

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

February 2, 2004

Donald Christopher Hart, R.Ph.
4882 West Hill Rd., C.R. 31
Port Washington, Ohio 43837

Re: Ohio Registered Pharmacist
License No. 03-1-12131

Dear Mr. Hart:

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 August 10, 1977, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio. Further, records reflect that you were previously disciplined by the Board on October 31, 1994.
- (2) You are addicted to or abusing drugs to such a degree as to render you unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code, to wit: you have admittedly stolen controlled substances from your employer for purposes of abuse for a time period of July 2002 through January 2004. Further, you have admitted to consuming "approximately 6 to 8 doses of hydrocodone 7.5 mg or 10 mg per day on and off usually 4 to 5 times weekly."
- (3) You are impaired physically or mentally to such a degree as to render you unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code, to wit: on or about January 21, 2004, you were found to be unconscious in a motel room in Belmont County, Ohio, after an apparent suicide attempt.
- (4) You did, from July, 2002, through January, 2004, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Wal-Mart, beyond the express or implied consent of the owner, to wit: you admittedly stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>
OxyContin 20 mg	20 doses
hydrocodone/APAP 7.5/750 mg	484 doses
hydrocodone/APAP 10/500 mg	718 doses
hydrocodone/APAP 10/650 mg	511 doses
hydrocodone/APAP 10/660 mg	182 doses
hydrocodone/Ibuprofen 7.5/200 mg	220 doses
Vicoprofen 7.5/100 mg	200 doses

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 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...”

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 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, limit, 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;

(10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. 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, Room 1702, Columbus, Ohio 43215-6126. 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-040202-054)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE FEBRUARY 2, 2004

This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940308-071)

In The Matter Of:

DONALD CHRISTOPHER HART, R.Ph.

4882 W. Hill Road; CR 31
Port Washington, Ohio 43837
(R.Ph. No. 03-1-12131)

INTRODUCTION

THE MATTER OF DONALD CHRISTOPHER HART CAME TO HEARING ON SEPTEMBER 29, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DONALD CHRISTOPHER HART WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY MICHELLE HALL, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) **Testimony**

State's Witnesses:

- (1) David Gallagher, Ohio State Board of Pharmacy
- (2) Michael E. Ault, R.Ph.
- (3) Donald C. Hart, Respondent

Respondent's Witnesses:

- (1) Ron Davis, Pastor
- (2) Rick Kryc, Pharmacists Rehabilitation Organization, Inc.
- (3) Gary Rutherford, Pharmacists Rehabilitation Organization, Inc.

(B) **Exhibits**

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated March 8, 1994.
- (2) Exhibit 1A - Notice of Appearance and Request for Hearing dated March 11, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated March 14, 1994.
- (4) Exhibit 1C - Supplemental Request for Hearing received April 14, 1994.
- (5) Exhibit 1D - Letter from David L. Rowland dated April 15, 1994.
- (6) Exhibit 1E - Addendum Notice dated August 17, 1994.

