
OHIO STATE BOARD OF PHARMACY

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-950706-001)

In The Matter Of:

LYNN MARIE BORISUK, R.Ph.
2331 Killian Road
Akron, Ohio 44312
(R.Ph. No. 03-1-13070)

INTRODUCTION

THE MATTER OF LYNN MARIE BORISUK CAME TO HEARING ON JUNE 27, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LYNN MARIE BORISUK WAS REPRESENTED BY EDWIN C. PIERCE, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David Gallagher, Ohio State Board of Pharmacy
- (2) Thomas G. Hinderer, R.Ph., K-Mart
- (3) Timothy J. Kolopus, R.Ph., K-Mart
- (4) Bonnie Yoder, Pharmacy Technician, K-Mart
- (5) Christopher Hart, R.Ph., K-Mart
- (6) Darlene Shanklin, Pharmacy Technician, K-Mart
- (7) Lynn Marie Borisuk, Respondent

Respondent's Witnesses:

- (1) Dr. Fred Karaffa, Shepherd Hill Hospital
- (2) Phyllis Grauer, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated July 6, 1995.
- (2) Exhibit 1A--Hearing Request letter dated July 25, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated July 26, 1995.
- (4) Exhibit 1C--Addendum Notice dated December 22, 1995.

OHIO STATE BOARD OF PHARMACY

- (5) Exhibit 1D--Continuance Request letter dated January 10, 1996.
- (6) Exhibit 1E--Hearing Schedule letter dated January 17, 1996.
- (7) Exhibit 1F--Continuance Request letter dated March 19, 1996.
- (8) Exhibit 1G--Hearing Schedule letter dated March 21, 1996.
- (9) Exhibit 1H--Pharmacist File Front Sheet of Lynn Marie Snoderly Borisuk showing original date of registration as March 6, 1978.
- (10) Exhibit 1I--Two-page facsimile as follows: Page 1 - cover page dated June 26, 1996; and Page 2 - Continuance Request letter dated June 26, 1996.
- (11) Exhibit 1J--Letter Denying Continuance Request from Franklin Z. Wickham, not dated.
- (12) Exhibit 2--Two-page copy of R.Ph. Christopher Hart's notes of May 5, 1995, through May 23, 1995.
- (13) Exhibit 3--Copy of R.Ph. Christopher Hart's notes of June 6, 1995.
- (14) Exhibit 4--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 19, 1995, at 10:45 p.m. after work.
- (15) Exhibit 4A--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 21, 1995, before work.
- (16) Exhibit 4B--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 21, 1995, at 8:00 p.m. after work.
- (17) Exhibit 4C--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 23, 1995, a.m. before.
- (18) Exhibit 4D--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 23, 1995, after work.
- (19) Exhibit 4E--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 24, 1995, after work.
- (20) Exhibit 4F--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 26, 1995, before work.
- (21) Exhibit 4G--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 27, 1995, before work.
- (22) Exhibit 4H--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 27, 1995, after work.
- (23) Exhibit 4I--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 28, 1995, after work.
- (24) Exhibit 4J--Two-page Number on Hand Accountability Sheet of K-Mart Pharmacy, Terminal Distributor No. 02-831300, dated June 30, 1995, at 11:06 a.m.
- (25) Exhibit 5--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (26) Exhibit 5A--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (27) Exhibit 5B--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (28) Exhibit 5C--K-Mart VHS Video Cassette security tape of June 20, 1995.
- (29) Exhibit 5D--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (30) Exhibit 5E--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (31) Exhibit 5F--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (32) Exhibit 5G--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (33) Exhibit 5H--K-Mart VHS Video Cassette security tape of June 23, 1995.
- (34) Exhibit 5I--K-Mart VHS Video Cassette security tape of June 23, 1995.

