



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

URL: <http://www.pharmacy.ohio.gov>

SETTLEMENT AGREEMENT

WITH

THE STATE BOARD OF PHARMACY
(DOCKET NO. D-920701-002)

IN THE MATTER OF:

ROBERT J. YANE, R.PH.
1538 TAMARISK TRAIL
POLAND, OHIO 44514
(R.PH. NO. 03-1-12301)

This SETTLEMENT AGREEMENT is entered into by and between ROBERT J. YANE (hereinafter "MR. YANE") and the OHIO STATE BOARD OF PHARMACY (hereinafter "THE BOARD") a state agency charged with enforcing Chapter 4729 of the Ohio Revised Code, the Pharmacy Practice Act and Dangerous Drug Distribution Act.

MR. YANE voluntarily enters into this AGREEMENT being fully informed of his rights afforded under Chapter 119 of the Ohio Revised Code, including the right to appeal adverse rulings of THE BOARD under O.R.C. §119.12. MR. YANE acknowledges that by entering into this AGREEMENT he has waived his rights under Chapter 119 with regard to the charges set forth in the Notice of Opportunity for Hearing of July 1, 1992.

WHEREFORE, the parties, in consideration of the mutual covenants and promises contained herein, and in lieu of any further formal proceedings at this time, and intending to be bound by said covenants, agree as follows:

- (1) MR. YANE hereby agrees to dismiss both his appeal, Case No. 95 CA 35 and his declaratory judgment action, Case No. 95-CV-1571 with prejudice.
- (2) THE BOARD hereby modifies its Order of April 15, 1994 in the following manner: THE BOARD modifies the monetary penalty from twenty-five thousand dollars (\$25,000) to eleven thousand five hundred dollars (\$11,500.00) to be paid as follows: \$1500 due upon the signing of this AGREEMENT, and \$1000 to be paid each month thereafter until the balance of the fine has been paid. The monetary penalty should be made payable to the "Treasurer, State of Ohio." The monthly payments shall commence on March 15, 1996 and should be mailed to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (3) MR. YANE, with intention of binding himself and his successors in interest and assigns, hereby RELEASES, and holds harmless from liability and forever discharges the State of Ohio, THE BOARD, the Ohio Attorney General, and any and all of their

present and former members, officers, attorneys, agents and employees, personally and in their official capacities, from any and all claims, demands, causes of actions, judgments, or executions that MR. YANE ever had, or now has or may have, known or unknown, or that anyone claiming through or under him may have or claim to have, created by, or arising out of the allegations or charges filed by THE BOARD against MR. YANE, set forth in the Notice of Opportunity for Hearing of July 1, 1992.

- (4) MR. YANE acknowledges that he is and has been represented by counsel and that he is satisfied with his counsel's representation. MR. YANE further acknowledges that he has had an opportunity to ask questions concerning the terms of this AGREEMENT and that all questions asked have been answered in a satisfactory manner.
- (5) This AGREEMENT embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this AGREEMENT supersedes all previous communications, representations or agreements, either verbal or written, between the parties.
- (6) The parties hereto acknowledge that this AGREEMENT shall be considered a public record as that term is used in O.R.C. §149.43.

In witness thereof, the parties have set their hands to this AGREEMENT this 26 th day of February, 1996 and shall become effective on the last date of signature below.

Robert J Yane
ROBERT J. YANE

2 /14 /96
Date of Signature

Jeffrey B Fleck
JEFFREY FLECK
Attorney for Robert J. Yane

2 -16 -96
Date of Signature

Paul F. Lamping
PAUL F. LAMPING, President
Ohio State Board of Pharmacy

2 /24 /96
Date of Signature

Mary L. Hollern
MARY L. HOLLERN
Assistant Attorney General
Attorney for State Board of Pharmacy

2 /26 /96
Date of Signature



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-920701-002)

In The Matter Of:

ROBERT J. YANE, R.Ph.

1538 Tamarisk Trail

Poland, Ohio 44514

(R.Ph. No. 03-1-12301)

INTRODUCTION

THE MATTER OF ROBERT J. YANE CAME ON FOR CONSIDERATION ON MARCH 9, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE., PUBLIC MEMBER.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order dated July 1, 1992; and Notice of Opportunity letter dated July 1, 1992.
- (2) Exhibit 1A - Pharmacist File Front sheet of Robert J. Yane showing original date of registration as August 10, 1977.
- (3) Exhibit 2 - Two-page Application for Registration as a Terminal Distributor of Dangerous Drugs license of Syms Medicine Shoppe dated December 3, 1990.

