



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-031110-034)

In The Matter Of:

CHRISTOPHER KIEL, R.Ph.

8260 Cyrus Lane

Sagamore Hills, Ohio 44067

(R.Ph. No. 03-1-12367)

INTRODUCTION

THE MATTER OF CHRISTOPHER KIEL CAME FOR HEARING ON MAY 4, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

CHRISTOPHER KIEL WAS REPRESENTED BY JOSEPH W. DIEMERT, JR. AND DIANE A. CALTA AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Joann Predina, R.Ph., Ohio State Board of Pharmacy
2. Frederick Lochner, U.S. Food and Drug Administration (FDA)

Respondent's Witnesses

1. Christopher Kiel, R.Ph., Respondent

State's Exhibits

- 1K. Copy of Notice of Opportunity For Hearing letter [11-10-03]
- 1A-1K-E. Procedurals
- 1K-F. Copy of Amendment Notice [03-03-04]
- 1G-1K-K. Procedurals
2. Copy of Ohio State Board of Pharmacy Compliance Bulletin 93-002 [09-15-93]
- 2A. Copy of letter from Joseph Diemert, Jr. to Debra Grille [11-29-00]
- 2B. Copy of letter from Joseph W. Diemert, Jr. to Timothy Benedict [12-08-00]
- 2C. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 02-1235150, with attachments [12-14-00]
- 2D. Copy of letter from Charles S. Price to Diane A. Calta [01-02-01]

3. Facsimile copy of Rx #201315, Rx #201316, Rx #201317, and Rx #201318 [01-08-01]
- 3A. Copy of letter from Joseph W. Diemert, Jr. to George Fiderio [01-12-01]
- 3B. Copy of Purchase Order from Nevada Dermatology [12-04-01]
4. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 02-1235150 [08-19-03]
- 4A. Copy of Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 01-0361600 [08-19-03]
5. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 02-1235150 [08-21-03]
- 5A. Pink Sheet Response with enclosures from Diane Calta and Christopher Kiel, R.Ph. to William T. Winsley [09-09-03]
6. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 01-0361600 [08-21-03]
- 6A. Pink Sheet Response with enclosures from Diane Calta and George V. Fiderio to William T. Winsley [09-09-03]
7. Vial of Dexamethasone Acetate Suspension 8 mg/mL [not dated]
- 7A. New Hampshire Board of Pharmacy Possessed Property Report with invoice attachments [09-23-03]
- 8-8K. One sheet of Teregen Vial Labels [03-10-04] and Teregen Package Inserts for Beta-methasone, Brompheniramine, Dexamethasone acetate, Dexamethasone Na phosphate, Estradiol cypionate, Estradiol valerate, Estrone, Methylprednisolone acetate, Pyridoxine HCl, Triamcinolone acetonide, and Triamcinolone diacetate [Feb 2001 to Feb 2003]
9. Building layout for Teregen (WD & TD) and Drug World Compounding Pharmacy [not dated]
- 9A. Clean room layout of Teregen Labs [not dated]
- 9B. Ten photographs of Clean room [not dated]
10. Report of Vials Produced Per Month at Teregen Labs [08-19-03]
- 10A. Copy of Inventory On Hand at Teregen Labs [08-20-03]
- 10B. Sales History of Teregen-Produced Sterile Product [12-00 to 09-03]
- 10C. Teregen Labs In-Stock Warehouse Inventory [10-01-03]
11. Copy of letter with enclosures from Diane A. Calta to Fred L. Dailey [09-03-03]
- 11A. Copy of letter from William A. Hopper, Jr. to Diane A. Calta [09-19-03]
- 11B. Copy of letter with attachments from Christopher Kiel, R.Ph. to Mr. Hopper [09-24-03]
- 11C. Copy of letter from Steven Silverman to William T. Winsley, M.S., R.Ph. [11-13-03]
- 11C-1. Copy of letter from Carol A. Heppe to Steven C. LaTourette, Congressman [03-17-04]
- 11D. Copy of letter from Fred L. Dailey to Diane A. Calta [11-21-03]
12. *Ohio State Board of Pharmacy News*, November 2003
13. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 02-1235150 [03-11-04]
- 13A. Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 01-0361600 [03-11-04]
- 13B. Copy of Productivity Record [03-10-04]
- 13C. Teregen Labs Production Records [10-27-03 to 03-03-04]
14. Teregen Labs 2001 Physician Orders, Total Quantity Purchased [03-25-04]
- 14A. Copy of Betamethasone Distribution Records [11-28-01]
- 14B. Copy of Brompheniramine Distribution Records [02-21-01]
- 14C. Copy of Dexamethasone Acetate Distribution Records [10-17-01]
- 14D. Copy of Dexamethasone Na Phosphate Distribution Records [09-26-01]
- 14E. Copy of Estradiol Cypionate Distribution Records [03-23-01]
- 14F. Copy of Estradiol Valerate Distribution Records [07-25-01]
- 14G. Copy of Estrone Distribution Records [02-21-01]
- 14H. Copy of Methylprednisolone Acetate Distribution Records [12-04-01]

