OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY
(Docket No. D-890901-028)

In The Matter Of:

GEORGE HORSMAN, R.Ph.
5 Seitz Way
Norwalk, Ohio 44857
(R.Ph. I.D. Number 03-1-12357)

INTRODUCTION

THE MATTER OF GEORGE HORSMAN CAME TO HEARING ON DECEMBER 12, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: TIMOTHY MOORE, R.Ph. (presiding); GERALD CLOUSE, R.Ph.; METTA LOU HENDERSON, R.Ph.; NORMAN LEIBOW, R.Ph.; BETTY NICHOL, R.Ph.; JOSEPH SABINO, R.Ph.; ROBERT VALENTINE, R.Ph.; AND MELVIN WILCZYNSKI, R.Ph.

GEORGE HORSMAN WAS REPRESENTED BY DAVID W. GRAUER AND GREGORY W. KIRSTEIN, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) Christopher K. Reed - Board of Pharmacy
(2) Robert H. Amiet, Jr. - Board of Pharmacy

Respondent's Witnesses:

(1) George Horsman - Respondent
(2) Lori Rogers

(B) Exhibits

State's Exhibits:

(1) Exhibit A - Notice of Opportunity letters for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. dated September 1, 1989.
(2) Exhibit B - Request for hearing letters for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. dated September 21, 1989.

(3) Exhibit C - Hearing Schedule letters for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. dated September 28, 1989.
(4) Exhibit D - Notice of Appearance for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. from David W. Grauer of Squire, Sanders & Dempsey received in office on November 30, 1989.
(5) Exhibit E - Motion to Consolidate for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. from David W. Grauer of Squire, Sanders & Dempsey received in office on November 30, 1989.
(6) Exhibit F - Letter sent to David W. Grauer regarding the Motion for Consolidation for Kaiser and Wells, Inc., George Horsman, R.Ph., and Lori S. Rogers, R.Ph. dated December 4, 1989.
(7) Exhibit 1 - Renewal applications for Kaiser and Wells, Inc. showing George J. Horsman as responsible pharmacist from 1985 to 1988; and Renewal Applications for Lori S. (Heiser) Rogers from 1983 to 1987.
(8) Exhibit 2 - Accountability statement showing shortage of 200 unit doses of Dexedrine 5mg.
(9) Exhibit 3 - Accountability statement showing shortage of 122 unit doses of Demerol 100mg.
(10) Exhibit 4 - Accountability statement showing shortage of 84 unit doses of Percodan.
(11) Exhibit 5 - Accountability statement showing shortage of 74 unit doses of Codeine Sulphate 30mg.
(12) Exhibit 6 - Accountbility statement showing shortage of 70 unit doses of Biphetamine 20mg.
(13) Exhibit 7 - Accountability statement showing shortage of 121 unit doses of Ritalin SR 20mg.
(14) Exhibit 8 - Accountability statement showing shortage of 20 unit doses of Morphine Sulphate 15mg.
(15) Exhibit 9 - Prescriptions 457570, 457653, and 473634.
(16) Exhibit 10 - Prescriptions 480508 and 483107.
(17) Exhibit 11 - Prescriptions 454078, 459262, 465151, 455906, 459764, 465882, 456596, 461109, 466520, 457308, 461825, 467091, 457915, 462408, 467667, 458382, 463309, 468121, 458761, 464282, and 468824.
(18) Exhibit 12 - Written statement of Lottie Kruse dated June 17, 1988.
(19) Exhibit 13 - Computerized patient profile printout of Lottie Kruse dated March 23, 1988.
(20) Exhibit 14 - Written statement of R.Ph. George Horsman regarding drugs dispensed to Lottie Kruse dated April 1, 1988.
(21) Exhibit 15 - Written statement of R.Ph. Lori Rogers regarding drugs dispensed to Lottie Kruse dated April 1, 1988.
(22) Exhibit 16 - Prescriptions 453419, 461400, 469228, 454975, 462232, 469888, 455515, 463139, 470715, 456160, 463481, 471634, 457048, 464369, 472366, 457977, 465621, 473047, 458445, 466735, 473601, 458953, 467506, 474174, 459621, 468166, 474701, 460562, and 468844.
(23) Exhibit 17 - Written statement of Valerie Stefanick dated July 12, 1988.