OHIO STATE BOARD OF PHARMACY

- (35) Exhibit 5J--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (36) Exhibit 5K--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (37) Exhibit 5L--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (38) Exhibit 5M--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (39) Exhibit 5N--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (40) Exhibit 5O--K-Mart VHS Video Cassette security tape of June 24, 1995.
- (41) Exhibit 5P--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (42) Exhibit 5Q--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (43) Exhibit 5R--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (44) Exhibit 5S--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (45) Exhibit 5T--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (46) Exhibit 5U--K-Mart VHS Video Cassette security tape of June 25, 1995.
- (47) Exhibit 6--Microcassette tape, Part 1, of Interview of Lynn Marie Borisuk by David Gallagher on June 30, 1995.
- (48) Exhibit 6A--Microcassette tape, Part 2, of Interview of Lynn Marie Borisuk by David Gallagher on June 30, 1995.
- (49) Exhibit 7--Copy of R.Ph. Christopher Hart's notes of June 7, 1995, and June 8, 1995.
- (50) Exhibit 8--Stock bottle of Ionamin 30mg capsules, Lot No. 40489, expiration date 8-99, containing 75 Ionamin 30mg capsules.
- (51) Exhibit 9--Stock bottle of Adipex-P 37.5mg tablets, Lot No. 3915, expiration date 6-97, containing 34 Adipex-P 37.5mg tablets.
- (52) Exhibit 10--Receipt from Lynn Borisuk to Agent David Gallagher signed and notarized on June 30, 1995.
- (53) Exhibit 11--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Adipex-P 37.5mg dated July 17, 1995.
- (54) Exhibit 11A--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ionamin 30mg dated July 17, 1995.
- (55) Exhibit 11B--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ionamin 15mg dated July 17, 1995.
- (56) Exhibit 11C--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Ambien 10mg dated July 17, 1995.
- (57) Exhibit 11D--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Alprazolam 1mg dated July 17, 1995.
- (58) Exhibit 11E--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Methylphenidate 5mg dated July 17, 1995.
- (59) Exhibit 11F--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zoloft 100mg dated July 19, 1995.

OHIO STATE BOARD OF PHARMACY

- (60) Exhibit 11G--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Cipro 500mg dated July 19, 1995.
- (61) Exhibit 11H--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zovirax 400mg dated July 19, 1995.
- (62) Exhibit 11I--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Seldane-D dated July 19, 1995.
- (63) Exhibit 11J--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Claritin 10mg dated July 19, 1995.
- (64) Exhibit 11K--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for R-Tannamine tablets dated July 19, 1995.
- (65) Exhibit 11L--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Zephrex LA dated July 19, 1995.
- (66) Exhibit 11M--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #7383, Terminal Distributor No. 02-831300, for Prozac 20mg dated July 19, 1995.
- (67) Exhibit 12--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Oxycodone 5mg/ASA tablets dated August 9, 1995.
- (68) Exhibit 12A--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Adipex-P 37.5mg dated August 9, 1995.
- (69) Exhibit 12B--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Phentermine 30mg dated August 9, 1995.
- (70) Exhibit 12C--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ritalin 5mg dated August 9, 1995.
- (71) Exhibit 12D--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 5mg dated August 9, 1995.
- (72) Exhibit 12E--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 10mg dated August 9, 1995.
- (73) Exhibit 12F--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 20mg dated August 9, 1995.
- (74) Exhibit 12G--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Methylphenidate 20mg ER dated August 9, 1995.

OHIO STATE BOARD OF PHARMACY

- (75) Exhibit 12H--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ambien 5mg dated August 9, 1995.
- (76) Exhibit 12I--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Ambien 10mg dated August 9, 1995.
- (77) Exhibit 12J--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam .25mg dated August 9, 1995.
- (78) Exhibit 12K--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Xanax .5mg dated August 9, 1995.
- (79) Exhibit 12L--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam .5mg dated August 9, 1995.
- (80) Exhibit 12M--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of K-Mart Pharmacy #3243, Terminal Distributor No. 02-168200, for Alprazolam 1mg dated August 9, 1995.
- (81) Exhibit 13--Fifty-five pages of wholesale purchase records from Whitmire Dist. Corp. Cleveland of K-Mart Pharmacy #3243 dated from January 1, 1995, through March 30, 1995.
- (82) Exhibit 13A--One hundred-one pages of wholesale purchase records from the Tennessee Wholesale Drug Co. of K-Mart Pharmacy #3243 dated from January 3, 1994, through August 1, 1994.
- (83) Exhibit 13B--Seventy pages of wholesale purchase records of K-Mart Pharmacy #3243 dated from May through December of 1994.
- (84) Exhibit 14--Five-page K-Mart Pharmacy #3243 Number Purchase Accountability Sheet Report dated August 8, 1995.
- (85) Exhibit 14A--Fourteen pages of wholesale purchase records of K-Mart Pharmacy #3243 dated from July 1, 1993, through May 1, 1995.
- (86) Exhibit 14B--Sixteen page List Drug Transactions of Account #67351, K-Mart #3243, dated from May 1, 1993, through July 25, 1995.
- (87) Exhibit 15--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending December 26, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760388 dated December 14, 1992; Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated December 22, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760387 dated November 21, 1992; K-Mart Pharmacy #4169 DEA Form 222 No. 900760386 dated November 21, 1992; Tennessee Wholesale Drug Co. Direct Update Invoice of K-Mart Pharmacy #4169 dated December 2, 1992; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated December 2, 1992.
- (88) Exhibit 15A--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending January 30, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760389, dated January 23, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169, dated January 28, 1993.

