

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-011015-017)

In The Matter Of:

ROBERT FRANK TSCHINKEL, R.Ph.
2377 Hudson Aurora Road
Hudson, Ohio 44236
(R.Ph. No. 03-1-10969)

INTRODUCTION

THE MATTER OF ROBERT FRANK TSCHINKEL CAME FOR HEARING ON MARCH 5, 2002, 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.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ROBERT FRANK TSCHINKEL WAS REPRESENTED BY DR. JOHN R. IRWIN AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) Robert Frank Tschinkel, R.Ph., Respondent
- (2) Harold Schwartz, R.Ph.
- (3) Ted Scott Jordan
- (4) Todd Jaros, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Hearing Request letter from John R. Irwin, M.D. dated October 12, 2001; copy of seven-page Order of the State Board of Pharmacy in the matter of Robert Frank Tschinkel, Docket No. D-991214-038, effective May 4, 2000.
- (2) Exhibit 1A--Copy of Hearing Schedule letter dated October 15, 2001.
- (3) Exhibit 1B--Copy of Ohio Pharmacist Computer Record of Robert Frank Tschinkel.
- (4) Exhibit 2--
- (5) Exhibit 3--
- (6) Exhibit 4--Handwritten notes taken during Interview of Robert F. Tschinkel dated December 3, 1999.

- (7) Exhibit 5—
- (8) Exhibit 6—
- (9) Exhibit 7—
- (10) Exhibit 8—
- (11) Exhibit 9--Copy of seven-page Order of the State Board of Pharmacy in the matter of Robert Frank Tschinkel, R.Ph., Docket No. D-991214-038, effective May 4, 2000.

Respondent's Exhibits:

- (1) Exhibit A--Two report letters from Francoise Adan, M.D. dated May 17, 2000 and March 4, 2002.
- (2) Exhibit B--Copy of two-page Pharmacist's Recovery Contract of Bob Tschinkel dated May 21, 2000.
- (3) Exhibit C--Report letter from Michael G. McKee, Ph.D. dated February 4, 2002.
- (4) Exhibit D--Two-page report letter from Joseph P. Frolkis, M.D., Ph.D., F.A.C.P. dated December 5, 2001.
- (5) Exhibit E--Certificate of Completion and twelve pages of Glenbeigh Outpatient Center Aftercare Progress Reports re Robert Tschinkel dated from March 17, 2000 to December 12, 2000.
- (6) Exhibit F--Fifty-six pages of drug screens reports for specimens collected from Robert Tschinkel from December 9, 1999 to January 25, 2002.
- (7) Exhibit G--Creatinine analysis report letter from Joseph P. Frolkis, M.D., Ph.D., F.A.C.P. dated September 21, 2000; Creatinine Drug Testing Fact Sheet from Web page "www.urban75.com/Drugs/testing2.html" dated January 5, 2001.
- (8) Exhibit H--Copy of prescription for Robert Tschinkel dated February 27, 2002; Copy of three pages of Cleveland Clinic Foundation Department of Otolaryngology records of Robert Tschinkel dated from October 6, 2000 to October 19, 2000.
- (9) Exhibit I--Thirty-seven pages of support group attendance records dated from March 8, 2000 to March 4, 2002.
- (10) Exhibit J--Thirty pages of Continuing Pharmacy Education Certificates dated from September 2, 1999 to February 4, 2002.
- (11) Exhibit K--Thirteen pages of letters from the following: George F. Tschinkel, not dated; Jeffrey Czuba dated January 4, 2002; Joseph N. Gioiello dated January 7, 2002; Robert J. Garrity dated January 25, 2002; Jay S. Belcher, R.Ph. dated January 26, 2002; Robert J. Dougherty, R.Ph. dated February 2, 2002; George L. Plataz dated February 12, 2002; Daniel H. Tedick dated February 12, 2002; Elizabeth M. Hartranft dated February 15, 2002; Emil Dontenville, R.Ph. dated February 21, 2002; Christine Spiroch, Ph.D., PA-C dated February 24, 2002; Andrew Kish dated February 26, 2002; and Ted Scott Jordan dated March 2, 2002.
- (12) Exhibit L—