(24) Exhibit 18 - Computerized patient profile printout of Valerie Stefanick dated March 23, 1988.
(25) Exhibit 19 - Written statement of R.Ph. George Horsman regarding drugs dispensed to Valerie Stefanick dated April 1, 1988.
(26) Exhibit 20 - Written statement of R.Ph. Lori Rogers regarding drugs dispensed to Valerie Stefanick dated April 1, 1988.
(27) Exhibit 21 - Prescriptions 453314, 461003, 468902, 454751, 452306, 456120, 463382, 471684, 457224, 464859, 472841, 458261, 466040, 473741, 458985, 466944, 475407, 459874, and 468056.
(28) Exhibit 22 - Written statement of Kenny Clark dated June 24, 1988.
(29) Exhibit 23 - Computerized patient profile printout of Kenny Clark dated March 23, 1988.
(30) Exhibit 24 - Written statement of R.Ph. George Horsman regarding drugs dispensed to Kenny Clark dated April 1, 1988.
(31) Exhibit 25 - Written statement of R.Ph. Lori Rogers regarding drugs dispensed to Kenny Clark dated April 1, 1988.
(32) Exhibit 26 - Prescriptions 453083, 465445, 477182, 453614, 466394, 477859, 453817, 467172, 478411, 455392, 467752, 479148, 457181, 468417, 479691, 457625, 46885, 480240, 458136, 469502, 480817, 458490, 470112, 481680, 458759, 470788, 482031, 459034, 471459, 483214, 459291, 472303, 483967, 460468, 472794, 484698, 460877, 473331, 485809, 461485, 474620, 486746, 462149, 474846, 464178, and 476413.
(33) Exhibit 28 - Written statement of R.Ph. George Horsman regarding drugs dispensed to Reta Bellamy dated April 1, 1988.
(34) Exhibit 29 - Written statement of R.Ph. Lori Rogers regarding drugs dispensed to Reta Bellamy dated April 1, 1988.
(35) Exhibit 30 - Letter from Board of Pharmacy indicating that Kaiser & Wells, Inc. is not licensed as a wholesaler in Ohio dated November 2, 1989.
(36) Exhibit 31 - Prescription 462695, dated 12/06/85, Demerol 50mg/ml, one 30ml-vial.
(37) Exhibit 32 - Prescription 477750, dated 05/05/87, Demerol 50mg/ml, one 30ml-vial.
(38) Exhibit 33 - Medical Records for Valerie Stefanich.
(39) Exhibit 34 - Medical Records for Lottie Kruse.
(40) Exhibit 35 - Medical Records for Kenny Clark.
(41) Exhibit 36 - Table of Biphetamine 20mg capsules dispensed to Lottie Kruse.
(42) Exhibit 37 - Table of Biphetamine 20mg capsules dispensed to Valerie Stefanick.
(43) Exhibit 38 - Table of Dexedrine 5mg tablets dispensed to Kenny Clark.
(44) Exhibit 39 - Table of Nembutal 100mg capsules dispensed to Reta Bellamy.
(45) Exhibit 40 - Copies of pages 95 through 97 of the USPDI Fifth Edition 1985.
(46) Exhibit 41 - Copies of pages 125 through 128 of the USPDI Sixth Edition 1986.
(47) Exhibit 42 - Copies of pages 261 through 270 of the USPDI Fifth Edition 1985.
(48) Exhibit 43 - Copies of pages 335 through 343 of the USPDI Sixth Edition 1986.

(49) Exhibit 44 - Copies of pages 350 through 359 of the USPDI Seventh Edition 1987.
(50) Exhibit 45 - Copies of pages 430 through 441 of the USPDI Eighth Edition 1988.
(51) Exhibit 46 - Subpoena from the Lorain County Common Pleas Court for John M. Jonesco, M.D. requesting all patient files for Howard Crutcher, Lottie Kruse, and Nathan Haynes; Letter from the Oberlin Clinic Inc. certifying copies of records for patient Reta Bellamy from Beverly Poiner, Record Custodian dated April 11, 1988; Subpoena from the Lorain County Common Pleas Court for Oberlin Clinic, Inc. requesting patient files for Nathan Haynes, Valerie Stefanick, AKA Stimak, John Flowers, Howard Crutcher, Reta Bellamy, and Kenny Clark; Letter from the Oberlin Clinic Inc. certifying copies of records for patient Kenneth Clark from Beverly Poiner, Record Custodian dated April 11, 1988; and Letter from the Oberlin Clinic Inc. certifying copies of records for patient Valerie Stefanich from Beverly Poiner, Record Custodian dated April 11, 1988.
(52) Exhibit 47 - Letter from Robin Hoff of Fisons Pharmaceuticals and package insert information on Biphetamine dated December 11, 1989.