OHIO STATE BOARD OF PHARMACY JOURNAL

- (89) Exhibit 15B--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for the period ending February 26, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760390, dated January 26, 1993; Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated February 1, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760391, dated February 15, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated February 23, 1993.
- (90) Exhibit 15C--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending March 31, 1993.
- (91) Exhibit 15D--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending April 30, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760393, dated March 30, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated April 6, 1993.
- (92) Exhibit 15E--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending May 29, 1993; K-Mart Pharmacy #4169 DEA Form 222, No. 900760392, dated May 9, 1993; and Tennessee Wholesale Drug Co. Direct Update Invoice for K-Mart Pharmacy #4169 dated May 14, 1993.
- (93) Exhibit 15F--Five-page K-Mart Pharmacy #4169 Inventory Control Sheet for Scheduled II Drugs for period ending June 29, 1993.
- (94) Exhibit 16--Two-page handwritten statement of Tom Hinderer signed and notarized on July 10, 1995.
- (95) Exhibit 17--Handwritten statement of Tim Kolopus signed and notarized on July 10, 1995.
- (96) Exhibit 18--Four-page handwritten statement of Gregg Smith signed and notarized on August 7, 1995.
- (97) Exhibit 19--Prescription number 6648259.
- (98) Exhibit 20--One tube of Pramoxone Cream 1%, Lot No. 51294, expiration date 9/93, in stock box.
- (99) Exhibit 21--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 11, 1993.
- (100) Exhibit 22--K-Mart Pharmacy #4169 Medical Expenses report of Patient John F. Nadzam dated from January 1, 1993, through July 10, 1995.
- (101) Exhibit 22A--Description of error made on prescription number 6648259.
- (102) Exhibit 23--Prescription numbered 6602376 on the front; and 6638865 on the back.
- (103) Exhibit 24--Sealed stock bottle of Micro-K 10, labeled as prescription number 6638865.
- (104) Exhibit 25--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 3, 1993.
- (105) Exhibit 25A--Description of error made on prescription number 6638865.
- (106) Exhibit 26--Prescription numbers 6648164, 6648165, and 6648166.
- (107) Exhibit 27--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 2, 1993.
- (108) Exhibit 27A--Description of error made on Prescription number 6648165.
- (109) Exhibit 28--Prescription number 6649587.
- (110) Exhibit 29--K-Mart Pharmacy #4169 Daily Audit Listing report dated February 16, 1993, and K-Mart Pharmacy #4169 Daily Audit Listing report dated February 17, 1993.
- (111) Exhibit 29A--Description of error made on prescription number 6649587.
- (112) Exhibit 30--Prescription for patient Leroy Zimmerman for Klonopin 0.2mg dated July 1, 1993.
- (113) Exhibit 31--K-Mart Pharmacy #4169 Medical Expenses report of Patient Leroy Zimmerman dated from January 1, 1993, to January 1, 1994.
- (114) Exhibit 31A--Description of error made on prescription number 6661795.