- (7) Exhibit 2 - Handwritten Statement of Marsha Gleaton signed and notarized on November 18, 1993.
- (8) Exhibit 3 - Handwritten Accountability Statement for Tylox capsules dated from October 21, 1993, through November 15, 1993.
- (9) Exhibit 3.1 - Handwritten Accountability Statement for Percodan tablets dated from October 21, 1993, through November 15, 1993.
- (10) Exhibit 3.2 - Handwritten Accountability Statement for Oxycodone/ASA (Goldline) dated from October 21, 1993, through November 15, 1993.
- (11) Exhibit 3.3 - Handwritten Accountability Statement for Oxycodone/ASA (Roxiprin® Roxanne) dated from October 21, 1993, through November 15, 1993.
- (12) Exhibit 3.4 - Handwritten Accountability Statement for Percocet dated from October 21, 1993, through November 15, 1993.
- (13) Exhibit 3.5 - Handwritten Accountability Statement for Oxycodone/APAP (Goldline) dated from October 21, 1993, through November 15, 1993.
- (14) Exhibit 3.6 - Handwritten Accountability Statement for Demerol 50mg tablets dated from October 21, 1993, through November 15, 1993.
- (15) Exhibit 3.7 - Handwritten Accountability Statement for Demerol 100mg tablets dated from October 21, 1993, through November 15, 1993.
- (16) Exhibit 3.8 - Handwritten Accountability Statement for Dexedrine 5mg tablets dated from October 21, 1993, through November 15, 1993.
- (17) Exhibit 3.9 - Handwritten Accountability Statement for Dexedrine 5mg spansule dated from October 21, 1993, through November 15, 1993.
- (18) Exhibit 3.10 - Handwritten Accountability Statement for Dexedrine 15mg spansule dated from October 21, 1993, through November 15, 1993.
- (19) Exhibit 3.11 - Handwritten Accountability Statement for Ritalin 5mg tablets dated from October 21, 1993, through November 15, 1993.
- (20) Exhibit 3.12 - Handwritten Accountability Statement for Methylphenidate 5mg dated from October 21, 1993, through November 15, 1993.
- (21) Exhibit 3.13 - Handwritten Accountability Statement for Ritalin 10mg dated from October 21, 1993, through November 15, 1993.
- (22) Exhibit 3.14 - Handwritten Accountability Statement for Methylphenidate 10mg dated from October 21, 1993, through November 15, 1993.
- (23) Exhibit 3.15 - Handwritten Accountability Statement for Ritalin 20mg dated from October 21, 1993, through November 15, 1993.
- (24) Exhibit 3.16 - Handwritten Accountability Statement for Methylphenidate 20mg dated from October 21, 1993, through November 15, 1993.
- (25) Exhibit 3.17 - Handwritten Accountability Statement for Ritalin 20mg SR dated from October 21, 1993, through November 15, 1993.
- (26) Exhibit 3.18 - Handwritten Accountability Statement for Methylphenidate 20mg ER dated from October 21, 1993, through November 15, 1993.
- (27) Exhibit 3.19 - Handwritten Accountability Statement for Hycodan Syrup dated from November 11, 1993, through November 15, 1993.
- (28) Exhibit 3.20 - Handwritten Accountability Statement for Tylenol #3 dated from November 1, 1993, through November 15, 1993.
- (29) Exhibit 3.21 - Handwritten Accountability Statement for APAP/Codeine #3 dated from November 1, 1993, through November 15, 1993.
- (30) Exhibit 3.22 - Handwritten Accountability Statement for Vicodin dated from November 1, 1993, through November 15, 1993.

- (31) Exhibit 3.23 - Handwritten Accountability Statement for Hydrocodone/APAP dated from November 1, 1993, through November 15, 1993.
- (32) Exhibit 3.24 - Handwritten Accountability Statement for Vicodin ES dated from November 1, 1993, through November 15, 1993.
- (33) Exhibit 3.25 - Handwritten Accountability Statement for Hydrocodone/APAP ES dated from November 1, 1993, through November 15, 1993.
- (34) Exhibit 4 - Four-page handwritten statement of Mike Ault, signed and notarized on November 18, 1993.
- (35) Exhibit 6 - Three-page handwritten statement of Donald Christopher Hart signed and notarized on November 15, 1993.
- (36) Exhibit 7 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for APAP/Codeine 30mg dated December 28, 1993.
- (37) Exhibit 7.1 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Tylenol w/Codeine 60mg dated December 28, 1993.
- (38) Exhibit 7.2 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for APAP/Codeine 60mg dated December 28, 1993.
- (39) Exhibit 7.3 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Hycodan Syrup 5mg dated December 28, 1993.
- (40) Exhibit 7.4 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Vicodin 5mg tablets dated December 28, 1993.
- (41) Exhibit 7.5 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Hydrocodone/APAP 5mg dated December 28, 1993.
- (42) Exhibit 7.6 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Vicodin ES 7.5mg December 28, 1993.
- (43) Exhibit 7.7 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Hydrocodone 7.5mg dated December 28, 1993.
- (44) Exhibit 7.8 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Percocet 5mg dated December 28, 1993.
- (45) Exhibit 7.9 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Oxycodone/APAP 5mg tablets dated December 28, 1993.
- (46) Exhibit 7.10 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Percodan 5mg tablets dated December 28, 1993.
- (47) Exhibit 7.11 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Oxycodone ASA 5mg tablets dated December 28, 1993.
- (48) Exhibit 7.12 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Tylox 5mg/-500mg capsules dated December 28, 1993.