- 14I. Copy of Pyridoxine HCl Distribution Records [12-03-01]
- 14J. Copy of Triamcinolone Acetonide Distribution Records [02-05-01]
- 14K. Copy of Triamcinolone Diacetate Distribution Records [11-27-01]
- 14L. Dexamethasone Acetate Batch Records [10-10-01]
- 15. Teregen Labs 2002 Physician Orders, Total Quantity Purchased [03-25-04]
- 15A. Copy of Betamethasone Distribution Records [09-12-02]
- 15B. Copy of Brompheniramine Distribution Records [05-13-02]
- 15C. Copy of Dexamethasone Acetate Distribution Records [07-01-02]
- 15D. Copy of Dexamethasone Na Phosphate Distribution Records [09-27-02]
- 15E. Copy of Estradiol Cypionate Distribution Records [03-06-02]
- 15F. Copy of Estradiol Valerate Distribution Records [12-13-02]
- 15G. Copy of Estrone Distribution Records [09-20-02]
- 15H. Copy of Methylprednisolone Acetate Distribution Records [07-30-02]
- 15I. Copy of Pyridoxine HCl Distribution Records [09-25-02]
- 15J. Copy of Triamcinolone Acetonide Distribution Records [04-09-02]
- 15K. Copy of Triamcinolone Diacetate Distribution Records [09-26-02]
- 15L. Dexamethasone Acetate Batch Records [06-18-02]
- 16. Teregen Labs 2003 Physician Orders, Total Quantity Purchased [03-25-04]
- 16A. Copy of Betamethasone Distribution Records [09-10-03]
- 16B. Copy of Brompheniramine Distribution Records [06-09-03]
- 16C. Copy of Dexamethasone Acetate Distribution Records [05-15-03]
- 16D. Copy of Dexamethasone Na Phosphate Distribution Records [04-22-03]
- 16E. Copy of Estradiol Cypionate Distribution Records [06-24-03]
- 16F. Copy of Estradiol Valerate Distribution Record [08-20-03]
- 16G. Copy of Estrone Distribution Records [01-14-03]
- 16H. Copy of Methylprednisolone Acetate Distribution Records [04-28-03]
- 16I. Copy of Pyridoxine HCl Distribution Records [06-26-03]
- 16J. Copy of Triamcinolone Acetonide Distribution Records [08-28-03]
- 16K. Copy of Triamcinolone Diacetate Distribution Records [06-20-03]
- 16L. Dexamethasone Acetate Batch Records [04-25-03]
- 17. Rx #818899 [02-10-03]
- 17A. Teregen Labs Rx #818899 Label [02-10-03]
- 17B. Copy of Tax Insurance Summary for Drug World Pharmacy [01-01-01 to 11-05-03]
- 18. Rx #819878 [06-03-03]
- 19. Rx #817388 [07-03-02]
- 20. Letter with enclosures from Regina C. Hamlin, M.D. to Joann D. Predina, MBA, R.Ph. [11-02-03]
- 21. Copy of Ohio Revised Code (ORC) Section 3715.65 (Application for new drugs) [07-22-98]
- 21A. Copy of Division (A)(10) of ORC Section 3715.01 (Definitions) defining "New drug" [not dated]
- 21B. Copy of Division (C) of ORC Section 4729.01 (Definitions) defining "Compounding" [not dated]
- 21C. Copy of Division (H) of ORC Section 4729.01 (Definitions) defining "Prescription" [not dated]
- 21D. Copy of paragraph (B) of Ohio Administrative Code (OAC) Rule 4729-5-01 (Definitions) defining "Dispense" [not dated]
- 21E. Copy of OAC Rule 4729-5-30 (Manner of issuance of a prescription) [not dated]
- 21F. Copy of OAC Rule 4729-9-21 (Drugs compounded in a pharmacy) [03-01-99]
- 22. FDA Inspectional Observations (Form FDA 483) for Gentere Inc. [03-10-04 to 03-19-04]