OHIO STATE BOARD OF PHARMACY

- (115) Exhibit 32--Prescription number 4400108.
- (116) Exhibit 33--K-Mart Pharmacy #7383 Comprehensive Audit Listing report dated June 29, 1995.
- (117) Exhibit 33A--Description of error made on prescription number 4400108.
- (118) Exhibit 34--Five-page handwritten statement of Christopher Hart signed and notarized on July 20, 1995.
- (119) Exhibit 35--Prescription number 4400002.
- (120) Exhibit 36--K-Mart Pharmacy #7383 Daily Audit Listing report dated March 28, 1995.
- (121) Exhibit 37--K-Mart Pharmacy #7383 Drug Movement Report for Promethazine VC with Codeine Syrup dated from March 17, 1995, through July 11, 1995.
- (122) Exhibit 37A--K-Mart Pharmacy #7383 Drug Movement Report for Promethazine with Codeine 6.25-10 Syrup dated from March 17, 1995, through July 11, 1995.
- (123) Exhibit 37B--Description of error made on prescription number 4400002.
- (124) Exhibit 38--Three-page handwritten statement of Cynthia Weller signed and notarized on August 17, 1995.
- (125) Exhibit 39--Two-page handwritten statement of Jill Theresa Mozingo signed and notarized on August 17, 1995.
- (126) Exhibit 40--Handwritten statement of Bonnie K. Yoder signed and notarized on October 5, 1995.
- (127) Exhibit 41--Handwritten statement of Dianna S. Loeckel signed and notarized on October 5, 1995.
- (128) Exhibit 42--Certified Journal Entry in the Summit County Common Pleas Court, Case No. CR 95 08 2067, of Lynn Marie Borisuk dated December 1, 1995.
- (129) Exhibit 43--Certified Journal Entry in the Summit County Common Pleas Court, Case No. CR 95 08 2067, of Lynn Marie Borisuk dated December 6, 1995.
- (130) Exhibit 44--Whitmire Dist. Corp. Cleveland CSA Sales History by Customer Report of, K-Mart Pharmacy #7383, dated from March 1, 1995, to June 30, 1995.
- (131) Exhibit 45--Four-page handwritten statement of Darlene Shanklin signed and witnessed on June 5, 1996.

Respondent's Exhibits:

- (1) Exhibit A1--Copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Lynn Borisuk dated February 28, 1996; and copy of Shepherd Hill Hospital Recovery Monitoring Services Agreement of Lynn Borisuk dated November 17, 1995.
- (2) Exhibit A2--Copies of urine drug screens of Lynn Borisuk dated as follows: two-page report dated November 15, 1995; two-page report dated December 13, 1995; page one of report dated January 17, 1996; two-page report dated January 18, 1996; two-page report dated January 25, 1996; two-page report dated February 1, 1996; two-page report dated February 13, 1996; two-page report dated February 14, 1996; two-page report dated February 21, 1996; two-page report dated March 5, 1996; two-page report dated March 6, 1996; two-page report dated March 9, 1996; report dated March 19, 1996; report dated March 27, 1996; two-page report dated April 4, 1996; report dated April 9, 1996; report dated April 16, 1996; report dated April 23, 1996; two-page report dated May 3, 1996; report dated May 9, 1996; report dated May 16, 1996; report dated May 19, 1996; report dated May 30, 1996; report dated June 4, 1996; report dated June 8, 1996; and report dated June 15, 1996.