Copy of Glenbeigh Continuing Recovery Plan of Robert Tschinkel dated December 15, 1999; Copy of Glenbeigh Continuing Care Progress Report re Robert Tschinkel dated March 24, 2000; Copy of Pharmacist's Recovery Contract of Bob Tschinkel dated December 8, 1999, and an updated copy of the same Pharmacist's Recovery Contract; Copy of five pages of support group attendance records dated from November 10, 1999 to April 1, 2000; Copy of eight pages of drug screens reports for specimens collected from Robert Tschinkel between December 9, 1999 and March 22, 2000; Copies of eight letters from the following: Scott Jordan dated April 3, 2000; Anonymous dated April 3, 2000; Michael Bukach, R.Ph. dated April 2, 2000; Christine R. Spiroch, Ph.D., PA-C dated April 1, 2000; Daniel H. Tedick dated March 29, 2000; Dennis and Patricia Macko, not dated; S. M. Conroy dated April 2, 2000; and Thomas F. Tschinkel dated April 1, 2000.; Copy of resumé of Robert F. Tschinkel; Copy of GAC Certificate of Appreciation for Robert Tschinkel dated March 1993; Copy of six pages of Continuing Pharmacy Education Certificates dated from September 2, 1999 to March 14, 2000.

FINDING 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 Robert Frank Tschinkel has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-991214-038, effective May 4, 2000.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-10969, held by Robert Frank Tschinkel to practice pharmacy in the state of Ohio and places Robert Frank Tschinkel on probation for five years from the date the identification card is issued, with the following conditions:

- (A) Robert Frank Tschinkel must enter into a contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
- (1) Random, observed urine drug screens shall be conducted each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.

- (2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Robert Frank Tschinkel must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of Robert Frank Tschinkel's progress towards recovery and what Mr. Tschinkel has been doing during the previous three months.
- (C) Robert Frank Tschinkel must continue and abide by the treatment plan as designed by his psychiatrist or psychologist. The psychiatrist or psychologist must provide a status report, which includes the recommended treatment plan, to the Board every 6 months until probation is completed or Mr. Tschinkel is released by the psychiatrist or psychologist.
- (D) Other terms of probation are as follows:
- (1) Robert Frank Tschinkel must work with another pharmacist for two years from the effective date of this Order.
 - (2) Robert Frank Tschinkel may not work in a pharmacy more than forty hours per week for a period of two years from the effective date of this Order.
 - (3) The State Board of Pharmacy hereby declares that Robert Frank Tschinkel's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (4) Robert Frank Tschinkel may not serve as a responsible pharmacist.
 - (5) Robert Frank Tschinkel may not destroy, assist in, or witness the destruction of controlled substances.
 - (6) Robert Frank Tschinkel must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (7) Robert Frank Tschinkel must not violate the drug laws of the State of Ohio, any other state, or the federal government.

(8) Robert Frank Tschinkel must abide by the rules of the State Board of Pharmacy.

(9) Robert Frank Tschinkel must comply with the terms of this Order.

Robert Frank Tschinkel 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 (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE APRIL 11, 2002

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-991214-038)

In The Matter Of:

ROBERT FRANK TSCHINKEL, R.Ph.
2377 Hudson Aurora Road
Hudson, Ohio 44236
(R.Ph. No. 03-1-10969)

INTRODUCTION

THE MATTER OF ROBERT FRANK TSCHINKEL CAME FOR HEARING ON APRIL 4, 2000, 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.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ROBERT FRANK TSCHINKEL WAS REPRESENTED BY ROBERT J. GARRITY, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) James Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Robert Frank Tschinkel, Respondent
- (2) David Merk, Pharmacists Rehabilitation Organization
- (3) David W. Baker, Pharmacists Rehabilitation Organization

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated December 14, 1999.
- (2) Exhibit 1A
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated January 7, 2000.
- (4) Exhibit 1C--Robert Frank Tschinkel Settlement Offer submitted by Robert J. Garrity, Esq., dated January 13, 2000.
- (5) Exhibit 1D--Copy of Letter to Deny Settlement Offer dated February 7, 2000.
- (6) Exhibit 1E--Copy of Pharmacist File Front Sheet of Robert Frank Tschinkel showing original date of registration as July 30, 1974; and two-page copy of Renewal Application for Pharmacist License, No. 03-1-10969, for a license to practice pharmacy from September 15, 1999, to September 15, 2000, of Robert Frank Tschinkel dated July 15, 1999.

