 240mg, Isoptin SR tab 180mg, Verelan cap 180mg, and Verelan 240mg; one Accountability Statement of Gromoll Drug, Terminal Distributor No. 02-0079650, dated December 28, 1998, for the following drugs (combined): Calan SR caplet 180mg, Isoptin SR 180mg, Covera HS 180mg, and Verelan 180mg; and one Accountability Statements of Gromoll Drug, Terminal Distributor No. 02-0079650, dated December 28, 1998, for the following drugs (combined): Calan SR 240mg, Verelan 240mg, and Covera HS 240mg.
 - (20) Exhibit 6--Two-page handwritten Statement of Gerald Poorbaugh dated January 21, 1999.
 - (21) Exhibit 7--Notarized letter from John J. Lenzi dated January 29, 1999, with attached notarized list of Dr. Dichter's Prescription Reimbursement.
 - (22) Exhibit 8--Four-page certified copy of "Judgment Entry of Conviction" in the Mahoning County Court, District No. 3; State of Ohio vs. Gerald Poorbaugh, dated June 1, 1999.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Gerald R. Poorbaugh was originally licensed in the state of Ohio on March 2, 1965, pursuant to examination, and is the Responsible Pharmacist at Gromoll Drug Store pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-9-11 of the Ohio Administrative Code.
- (2) Gerald R. Poorbaugh did, on or about September 15, 1998, through September 29, 1998, compound, dispense, or sell dangerous drugs or otherwise engage in the practice of pharmacy, while not licensed to do so, to wit: Gerald R. Poorbaugh continued to practice pharmacy after his license had lapsed. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Gerald R. Poorbaugh did, on or about September 30, 1998, despite receiving a pink inspection sheet on February 18, 1992, permit persons other than a registered pharmacist to possess keys to a pharmacy which was not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: Gerald R. Poorbaugh allowed two store employees, not registered pharmacists, to possess keys to the pharmacy. Such conduct is in violation of Section 4729.27 of the Ohio Revised Code and Rule 4729-9-11 of the Ohio Administrative Code.
- (4) Gerald R. Poorbaugh did, on or about September 30, 1998, and dates immediately preceding, fail to maintain the minimum standards for a pharmacy, to wit: Gerald R. Poorbaugh, as responsible pharmacist at Gromoll Drug Store, did not possess a copy of the current 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.
- (5) Gerald R. Poorbaugh did, on or about the period of September 1, 1997, through September 30, 1998, fail to record the name of the person from whom dangerous drugs were received and the date of receipt; and the name and residence of each person to whom dangerous drugs were sold, the description of the dangerous drugs sold to each person, and the date the dangerous drugs were sold, to wit: the drug audit conducted at Gromoll Drug Store on December 28, 1998, showed overages for the following dangerous drugs:

<u>Drug</u>	<u>Strength</u>	<u>Overage Doses % of Purchased Stock</u>	
Daypro	600mg	8,972	46%
Hytrin Caps	1mg	33	33%
Hytrin Caps	2mg	1,329	222%
Hytrin Caps	5mg	1,287	36%
Hytrin Caps	10mg	290	32%
Lotensin HCT 20	12.5mg	240	17%
Lotensin	5mg	515	21%
Lotensin	10mg	1,536	22%
Lotensin	40mg	218	15%
Lotrel Caps 2.5	10mg	220	37%
Lotrel Caps 5	10mg	225	45%
Lotrel Caps 5	20mg	60	7%
Norvasc	2.5mg	288	36%
Norvasc	5mg	4,010	23%
Norvasc	10mg	994	32%
Serzone	50mg	20	33%
Serzone	100mg	470	87%
Serzone	150mg	694	39%
Serzone	200mg	480	36%
Serzone	250mg	90	150%
Covera HS	180mg	837	60%
Covera HS	240mg	1,190	63%
Calan SR Caplets	180mg	61	61%
Calan SR Caplets	240mg	1,441	51%
Isoptin SR	180mg	90	15%
Verelan	180mg	210	21%
Verelan	240mg	580	18%

Such conduct is in violation of Sections 3719.07(C)(3) and 4729.37 of the Ohio Revised Code and Rule 4729-9-14 of the Ohio Administrative Code.

- (6) Gerald R. Poorbaugh did, on or prior to September 30, 1998, and dates immediately preceding, knowingly furnish another a sample drug, to wit: Gerald R. Poorbaugh admitted accepting drug samples from Dr. Dichter, valued at approximately \$20,000.00, and selling the samples at retail using the retail stock NDC numbers for the sales. Gerald R. Poorbaugh was subsequently convicted of One Count of Illegal Dispensing of Drug Samples, a Second Degree Misdemeanor. State of Ohio vs. Gerald Poorbaugh, R.Ph., Case No. 99CRB149, Mahoning County Court District No. 3, dated June 1, 1999. Such conduct is in violation of Section 2925.36(A) of the Ohio Revised Code and Rule 4729-9-13 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of dishonesty and

unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) 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 paragraphs (2) through (5) 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 Chapter 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

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Gerald R. Poorbaugh:

- (A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-1-08325, held by Gerald R. Poorbaugh for thirty days.
- (B) Further, the Board stays the suspension and places Gerald R. Poorbaugh's identification card on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) The State Board of pharmacy hereby declares that Gerald R. Poorbaugh'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) Gerald R. Poorbaugh must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (3) Gerald R. Poorbaugh must abide by the rules of the State Board of Pharmacy.
 - (4) Gerald R. Poorbaugh must comply with the terms of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand five hundred dollars (\$2,500.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made pay-

able 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.

MOTION CARRIED.

SO ORDERED.