OHIO STATE BOARD OF PHARMACY

- (3) Exhibit A3--Verification of AA Attendance of Lynn B. dated from November 19, 1995, through December 17, 1995; meeting attendance verification of Lynn B. dated from December 20, through January 10, 1996; copy of Verification of AA Attendance of Lynn B. dated from January 11, 1996, through February 1, 1996; Verification of AA Attendance of Lynn B dated from February 8, 1996, through March 4, 1996; Verification of AA Attendance of Lynn dated from March 6, 1996, through March 27, 1996; Verification of AA Attendance of Lynn B. dated from April 18, 1996, through May 16, 1996; Verification of AA Attendance of Lynn B. dated May 19, 1996, through June 13, 1996; and copy of Verification of AA Attendance of Lynn B dated from June 18, 1996, through June 23, 1996.
- (4) Exhibit A4--Affidavit of Donna Snoderly signed and notarized on June 24, 1996; letter from Mary Spain dated June 10, 1996; two-page letter from Robert A. Woods dated June 14, 1996; letter from Sarah and Susan Borisuk, not dated; letter from Cathy Snoderly dated June 17, 1996; letter from Elizabeth Snoderly dated June 24, 1996; letter from David J. Allen dated June 19, 1996; letter from John M. Stang dated March 27, 1996; letter from Henry Lynn Hook dated May 30, 1996; letter from Keith M. Wire dated June 7, 1996; letter from John M. Davis dated June 17, 1996; and letter from Carla Becroft and Daphne K. DeFreest dated June 21, 1995.
- (5) Exhibit A5--Copy of Continuing Pharmacy Education Report Form of Lynn Marie Borisuk dated June 10, 1995; Renewal Application for Pharmacist License, No. 03-1-13070, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Lynn Marie Borisuk dated June 10, 1995; and test score for Allergic Rhinitis: Pathophysiology and Diagnosis of Lynn Borisuk, not dated.
- (6) Exhibit A6--Ohio Department of Administrative Services Employee Performance Evaluation of Lynn M. Borisuk dated May 10, 1988; five-page copy of Pharmacist/Pharmacy Manager Performance Appraisal Form of Lynn Borisuk dated May 18, 1993; copy of letter from Scott F. Horsfield dated October 11, 1994; K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk dated September 1, 1994; ; K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk dated August 5, 1994; and K-Mart Chairman's Award for Outstanding Customer Care of Lynn Borisuk dated November 4, 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) Lynn Marie Borisuk did, on or about June 20, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 77 unit doses of Ionamin 30mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (2) Lynn Marie Borisuk did, on or about June 23, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 2 unit doses of Ionamin 15mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) You did, on or about June 24, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: you stole 3 unit doses of Ionamin 15mg from your employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Lynn Marie Borisuk did, on or about June 25, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #7383, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole 1 unit dose of Ionamin 15mg from her employer, K-Mart Pharmacy #7383. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Lynn Marie Borisuk did, on or about June 30, 1995, knowingly possess a controlled substance in an amount exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lynn Marie Borisuk stole and possessed outside the pharmacy, 75 units of Ionamin 30mg, a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(4) of the Ohio Revised Code.
- (6) Lynn Marie Borisuk did, on or about May 18, 1995, knowingly possess a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lynn Marie Borisuk stole and possessed outside the pharmacy, an entire stock bottle containing 100 unit doses of Adipex-P 37.5mg, a schedule IV controlled substance. Such conduct is in violation of Section 2925.03(A)(6) of the Ohio Revised Code.
- (7) Lynn Marie Borisuk did, on or about June, 1995, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lynn Marie Borisuk stole and sold, without prescription, 19 unit doses of Alprazolam 1mg, a schedule III controlled substance. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (8) Lynn Marie Borisuk did, on or about May 18, 1995, knowing that an official investigation was likely to be instituted, destroy, conceal, or remove records of drug purchases with purpose to impair its value or availability as evidence in such investigation, to wit: after ordering a bottle of 100 unit doses of Adipex-P 37.5mg, and stealing it, Lynn Marie Borisuk destroyed the record of purchase. Such conduct is in violation of Section 2921.12 of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (9) Lynn Marie Borisuk is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Lynn Marie Borisuk has committed numerous errors when dispensing drugs; and, Lynn Marie Borisuk has admitted to abusing Adipex-P 37.5mg, Ionamin 15mg and 30mg, and Ambien 10mg, without a prescription and while practicing pharmacy. Such conduct indicates that Lynn Marie Borisuk falls within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (10) Records of the Board of Pharmacy indicate that Lynn Marie Borisuk was originally licensed in the state of Ohio on March 6, 1978, pursuant to examination, and her license was summarily suspended on July 6, 1995. Records further indicate that Lynn Marie Borisuk was the Responsible Pharmacist at K-Mart Pharmacy #3243, 1447 North Main Street, North Canton, Ohio from December 7, 1994, through April 3, 1995, and Lynn Marie Borisuk was the Responsible Pharmacist at K-Mart Pharmacy #7383, 241 Wooster Road North, Barberton, Ohio from April 1, 1995, through July 16, 1995, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (11) Lynn Marie Borisuk did, on or about November 29, 1995, in the Summit County Common Pleas Court, plead guilty to three counts of Aggravated Trafficking in violation of Section 2925.03(A)(1) of the Ohio Revised Code and six counts of Theft in violation of Section 2913.02 of the Ohio Revised Code, all being felonies of the 4th degree.
- (12) Lynn Marie Borisuk did on several occasions from April 22, 1994, through June 30, 1995, knowing that an official investigation was likely to be instituted, alter, destroy, conceal, or remove documents with purpose to impair their value or availability as evidence in such proceeding or investigation, to wit: on or about June 30, 1995, Lynn Marie Borisuk admitted to an agent of the Ohio State Board of Pharmacy that she destroyed pharmacy invoices so as to avoid detection for thefts at K-Mart Pharmacy #3243, North Canton, Ohio. During the audit, the following invoices could not be located:

<u>Wholesaler</u>	<u>Invoice Date</u>	<u>Invoice No.</u>
Tennessee Wholesale	4-22-94	369033
Tennessee Wholesale	6-22-94	462734
Whitmire Wholesale	8-18-94	582286
Whitmire Wholesale	9-1-94	590185
Whitmire Wholesale	10-10-94	616057
Whitmire Wholesale	2-26-95	750175
Whitmire Wholesale	3-12-95	764418

Such conduct is in violation of Section 2921.12 of the Ohio Revised Code.

OHIO STATE BOARD OF PHARMACY

- (13) Lynn Marie Borisuk as the Responsible Pharmacist did, from on or about March 19, 1995, through July 2, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy, Barberton, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk or someone under her control stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Adipex-P 37.5mg	100	100 %
Ionamin 30mg	100	100 %
Ionamin 15mg	6	6 %
Ambien 10mg	92	23 %
Alprazolam 1mg	19	3.8 %
Methylphenidate 5mg	1	.13 %
Zoloft 100mg	45	7.5 %
Cipro 500mg	36	18 %
Zovirax 400mg	30	30 %
Seldane-D	20	5 %
Claritin 10mg	18	6 %
R-Tannamine	10	10 %
Zephrex LA	7	7 %
Prozac 20mg	3	.6 %

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

- (14) Lynn Marie Borisuk did, from on or about May 1, 1993, through April 4, 1995, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #3243, North Canton, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Adipex-P 37.5mg	886	98.44%
Phentermine 30mg	44	44%
Ritalin 5mg	14	6.01%
Methylphenidate 5mg	6	.19 %
Methylphenidate 10mg	52	1.33%
Methylphenidate 20mg	1,135	51.%
Methylphenidate 20mg ER	757	41.75%
Ambien 5mg	32	4%
Ambien 10mg	293	18.31%
Alprazolam .25mg	768	13.02%
Xanax .5mg	54	.82%
Alprazolam .5mg	102	1.62%
Alprazolam 1mg	129	5.86%
Oxycodone 5mg/ASA	62	46.97%

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

OHIO STATE BOARD OF PHARMACY

- (15) Lynn Marie Borisuk did, from on or about November 30, 1992, through June 29, 1993, with the purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of K-Mart Pharmacy #4169, Massillon, Ohio, beyond the express or implied consent of the owner, to wit: Lynn Marie Borisuk stole the following dangerous drugs from her employer:

<u>Drug</u>	<u>Shortage by Unit Dose</u>	<u>% of Drug Supply</u>
Ritalin 5mg	115	24.79%
Methylphenidate 5mg	27	.67%
Methylphenidate 10mg	29	1.24%
Methylphenidate 20mg	110	2.88%

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

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (11) of the Findings of Fact constitutes 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 (1) through (9) and (11) through (15) 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 (9) 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 her 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), (6), (7), (9), and (11) 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 2925. 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 July 6, 1995.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Lynn Marie Borisuk:

OHIO STATE BOARD OF PHARMACY

- (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, No. 03-1-13070, held by Lynn M. Borisuk 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, No. 03-1-13070, held by Lynn M. Borisuk 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, No. 03-1-13070, held by Lynn M. Borisuk effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-13070, held by Lynn M. Borisuk effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "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 (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.