Respondent's Exhibits

- A. Pink Sheet Response with enclosures from Diane Calta and George V. Fiderio to William T. Winsley [09-09-03]
- B. Notice of Opportunity for Hearing letter to Teregen Labs, License No. 01-0361600 [11-10-03]
- C. Copy of Amendment Notice letter To Teregen Labs, License No. 01-0361600 [03-03-04]
- D. Copy of Pink Sheet Response with enclosures from Diane Calta and Christopher Kiel, R.Ph. to William T. Winsley [09-09-03]
- E. Notice of Opportunity for Hearing letter to Teregen Labs, License No. 02-1235150 [11-10-03]
- F. Amendment Notice letter to Teregen Labs, License No. 02-1235150 [03-03-04]
- G. Copy of Pink Sheet Response from Christopher Kiel, R.Ph. to Ohio State Board of Pharmacy [08-25-03]
- H. Copy of Notice of Opportunity for Hearing letter to Christopher Kiel, R.Ph. [11-10-03]
- I. Copy of Amendment Notice letter to Christopher Kiel, R.Ph. [03-03-04]
- J. Copy of letter with enclosures from Diane A. Calta to William A. Hopper, Jr. [09-30-03]
- K. Letter with enclosure from William A. Hopper, Jr. to Diane A. Calta, Esq. [11-21-03]
- L. Copy of letter from Steven Silverman to William T. Winsley, M.S., R.Ph. [11-13-03]
- M. Copy of e-mail letter from Bill Winsley to Betty Hiner [10-23-03]
- N. Copy of Dangerous Drug Distributor Inspection Report of Teregen Labs, License No. 02-1235150 [12-14-00]
- O. Copy of letter from Joseph W. Diemert, Jr. to Debra Grille [11-29-00]; copy of Fax Cover Sheet from Diane Calta to Tim Benedict [11-30-00]
- P. Copy of letter from Joseph W. Diemert, Jr. to Timothy Benedict [12-08-00]
- Q. Copy of letter from Charles S. Price to Diane A. Calta [12-28-00]
- R. Copy of letter with enclosure from Joseph W. Diemert, Jr. to George Fiderio [01-12-01]
- S. Copy by Westlaw of Ohio Revised Code (ORC) Section 4729.01 (Definitions) [06-26-03]
- T. Copy by Westlaw of ORC Section 4729.29 (Exceptions to certain provisions) [03-09-99]
- U. Copy by Westlaw of Ohio Administrative Code (OAC) Rule 4729-5-30 (Manner of issuance of a prescription) [02-01-03]
- V. Copy by Westlaw of OAC Rule 4729-5-01 (Definitions) [01-01-04]
- W. Copy by Westlaw of OAC Rule 4729-9-12 (Verification of license as a distributor of dangerous drugs or exempt status of a prescriber) [03-01-99]
- X. Copy by Westlaw of ORC Sections 3715.01 (Definitions) [11-21-01] and 3715.65 (Application for new drugs) [07-22-98]
- Y. Copy of Guidance for FDA Staff and Industry Compliance Policy Guides Manual, Section 460.200 (Pharmacy Compounding) [05-29-02]
- Z. Six photographs of Teregen Laboratory Facility [not dated]
- AA. Copy by Westlaw of 2003 Ohio Senate Bill 196 (SN) As Introduced [02-12-04]; Bill Analysis by the Ohio Legislative Service Commission of S.B. 196 As Introduced [02-26-04]
- BB. Copy of pages 2498 through 2501 of the United States Pharmacopeial (USP) for Section 1075 (Good Compounding Practices) [not dated]
- CC. Copy of letter from David L. Rosen, B.S. Pharm, J.D. to Carol A. Heppe [04-27-04]