Respondent's Exhibits:

(1) Exhibit 1 - Affidavit regarding Lottie Kruse signed by George O. Hoover, D.O. dated December 7, 1989.
(2) Exhibit 2 - Affidavit regarding Rita Bellamy signed by Paul K. Birney, M.D. dated December 8, 1989.
(3) Exhibit 3 - Two-page Affidavit regarding Rita Bellamy signed by Paul K. Birney, M.D. dated December 11, 1989.
(4) Exhibit 4 - Affidavit regarding Arthur (Kenny) Clark signed by Paul K. Birney, M.D. dated December 11, 1989.
(5) Exhibit 5 - Affidavit regarding Kenny Clark signed by Paul K. Birney, M.D. dated December 8, 1989.
(6) Exhibit 6 - Affidavit regarding Valerie Stefanick signed by Georgia Newman, M.D. dated December 8, 1989.
(7) Exhibit 7 - DEA form 222 for Kaiser Wells Inc. dated 4-29-86 for one package of 100 tablets of Ritalin 20mg.

FINDINGS OF FACT

(1) From the evidence presented, the State Board of Pharmacy finds that records of the Board of Pharmacy indicate that George Horsman was the responsible pharmacist at Kaiser and Wells, Inc., 5 West College Street, Oberlin, Ohio, Terminal Distributor of Dangerous Drugs license number 02-087900, pursuant to Section 4729.27 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

(2) From the evidence presented, the State Board of Pharmacy finds that George Horsman, as responsible pharmacist, did, on or about March 16, 1988, fail to keep a record of all controlled substances received or dispensed as required by Section 3719.07(G)(2) of the Ohio Revised Code, to wit: a record was

not kept to indicate the name and place of residence of each person to whom controlled substances were dispensed, the kind and quantity of such controlled substances dispensed to each person, the date such controlled substances were dispensed to each person, and the name and address of the practitioner prescribing drugs to the person to whom they were dispensed.

(3) From the evidence presented, the State Board of Pharmacy finds that George Horsman, as responsible pharmacist, did, on or about December 6, 1985, while Kaiser and Wells, Inc. was not registered as a wholesale distributor of dangerous drugs, sell, distribute, or deliver at wholesale dangerous drugs, to wit: 30ml of Demerol 50mg/cc were sold to Dr. George O. Hoover, D.O., for the stated purpose of "office use" pursuant to Prescription 462695. Such conduct is in violation of Section 4729.51(A) of the Ohio Revised Code.

(4) From the evidence presented, the State Board of Pharmacy finds that George Horsman, as responsible pharmacist, did, on or about May 5, 1987, while Kaiser and Wells, Inc. was not registered as a wholesale distributor of dangerous drugs, sell, distribute, or deliver at wholesale dangerous drugs, to wit: 30ml of Demerol 50mg/cc were sold to Dr. George O. Hoover, D.O., for the stated purpose of "office use" pursuant to Prescription 477750. Such conduct is in violation of Section 4729.51(A) of the Ohio Revised Code.

CONCLUSION OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (4) of the Findings Of Fact constitutes minor violations of the provisions of Chapters 3719. and 4729. of the Revised Code, and that the public interest is adequately served by a notice and warning as provided in Sections 3719.18(B) and 4729.25(B) of the Ohio Revised Code.

ORDER

Pursuant to Sections 3719.18 and 4729.25 of the Ohio Revised Code, the State Board of Pharmacy hereby REPRIMANDS George Horsman, R.Ph. with the following stipulations:

(A) That legally required information be secured and recorded on all prescriptions including those issued for controlled substances.

(B) That proper procedures be followed for the legal distribution of dangerous drugs including the wholesale sale of controlled substances to practitioners.

(C) That more caution be exercised when dispensing controlled substances and that careful documentation of interaction with prescribers pertaining to questionable prescriptions be retained with the prescription records. More caution should be exercised when reviewing the dispensing frequency of controlled substances.

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

MOTION CARRIED.

SO ORDERED.

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

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P-417-664-116

ORDER MAILED: JANUARY 29, 1990

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

FZW/pw

cc: Steve Dlott, Assistant Attorney General
David W. Grauer, Attorney At Law, Squire, Sanders & Dempsey, BancOhio National Plaza, 155 E. Broad St., Columbus, Ohio 43215
Gregory W. Kirstein, Attorney At Law, Squire, Sanders & Dempsey, 250 E. Broad St., Columbus, Ohio 43215