- (49) Exhibit 7.13 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Dexedrine 5mg tablets dated December 28, 1993.
- (50) Exhibit 7.14 - Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Buckeye Village Pharmacy, Terminal Distributor No. 02-719400, for Demerol 50mg tablets dated December 28, 1993.
- (51) Exhibit 8 - Prescription number 89156.
- (52) Exhibit 8.1 - Prescription number 89157.
- (53) Exhibit 8.2 - Prescription number 90668.
- (54) Exhibit 8.3 - Prescription number 92303.
- (55) Exhibit 8.4 - Prescription number 88486.
- (56) Exhibit 8.5 - Prescription number 88487.
- (57) Exhibit 8.6 - Prescription number 88488.
- (58) Exhibit 8.7 - Prescription number 91904.
- (59) Exhibit 9 - Two-page handwritten statement of Dr. Paul McFadden, M.D. signed and notarized on November 16, 1993.
- (60) Exhibit 10 - Handwritten statement of Donald Christopher Hart signed and notarized on November 15, 1993.
- (61) Exhibit 12 - Handwritten letter from Marsha Gleaton dated August 30, 1994; and handwritten letter from Marsha Gleaton dated August 28, 1994.
- (62) Exhibit 13 - Certified Judgment Entry in the Court of Common Pleas, Tuscarawas County, Ohio General Trial Division, Case No. 94-CR-030092, of Donald Christopher Hart dated June 20, 1994.

Respondent's Exhibits:

- (1) Exhibit A - Two-page copy of Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of Chris Hart dated February 2, 1994.
- (2) Exhibit B - Copy of two-page letter from Fred N. Karaffa dated June 13, 1994.
- (3) Exhibit C - Letter from Fred N. Karaffa dated August 31, 1994.
- (4) Exhibit D - Letter from Fred N. Karaffa dated September 14, 1994; and copies of thirty-one urine drug screen results of Chris Hart dated as follows: February 22, 1994, March 1, 1994, March 3, 1994, two dated March 15, 1994, March 22, 1994, March 23, 1994, March 24, 1994, two dated April 19, 1994, April 23, 1994, April 30, 1994, May 21, 1994, May 24, 1994, May 27, 1994, June 1, 1994, June 3, 1994, June 10, 1994, June 21, 1994, June 23, 1994, July 5, 1994, July 9, 1994, July 15, 1994, July 21, 1994, July 30, 1994, August 19, 1994, August 25, 1994, September 1, 1994, September 13, 1994, and two-page result dated April 20, 1994.
- (5) Exhibit E - Copy of seven-page calendar dated from February, 1994, through August, 1994.
- (6) Exhibit F - Copy of eight-page Verification of AA Attendance of Chris Hart dated from January 16, 1994, through September 25, 1994.
- (7) Exhibit G - Letter from Pete Johnson dated September 18, 1994.
- (8) Exhibit H - Letter from Paul W. McFadden dated September 9, 1994.
- (9) Exhibit I - Copy of two-page letter from Paul W. McFadden dated April 7, 1994.
- (10) Exhibit J - Copy of two-page letter from Mary Spain dated April 8, 1994.
- (11) Exhibit K - Copy of two-page letter from Susie Hart dated April 9, 1994.
- (12) Exhibit L - Copy of letter from Adam Hart, not dated.
- (13) Exhibit M - Copy of letter from Nancy L. Orr dated April 11, 1994.
- (14) Exhibit N - Copy of letter from Jeffrey T. Orr dated April 11, 1994.