- (4) Exhibit 3 - Renewal Application for DDD License, No. 02-645000, of Syms Medicine Shoppe for a terminal distributor of dangerous drugs license from January 1, 1992, to December 31, 1992, signed by Robert J. Yane on October 25, 1991.
- (5) Exhibit 4 - Four-page Dangerous Drug Distributor Inspection Report of Syms Medicine Shoppe, 2603 Mahoning Avenue, Youngstown, Ohio 44509 dated December 18, 1990.
- (6) Exhibit 5 - Nineteen prescriptions numbered as follows: 628458, 628634, 628635, 629049, 629378, 629443, 629587, 629644, 630226, 630246, 630255, 630257, 630378, 630379, 630470, 630522, 630525, 631103, and 631466.
- (7) Exhibit 6 - Dangerous Drug Distributor Inspection Report of The Medicine Shoppe, 2603 Mahoning Avenue, Youngstown, Ohio 44509 dated September 30, 1991.
- (8) Exhibit 7 - Seventy-seven page transcript of audio taped interview of Robert Yane on September 30, 1991.
- (9) Exhibit 8 - Four-page Voluntary Statement of Robert J. Yane, each page signed by Robert Yane on September 30, 1991.
- (10) Exhibit 9 - Five-page statement of Dr. Edgar E. Kornhauser, D.O. signed and notarized on October 4, 1991.
- (11) Exhibit 10 - Three repair orders showing paid receipt of The Medicine Shoppe from S & S Service Co. dated April 1, 1991; March 29, 1991; and April 1, 1991.
- (12)
- (13)
- (14)
- (15)

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

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

- (1) On July 1, 1992, Robert J. Yane was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing.
- (2) As demonstrated by return receipt of July 6, 1992, Robert J. Yane received the letter of July 1, 1992, informing him of the allegations against him and his rights.
- (3) Robert J. Yane has not responded in any manner to the letter of July 1, 1992, and has not requested a hearing in this matter.
- (4) Records of the Board indicate that Robert J. Yane was originally licensed in the state of Ohio on August 10, 1977, pursuant to examination and that his license to practice pharmacy in Ohio has been summarily suspended.

Records further indicate that, during relevant time periods, Robert J. Yane was the co-owner of Neod, Inc. dba The Medicine Shoppe in Austintown, Ohio; and of Syms Medicine Shoppe in Youngstown, Ohio, where Robert J. Yane was the responsible pharmacist pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (5) Robert J. Yane did, between March 4, 1991, and April 22, 1991, knowingly sell a controlled substance in an amount greater than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: in exchange for personal services, on nineteen different occasions, Robert J. Yane made sales of 90 dosage units of Percocet or Percodan, each a schedule II controlled substance, to a confidential informant, without legitimate prescriptions. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (6) Robert J. Yane did, between March 4, 1991, and April 22, 1991, intentionally make and/or knowingly possess false or forged prescriptions, to wit: to cover for making illegal sales of controlled substances, on nineteen different occasions, Robert J. Yane either created or possessed false and/or forged prescriptions for the controlled substances Percocet and Percodan, using names of persons who were not patients of the physician listed on the prescriptions, but which were supplied by the purchaser of the drugs. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (7) Robert J. Yane did, on or about March 29, 1991, and twice on April 1, 1991, with the purpose to deprive, knowingly obtain or exert control over the property of another, Robert Good, by deception, to wit: after directing a confidential informant to write out work records, Robert J. Yane wrote checks from Syms Medicine Shoppe, owned by Mr. Yane and Robert Good, directed the informant to endorse the checks, and Robert J. Yane kept the proceeds of the checks. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(8)

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (8) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (5) through (8) 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) The State Board of Pharmacy concludes that paragraphs (5) 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 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, Docket No. D-920701-001, issued July 1, 1992.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Robert J. Yane:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Robert J. Yane, No. 03-1-12301, effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card held by Robert J. Yane, No. 03-1-12301, effective as of the date of the mailing 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 revokes the pharmacist identification card held by Robert J. Yane, No. 03-1-12301, effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraphs (1), (2), and (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of \$25,000.00 due and owing within 30 days from the effective date of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

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

MOTION CARRIED.

SO ORDERED.