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 Christopher Kiel was originally licensed by the State of Ohio as a pharmacist on August 10, 1977, pursuant to exami-

nation, and is currently licensed to practice pharmacy in Ohio. Records further reflect that, during the relevant time periods stated herein, Christopher Kiel was the Responsible Pharmacist at Teregen Labs, 38320 Western Parkway, Willoughby, Ohio, pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

- (2) Christopher Kiel did, on or about the following dates in 2001, sell a new drug without an application with respect to the drug having become effective under Section 505 of the Federal Food, Drug, and Cosmetic Act, to wit: after having received verbal and written warning against doing so, the pharmacy sold dangerous drugs, the following being representative examples, without obtaining patient-specific orders for the products:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
30486	11/28/01	25 vials	betamethasone Na phos & acetate 6 mg/ml inj.-5 ml
26495	02/21/01	12 vials	brompheniramine maleate 10 mg/ml inj.-10 ml
29925	10/17/01	30 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
29631	09/26/01	12 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
26810	03/23/01	4 vials	estradiol cypionate 5 mg/ml inj.-10 ml
28680	07/25/01	2 vials	estradiol valerate 40 mg/ml inj.-10 ml
26490	02/21/01	10 vials	estrone 5 mg/ml inj.-10 ml
30547	12/04/01	15 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
30529	12/03/01	200 vials	pyridoxine HCl 100 mg/ml inj.- 30 ml
26333	02/05/01	30 vials	triamcinolone acetonide 40 mg/ml inj.- 5 ml
30466	11/27/01	2 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Section 3715.65 of the Ohio Revised Code.

- (3) Christopher Kiel did, on or about the following dates in 2002, sell a new drug without an application with respect to the drug having become effective under Section 505 of the Federal Food, Drug, and Cosmetic Act, to wit: after having received verbal and written warning against doing so, the pharmacy sold dangerous drugs, the following being representative examples, without obtaining patient-specific orders for the products:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
34259	09/12/02	4 vials	betamethasone Na phos. & acetate 6 mg/ml inj.-5 ml
32613	05/13/02	2 vials	brompheniramine maleate 10 mg/ml inj.-10 ml
33265	07/01/02	300 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
34467	09/27/02	20 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
31704	03/06/02	2 vials	estradiol cypionate 5 mg/ml inj.-10 ml
35410	12/13/02	4 vials	estradiol valerate 40 mg/ml inj.-10 ml
34380	09/20/02	5 vials	estrone 5 mg/ml inj.- 10 ml
33660	07/30/02	12 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
34433	09/25/02	6 vials	pyridoxine HCl 100 mg/ml inj.-30 ml
32162	04/09/02	8 vials	triamcinolone acetonide 40 mg/ml inj.-5 ml
34455	09/26/02	8 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Rule 4729-9-21 of the Ohio Administrative Code.