- (15) Exhibit O - Copy of two-page letter from Marjorie and Donald Hart dated April 10, 1994.
- (16) Exhibit P - Copy of letter from Kevin R. and Sally L. Hart dated April 10, 1994.
- (17) Exhibit Q - Copy of two-page letter from Bob and Jane Wearsch dated April 11, 1994.
- (18) Exhibit R - Copy of letter from Richard D. and Ellen L. Hooker dated April 7, 1994.
- (19) Exhibit S - Copy of two-page letter from Rev. Ron Davis dated April 8, 1994.
- (20) Exhibit T - Copy of letter from Daniel L. Hartman dated April 11, 1994.
- (21) Exhibit U - Copy of letter from Gregory M. Weber dated April 8, 1994.
- (22) Exhibit V - Copy of letter from Tim and Teresa Pritchard dated April 8, 1994.
- (23) Exhibit W - Copy of two-page letter from Jamie Norman dated April 8, 1994.
- (24) Exhibit X - Copy of letter from Ivan E. and Eleanor G. Ford dated April 9, 1994.
- (25) Exhibit Y - Copy of letter from Ginny Hoffman dated April 11, 1994.
- (26) Exhibit Z - Copy of letter from Phil and Julie Wearsch dated April 9, 1994.
- (27) Exhibit AA - Copy of three-page letter from Emma Cutright dated April 11, 1994.
- (28) Exhibit BB - Copy of letter from Diane L. and Gary L. Deromedi dated April 9, 1994.
- (29) Exhibit CC - Letter from Robert Kerek dated September 21, 1994.
- (30) Exhibit DD - Canary legal size sheet of paper with ten names.
- (31) Exhibit EE - Copy of Rockne W. Clarke, Tuscarawas County Clerk of Courts, receipt for restitution and poundage, Case No. 94CR030092, Receipt No. T0043710, of Donald Hart dated August 31, 1994.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that Donald Christopher Hart is registered by the Board to practice pharmacy in the state of Ohio, and his license was suspended on March 8, 1994, in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Donald Christopher Hart is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Donald Christopher Hart has been observed by patients and coworkers sleeping while standing at a computer terminal and practicing pharmacy; Donald Christopher Hart has been observed by a patient consuming drugs while practicing pharmacy; Donald Christopher Hart has stolen drugs for his own personal use; Donald Christopher Hart forged prescriptions in order to obtain drugs; and Donald Christopher Hart admitted to an agent of the Board of Pharmacy that he is addicted to drugs due to abuse that began in July of 1991, which included daily use of the following controlled substances:
 - (a) 10 to 15 unit doses a day of any one of the following: Percocet, Oxycodone/-APAP 5mg, Percodan, Oxycodone/ASA 5mg, Tylox;
 - (b) 15 unit doses a day of any one of the following: Vicodin 5mg, Hydrocodone 5mg, Vicodin ES 7.5mg, Hydrocodone 7.5mg;
 - (c) 1-2 unit doses a day of Dexedrine 5mg;
 - (d) 1-2 unit doses a day of Demerol 50mg tablets.

Donald Christopher Hart also stated to an agent of the Board that he filled prescriptions while under the influence of drugs.

- (3) Donald Christopher Hart did, on or about November 12, 1993, with the purpose to deprive, knowingly obtain or exert control over drugs, the property of Buckeye Village Pharmacy in Bolivar, Ohio, beyond the express or implied consent of the owner, to wit: on November 12, 1993, while practicing pharmacy Donald Christopher Hart stole 11 units of Hydrocodone/APAP ES, a schedule III controlled substance, and 11 units of Tylox, a schedule II controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Donald Christopher Hart did, from December 31, 1992, through November 15, 1993, with the purpose to deprive, knowingly obtain or exert control over drugs, the property of Buckeye Village Pharmacy in Bolivar, Ohio, beyond the express or implied consent of the owner, to wit: during this time period while practicing pharmacy Donald Christopher Hart stole the following controlled substances:

<u>Drug</u>	<u>Amount</u>
Vicodin 5mg	12
Hydrocodone/APAP 5mg	2670
Vicodin ES 7.5mg	474
Hydrocodone/APAP 7.5mg	340
Percocet 5mg tablets	823
Oxycodone/APAP 5mg tablets	697
Percodan 5mg tablets	182
Oxycodone/ASA 5mg tablets	272
Tylox 5mg capsules	282
Dexedrine 5mg tablets	105
Demerol 50mg tablets	97

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

- (5) Donald Christopher Hart did, on or about the following dates, make false and/or forged prescriptions for dangerous drugs, to wit: Donald Christopher Hart created the following prescriptions which were not authorized by a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>	<u>Patient</u>
89156	06-10-93	Amoxicillin WYM 250mg	80	5	C. Hart
89157	06-10-93	Diphenox/Atropine	50	3	C. Hart
90668	08-09-93	Zovirax Ointment 15mg	15	5	C. Hart
92303	10-08-93	Seldane-D	30	2	C. Hart
88486	05-18-93	Terazol 7 Vaginal Cream	45gm	2	S. Hart
88487	05-18-93	Ceclor capsules 250mg	30	3	S. Hart
88488	05-18-93	Clindex	100	3	S. Hart
91904	09-24-93	Elocon Cream .1%	45gm	3	S. Hart