- (7) Exhibit 2
- (8) Exhibit 3
- (9) Exhibit 4--Two-page hand-written notes regarding Robert Frank Tschinkel dated December 3, 1999.
- (10) Exhibit 5
- (11) Exhibit 6
- (12) Exhibit 7

Respondent's Exhibits:

Three-prong folder with Table of Contents page and tabbed dividers containing the following:

- (1) Exhibit A
- (2) Exhibit B
- (3) Exhibit C--Copy of Glenbeigh Continuing Recovery Plan of Robert F. Tschinkel dated December 15, 1999; and copy of Glenbeigh Continuing Care Progress Report of Robert Tschinkel dated March 24, 2000.
- (4) Exhibit D--Two-page copy of Pharmacist's Recovery Contract of Bob Tschinkel dated December 8, 1999 by sponsor Tim Moran; and two-page copy of Pharmacist's Recovery contract of Bob Tschinkel dated December 8, 1999 by sponsor Scott Jordan.
- (5) Exhibit E--Copy of five pages of AA/NA Attendance Verification sheets of Robert F. Tschinkel dated November 10, 1999 through April 1, 2000.
- (6) Exhibit F--Copy of four urine drug screen reports and observed urine sample verifications dated December 9, 1999; January 28, 2000; February 29, 2000; and March 22, 2000.
- (7) Exhibit G--Copy of ten letters from: Scott Jordan dated April 3, 2000; anonymous author dated April 3, 2000; Michael Bukach dated April 2, 2000; Christine R. Spiroch dated April 1, 2000; Daniel H. Tedick dated March 29, 2000; Dennis and Patricia Macko not dated; Patty J. Baxter dated March 30, 2000; Todd R. Jaros dated March 26, 2000; S. M. Conroy dated April 2, 2000; Thomas F. Tschinkel dated April 1, 2000.
- (8) Exhibit H--Copy of Resume of Robert F. Tschinkel; copy of Certificate of Appreciation from Downtown Golden Age Center dated March 1993; five pages consisting of copies of continuing pharmacy education certificates for programs numbered: 129-000-99-047-H03; 129-000-99-011-H01; 129-000-99-012-H01; 129-000-99-048-H03; 129-000-00-001-H01; 129-000-00-002-H01; 129-000-98-049-H03; 202-000-97-073-H01; 422-000-98-011-H01; 422-000-98-012-H01; 422-000-98-013-H01; 422-000-98-014-H01; 327-000-97-001-H04; 424-000-99-002-H03; 424-000-99-003-H01; 356-000-99-011-H01; 207-000-98-012-H01; 088-999-99-004-H01; and copy of Certificate of Attendance for Summit on Cholesterol and Coronary Disease dated September 2-3, 1999.

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 Robert Frank Tschinkel was originally licensed in the state of Ohio on July 30, 1974, pursuant to examination. On December 14, 1999, Robert Frank Tschinkel’s license to practice pharmacy in the state of Ohio was suspended in accordance with Divisions (A) and (B) of Section 3719.121 of the Ohio Revised Code.
- (2) Robert Frank Tschinkel is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Robert Frank Tschinkel admitted stealing controlled substances from his employer, Medic Discount Drug #292, and he has practiced pharmacy while being impaired; Robert Frank Tschinkel admitted that he is “psychologically addicted” to the drugs he was stealing; and, he is currently involved in an outpatient drug treatment program. Such conduct indicates that Robert Frank Tschinkel falls within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.
- (3) Robert Frank Tschinkel did, from on or about August 1, 1998, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to wit: by his own admission, throughout this time period, Robert Frank Tschinkel stole the following drugs:

<u>Drug</u>	<u>Approximated Quantity</u>
Hydrocodone 10mg/APAP 650mg	50
Alprazolam 1mg	560
Alprazolam .5mg	560
Vicodin ES (brand and generic)	50
Vicoprofen	200
Lorcet Plus tablets	50
Lorcet tablets	50
Fiorinal/Codeine #3	40
Fioricet/Codeine #3	30
Topicort Cream	1
Prenatal Vitamins	1
Amoxicillin 500mg	40
Atenolol	200

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

- (4) Robert Frank Tschinkel did, from on or about January 1, 1999, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to wit: by his own admission, throughout this time period, Robert Frank Tschinkel stole the following drugs:

<u>Drug</u>	<u>Approximated Quantity</u>
Fioricet (generic)	540
Fiorinal (generic)	540

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

- (5) Robert Frank Tschinkel did, from on or about August 1, 1998, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to wit: by his own admission, throughout this time period, Robert Frank Tschinkel stole an amount less than \$500.00 worth of non-pharmaceutical items from the front-end of Medic Discount Drug #292. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1)
- (2) 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 3719. and 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued December 14, 1999.