- (4) Christopher Kiel did, on or about the following dates in 2003, sell a new drug without an application with respect to the drug having become effective under Section 505 of the Federal Food, Drug, and Cosmetic Act, to wit: after having received verbal and written warning against doing so, the pharmacy sold dangerous drugs, the following being representative examples, without obtaining patient-specific orders for the products:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
38531	09/10/03	40 vials	betamethasone Na phos. & acetate 6 mg/ml inj.-5 ml
37430	06/09/03	10 vials	brompheniramine maleate 10 mg/ml inj.- 10 ml
37145	05/15/03	12 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
36851	04/22/03	12 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
37617	06/24/03	3 vials	estradiol cypionate 5 mg/ml inj.-10 ml
38287	08/20/03	4 vials	estradiol valerate 40 mg/ml inj.-10 ml
35702	01/14/03	10 vials	estrone 5 mg/ml inj.-10 ml
36929	04/28/03	15 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
37639	06/26/03	600 vials	pyridoxine HCl 100 mg/ml inj.-30 ml
38379	08/28/03	30 vials	triamcinolone acetonide 40 mg/ml inj.-5 ml
37569	06/20/03	4 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Rule 4729-9-21 of the Ohio Administrative Code.

- (5) Christopher Kiel did, on or about the following dates in 2001, compound and sell prescription drugs when not pursuant to specific orders for individual patients issued by prescribers and not in limited quantities in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, to wit: Christopher Kiel compounded and sold dangerous drugs, the following being representative examples:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
30486	11/28/01	25 vials	betamethasone NA phos & acetate 6 mg/ml inj.-5 ml
26495	02/21/01	12 vials	brompheniramine maleate 10 mg/ml inj.-10 ml
29925	10/17/01	30 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
29631	09/26/01	12 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
26810	03/23/01	4 vials	estradiol cypionate 5 mg/ml inj.-10 ml
28680	07/25/01	2 vials	estradiol valerate 40 mg/ml inj.-10 ml
26490	02/21/01	10 vials	estrone 5 mg/ml inj.-10 ml
30547	12/04/01	15 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
30529	12/03/01	200 vials	pyridoxine HCl 100 mg/ml inj.- 30 ml
26333	02/05/01	30 vials	triamcinolone acetonide 40 mg/ml inj.- 5 ml
30466	11/27/01	2 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Rule 4729-9-21 of the Ohio Administrative Code.

- (6) Christopher Kiel did, on or about the following dates in 2002, compound and sell prescription drugs when not pursuant to specific orders for individual patients issued by prescribers and not in limited quantities in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, to wit: Christopher Kiel compounded and sold dangerous drugs, the following being representative examples:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
34259	09/12/02	4 vials	betamethasone Na phos. & acetate 6 mg/ml inj.-5 ml
32613	05/13/02	2 vials	brompheniramine maleate 10 mg/ml inj.-10 ml
33265	07/01/02	300 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
34467	09/27/02	20 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
31704	03/06/02	2 vials	estradiol cypionate 5 mg/ml inj.-10 ml
35410	12/13/02	4 vials	estradiol valerate 40 mg/ml inj.-10 ml
34380	09/20/02	5 vials	estrone 5 mg/ml inj.- 10 ml
33660	07/30/02	12 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
34433	09/25/02	6 vials	pyridoxine HCl 100 mg/ml inj.-30 ml
32162	04/09/02	8 vials	triamcinolone acetonide 40 mg/ml inj.-5 ml
34455	09/26/02	8 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Rule 4729-9-21 of the Ohio Administrative.

- (7) Christopher Kiel did, on or about the following dates in 2003, compound and sell prescription drugs when not pursuant to specific orders for individual patients issued by prescribers and not in limited quantities in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, to wit: Christopher Kiel compounded and sold dangerous drugs, the following being representative examples:

<u>Invoice#</u>	<u>Date</u>	<u>Qty</u>	<u>Drug</u>
38531	09/10/03	40 vials	betamethasone Na phos. & acetate 6 mg/ml inj.-5 ml
37430	06/09/03	10 vials	brompheniramine maleate 10 mg/ml inj.- 10 ml
37145	05/15/03	12 vials	dexamethasone acetate 8 mg/ml inj.-5 ml
36851	04/22/03	12 vials	dexamethasone Na phos. 4 mg/ml inj.-5 ml
37617	06/24/03	3 vials	estradiol cypionate 5 mg/ml inj.-10 ml
38287	08/20/03	4 vials	estradiol valerate 40 mg/ml inj.-10 ml
35702	01/14/03	10 vials	estrone 5 mg/ml inj.-10 ml
36929	04/28/03	15 vials	methylprednisolone acetate 40 mg/ml inj.-10 ml
37639	06/26/03	600 vials	pyridoxine HCl 100 mg/ml inj.-30 ml
38379	08/28/03	30 vials	triamcinolone acetonide 40 mg/ml inj.-5 ml
37569	06/20/03	4 vials	triamcinolone diacetate 40 mg/ml inj.-5 ml

Such conduct violates Rule 4729-9-21 of the Ohio Administrative Code.

- (8) Christopher Kiel did, on or about February 10, 2003, dispense a drug from a prescription which had been sent to the pharmacy by facsimile directly from the patient, to wit: the pharmacy dispensed Rx 818899 for Celestone Soluspan 6 mg/ml, 5cc, which had been faxed directly from the patient. Such conduct violates Rule 4729-5-30(F) of the Ohio Administrative Code.
- (9) Christopher Kiel did, on or about September 2, 2003, dispense a drug from a prescription which had been sent to the pharmacy by facsimile directly from the patient, to wit: the pharmacy dispensed Rx 819878 for Celestone Soluspan 6 mg/ml, 5cc, which had been faxed directly from the patient. Such conduct violates Rule 4729-5-30(F) of the Ohio Administrative Code.
- (10) Christopher Kiel did, on or about September 16, 2002, dispense a drug from a prescription which had been sent to the pharmacy by facsimile directly from the patient, to wit: the pharmacy dispensed Rx 817388 for Celestone Soluspan 6 mg/ml, 5cc, which had been faxed directly from the patient. Such conduct violates Rule 4729-5-30(F) of the Ohio Administrative Code.
- (11) Christopher Kiel did, on or about May 2, 2003, sell a dangerous drug when not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: after the pharmacy had received Rx 818899, written for Celestone Soluspan 6 mg/ml, 5cc, refill 2 times, Christopher Kiel dispensed the drug again without additional authorization from a prescriber. Such conduct violates Section 4729.51(C) of the Ohio Revised Code.
- (12) Christopher Kiel did, on or about August 4, 2003, sell a dangerous drug when not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: after the pharmacy had received Rx 818899, written for Celestone Soluspan 6 mg/ml, 5cc, refill 2 times, Christopher Kiel dispensed the drug again without additional authorization from a prescriber. Such conduct violates Section 4729.51(C) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (12) of the Findings of Fact constitute being guilty of 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 (2) through (12) 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 (2) through (12) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 3715. or 4729. of the Revised Code or any rule adopted by the Board as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Christopher Kiel as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for six months the pharmacist identification card, No. 03-1-12367, held by Christopher Kiel and such suspension is effective as of the date of the mailing of this Order.
 - (1) Christopher Kiel, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) Christopher Kiel, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.
- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of ten thousand dollars (\$10,000.00) on Christopher Kiel and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) Beginning six months from the effective date of this Order, the State Board of Pharmacy places Christopher Kiel on probation for two years. The terms of probation are as follows:
 - (1) The State Board of Pharmacy hereby declares that Christopher Kiel's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

- (2) Christopher Kiel may not serve as a responsible pharmacist.
- (3) Christopher Kiel must not violate the drug laws of Ohio, any other state, or the federal government.
- (4) Christopher Kiel must abide by the rules of the State Board of Pharmacy.
- (5) Christopher Kiel must comply with the terms of this Order.
- (6) Christopher Kiel's license is deemed not in good standing until successful completion of the probationary period.
- (7) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Christopher Kiel is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.