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

- (6) Donald Christopher Hart did, on or about the following dates, knowingly make or affix false or forged labels to packages or receptacles containing dangerous drugs, to wit: Donald Christopher Hart affixed false labels to the following dangerous drug receptacles which were not authorized by practitioners:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>	<u>Patient</u>
89156	06-10-93	Amoxicillin WYM 250mg	80	5	C. Hart
90668	08-09-93	Zovirax Ointment 15mg	15	5	C. Hart
88487	05-18-93	Ceclor capsules 250mg	30	3	S. Hart
111111	05-18-93	Clindex	100	3	S. Hart
91904	09-24-93	Elocon Cream .1%	45gm	3	S. Hart

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

- (7) On or about June 16, 1994, in the Court of Common Pleas, Tuscarawas County, Ohio, Donald Christopher Hart plead no contest to fifteen counts of Theft, in violation of Section 2913.02 of the Ohio Revised Code, and twelve counts of Illegal Processing of Drug Documents, in violation of Section 2925.23(B)(1) of the Ohio Revised Code. Donald Christopher Hart was found eligible for Treatment in Lieu of Conviction pursuant to Section 2951.041 of the Ohio Revised Code and prosecution of the indictment was abated.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (6) of the Findings of Fact constitute being guilty of a felony as provided in Division (A)(1) 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 (7) of the Findings of Fact constitute being guilty of dishonesty or 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 paragraphs (5) and (6) of the Findings of Fact 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

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued March 8, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Donald Christopher Hart:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-1-12131, held by Donald Christopher Hart until March 8, 1995. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Donald Christopher Hart 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) Upon reinstatement, on March 8, 1995, Donald Christopher Hart's identification card will be placed on probation until March 8, 2000, with the following conditions:
 - (1) On or about March 8, 1995, Donald Christopher Hart must provide evidence that he has entered into a new contract with the Pharmacists Rehabilitation Organization, Inc., or a similar alcohol and/or drug addiction treatment provider acceptable to the Board, for the duration of probation, through March 8, 2000. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least once every three months. The urine drug screens must include reporting of specific gravity;
 - (b) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (c) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (d) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
 - (2) Donald Christopher Hart must submit prior to reinstatement a copy of the contract to the Board as soon as it has been agreed to by the program.
 - (3) Donald Christopher Hart must submit quarterly progress reports to the Board's Compliance Administrator that include:
 - (a) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (b) a written description of his progress towards recovery and what he has been doing during the previous three months.

- (4) Other terms of probation are as follows:
- (a) Donald Christopher Hart must abide by the contract from the treatment provider and any violation must be reported to the Board immediately;
 - (b) Donald Christopher Hart must not violate the drug laws of the state of Ohio, any other state, or the federal government;
 - (c) Donald Christopher Hart must abide by the rules of the Ohio State Board of Pharmacy; and
 - (d) Donald Christopher Hart must comply with the terms of this Order.

Donald Christopher Hart 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.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Donald Christopher Hart's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns until March 8, 2000.

The Board further stipulates that Donald Christopher Hart may not serve as a responsible pharmacist until March 8, 2000.

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

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE OCTOBER 31, 1994

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

March 8, 1994

Donald Christopher Hart, R.Ph.
4882 W. Hill Rd., CR#31
Port Washington, Ohio 43937

Re: Ohio Registered Pharmacist
Number 03-1-12131

Dear Pharmacist:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the state of Ohio.

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 and/or your method of distributing controlled substances 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) You are addicted to or abusing drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have been observed by patients and coworkers sleeping while standing at a computer terminal and practicing pharmacy; you have been observed by a patient consuming drugs while practicing pharmacy; you have stolen drugs for your own personal use; you have forged prescriptions in order to obtain drugs; and you have admitted to an agent of the Board of Pharmacy that you are addicted to drugs due to abuse that began in July of 1991, which included daily use of the following controlled substances:

- (a) 10 to 15 unit doses a day of any one of the following: Percocet, Oxycodone/APAP 5mg, Percodan, Oxycodone/ASA 5mg, Tylox;
- (b) 15 unit doses a day of any one of the following: Vicodin 5mg, Hydrocodone 5mg, Vicodin ES 7.5mg, Hydrocodone 7.5mg;
- (c) 1-2 unit doses a day of Dexedrine 5mg;
- (d) 1-2 unit doses a day of Demerol 50mg tablets.