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 hereby suspends indefinitely the pharmacist identification card, No. 03-1-10969, held by Robert Frank Tschinkel and such suspension is effective as of the date of the mailing of this Order.

- (A) Robert Frank Tschinkel, 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 Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (B) Robert Frank Tschinkel, pursuant to Section 48729.16(B) of the Ohio Revised Code, must return the identification card and wall certificate to the office of the State Board of Pharmacy within ten days after receipt of this Order. The identification card and wall certificate should be forwarded by certified mail, return receipt requested.

Further, on or after January 1, 2002, the Board will consider any petition filed by Robert Frank Tschinkel for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Robert Frank Tschinkel must obtain, within ninety days after the effective date of this Order, a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist, that includes a recommended treatment plan. Robert Frank Tschinkel must abide by the treatment plan as designed by that psychiatrist or psychologist.
- (B) Robert Frank Tschinkel must enter into a contract, signed within ninety days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years. The contract must provide that:
- (1) Random, **observed** urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all drug and alcohol screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.
 - (3) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (C) Robert Frank Tschinkel must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Compliance with the licensed psychiatrist's or psychologist's recommended treatment plan.

- (2) A report by the licensed psychiatrist or psychologist regarding Robert Frank Tschinkel's fitness for readmission into the practice of pharmacy.
 - (3) Compliance with the contract required above (e.g. proof of giving the urine sample within twelve hours of notification, copies of all urine screen reports, meeting attendance records, treatment program reports, etc.).
 - (4) Compliance with the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code.
 - (5) Compliance with the terms of this Order.
- (D) The intervenor assigned to Robert Frank Tschinkel must appear and testify before the Board at the reinstatement petition hearing.
- (E) If reinstatement is not accomplished within three years of the effective date of this Order, Robert Frank Tschinkel must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE MAY 4, 2000

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

December 14, 1999

Robert Frank Tschinkel, R.Ph.
2377 Hudson Aurora Road
Hudson, Ohio 44236

Re: Ohio Registered Pharmacist
Number 03-1-10969

Dear Mr. Tschinkel:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on July 30, 1974, pursuant to examination, and are currently licensed to practice pharmacy in the state of Ohio.
- (2) You are addicted to liquor or drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted stealing controlled substances from your employer, Medic Discount Drug #292, and you have practiced pharmacy while being impaired; you admitted that you are "psychologically addicted" to the drugs you were stealing; and, you are currently involved in an outpatient drug treatment program. Such conduct indicates that you fall within the ambit of Sections 3719.121(A), 3719.121(B), and 4729.16(A)(3) of the Ohio Revised Code.
- (3) You did, from on or about August 1, 1998, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to-wit: by your own admission, throughout this time period you stole the following drugs:

<u>Drug</u>	<u>Approximated Quantity</u>
Hydrocodone 10mg/APAP 650mg	50
Alprazolam 1 mg	560
Alprazolam .5 mg	560
Vicodin ES (brand and generic)	50
Vicoprofen	200
Lorcet Plus tablets	50
Lorcet tablets	50
Fiorinal/Codeine #3	40
Fioricet/Codeine #3	30

Topicort Cream	1
Prenatal Vitamins	1
Amoxicillin 500mg	40
Atenolol	200

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

- (4) You did, from on or about January 1, 1999, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to-wit: by your own admission, throughout this time period, you stole the following drugs:

<u>Drug</u>	<u>Approximated Quantity</u>
Fioricet (generic)	540
Fiorinal (generic)	540

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

- (5) You did, from on or about August 1, 1998, through September 8, 1999, with purpose to deprive, knowingly obtain or exert control over the property of Medic Discount Drug #292, beyond the express or implied consent of the owner, to-wit: by your own admission, throughout this time period, you stole an amount less than \$500.00 worth of non-pharmaceutical items from the front-end of Medic Discount Drug #292. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: “any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person’s license, certificate, or registration...” Additionally, Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) If the board under which a person has been issued a license, . . . , determines that there is clear and convincing evidence that continuation of the person’s professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate of and serious harm to others, the board may suspend the person’s license, . . . , without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;
- (9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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.

(D-991214-038)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE DECEMBER 14, 1999

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective May 4, 2000)*