You also stated to an agent of the Board that you filled prescriptions while under the influence of drugs.

(2) You did, on or about November 12, 1993, with the purpose to deprive, knowingly obtain or exert control over drugs, the property of Buckeye Village Pharmacy in Bolivar, Ohio, beyond the express or implied consent of the owner, to wit: on November 12, 1993, while practicing pharmacy you stole 11 units of Vicodin ES 7.5mg, a schedule III controlled substance, and 11 units of Tylox, a schedule II controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) You did, from December 31, 1992, through November 15, 1993, with the purpose to deprive, knowingly obtain or exert control over drugs, the property of Buckeye Village Pharmacy in Bolivar, Ohio, beyond the express or implied consent of the owner, to wit: during this time period while practicing pharmacy you stole the following controlled substances:

<u>Drug</u>	<u>Amount</u>
Vicodin 5mg	12
Hydrocodone/APAP 5mg	2670
Vicodin ES 7.5mg	474
Hydrocodone/APAP 7.5mg	340
Percocet 5mg tablets	823
Oxycodone/APAP 5mg tablets	697
Percodan 5mg tablets	182
Oxycodone/ASA 5mg tablets	272
Tylox 5mg capsules	282
Dexedrine 5mg tablets	105
Demerol 50mg tablets	97

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

(4) You did, on or about the following dates, make false and/or forged prescriptions for dangerous drugs, to wit: you created the following prescriptions which were not authorized by a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>	<u>Patient</u>
89156	06-10-93	Amoxicillin WYM 250mg	80	5	C. Hart
89157	06-10-93	Diphenox/Atropine	50	3	C. Hart
90668	08-09-93	Zovirax Ointment 15mg	15	5	C. Hart
92303	10-08-93	Seldane-D	30	2	C. Hart
88486	05-18-93	Terazol 7 Vaginal Cream	45gm	2	S. Hart
88487	05-18-93	Ceclor capsules 250mg	30	3	S. Hart
88488	05-18-93	Clindex	100	3	S. Hart
91904	09-24-93	Elocon Cream .1%	45gm	3	S. Hart

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

(5) You did, on or about the following dates, knowingly make or affix false or forged labels to packages or receptacles containing dangerous drugs, to wit: you affixed false labels to the following dangerous drug receptacles which were not authorized by practitioners:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>	<u>Refills</u>	<u>Patient</u>
89156	06-10-93	Amoxicillin WYM 250mg	80	5	C. Hart
90668	08-09-93	Zovirax Ointment 15mg	15	5	C. Hart
88487	05-18-93	Ceclor capsules 250mg	30	3	S. Hart
111111	05-18-93	Clindex	100	3	S. Hart
91904	09-24-93	Elocon Cream .1%	45gm	3	S. Hart

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

(6) On or about June 16, 1994, in the Court of Common Pleas, Tuscarawas County, Ohio, you pled no contest to fifteen counts of Theft, in violation of Section 2913.02 of the Ohio Revised Code, and twelve counts of Illegal Processing of Drug Documents, in violation of Section 2925.23(B)(1) of the Ohio Revised Code. You were found eligible for Treatment in Lieu of Conviction pursuant to Section 2951.041 of the Ohio Revised Code and prosecution of the indictment was abated.

[paragraph added by Notice dated 08/17/94]

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

(B) The license or registration of a ... pharmacist, ... may be suspended without a prior hearing by the board under which he has been licensed or registered if the board determines that there is clear and convincing evidence that continuation of his professional practice or his method of distributing controlled substances presents a danger of immediate and serious harm to others. ...

WHEREFORE, PURSUANT TO SECTION 3719.121(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 is held by the Board under Chapter 119. of the Revised Code, during which time you may not engage in the practice of pharmacy. If you request a hearing within 30 days of the time of the mailing of this notice, such will be afforded. You may appear at such hearing in person, by or with your attorney, or you may present your position, arguments or contentions in writing; and, at this hearing, you may present evidence and examine any witnesses appearing for and against you.

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 sections 119.01 to 119.13 of the 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 Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not 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 him 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 sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, rest home, or nursing home.

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-940308-071)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE MARCH 8, 1994

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective October 31, 1994)*