



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

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

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

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-090724-003)

In The Matter Of:

JOHN JOSEPH PERRY, R.Ph.

3769 S A Street #55

Richmond, Indiana 47374

INTRODUCTION

The Matter of John Joseph Perry came for hearing on November 4, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (presiding); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Jerome J. Wiesenhahn, R.Ph., Board Member, Recused.

John Joseph Perry was represented by David W. Grauer. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. George Pavlich, Ohio State Board of Pharmacy
2. John Joseph Perry, R.Ph., Respondent

Respondent's Witness:

1. John Joseph Perry, R.Ph., Respondent

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [07-24-09]
1A-1.B Procedurals
2. National Association of Boards of Pharmacy Application for Transfer of Pharmacist License [04-27-09]
3. Judgment In A Criminal Case, United States of America vs. John Joseph Perry, United States Case No. 4:94CR0417, United States District Court, Northern District of Ohio [06-20-95]
4. Ohio State Board of Pharmacy Order in re John Joseph Perry, R.Ph. [01-31-95]
5. Ohio State Board of Pharmacy Order in re John Joseph Perry, R.Ph. [04-07-99]

Respondent's Exhibits:

- A. Resume of John Joseph Perry, R.Ph. [not dated]
- B. Copy of State of Illinois Registration as a Pharmacist for John Joseph Perry [expires 03-31-10]
- C. Copy of Indiana Pharmacist License for John Joseph Perry [expires 06-30-10]

John Joseph Perry, R.Ph.

- D. Purdue University 2007-2008 Advanced Practice Clerkship Assignments for Joe Perry [03-05-07]
- E. Approval notification from National Provider Identifier in re John Joseph Perry, R.Ph. [02-29-08]
- F-M. Eight letters of support [10-07-09 to 10-29-09]
- N. Self-Certification of Compliance for Fagen Pharmacy #28 Demotte Drugs Inc. [01-26-07]
- O. Illinois Poison Center Poison Prevention Education Verification [06-13-07]
- P. Preferred Care Services, Inc. Prescription Drug Fraud, Waste and Abuse Training Affidavit [date not legible]
- Q. E-Mail from Linda Lawton to John Perry in re Service Section Leaders [07-07-09]
- R. Copy of Wal-Mart Pharmacy Department business card for John J. Perry, R.Ph. [not dated]

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) John Joseph Perry is a registered pharmacist in the states of Illinois, Indiana, West Virginia, and Nevada, and on or about May 8, 2009, applied for reciprocal registration into the State of Ohio.
- (2) Records further indicate that John Joseph Perry was originally licensed to practice pharmacy in the State of Ohio on May 24, 1978, and his license to practice pharmacy in Ohio was revoked on January 31, 1995.
- (3) Records of the Board of Pharmacy indicate that John Joseph Perry submitted an application for examination as a pharmacist on or about September 16, 1998. Further, the Board denied the application for examination as a pharmacist on April 7, 1999.
- (4) John Joseph Perry does not meet the qualifications for reciprocal registration, to wit: John Joseph Perry is not of good moral character and habits; John Joseph Perry has been convicted of a felony; John Joseph Perry has been disciplined by the Ohio Board of Pharmacy; and John Joseph Perry has been found by the Board of Pharmacy to be guilty of a felony and gross immorality, dishonesty and unprofessional conduct in the practice of pharmacy and/or guilty of willfully violating provisions of Chapter 2925. of the Ohio Revised.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes having been found by the Board of Pharmacy to be guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code; 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; and being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

John Joseph Perry, R.Ph.

- (2) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes having been found by the Board of Pharmacy not to be of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes having been disciplined by the State Board of Pharmacy pursuant to section 4729.16 of the Ohio Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the application for registration by reciprocity submitted by John Joseph Perry on or about May 8, 2009.

Donald Casar moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-6/Nay-0).

Deborah Lange moved for Conclusions of Law; Brian Joyce seconded the motion. Motion passed (Aye-4/Nay-3; tie vote broken by vote of the President).

Deborah Lange moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed (Aye-4/Nay-3; tie vote broken by vote of the President).

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 Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of 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 the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: _____

John Joseph Perry, R.Ph.

By: _____
William T. Winsley, M.S., R.Ph., Executive Director

WTW/lp

CERTIFIED MAIL/Return Receipt

c: Tracy M. Greuel, Assistant Attorney General
David W. Grauer, Attorney for Respondent; Squire, Sanders & Dempsey, LLP; 2000 Huntington
Center; 41 South High Street; Columbus, Ohio 43215



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

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

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

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-981020-021)

In The Matter Of:

JOHN JOSEPH PERRY
4560 Rush Boulevard
Youngstown, Ohio 44512
(D.O.B. 2/2/53)

INTRODUCTION

THE MATTER OF JOHN JOSEPH PERRY CAME TO HEARING ON MARCH 8, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JOHN JOSEPH PERRY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) Anthony Perry, R.Ph., Father of Respondent
- (2) John Joseph Perry, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of seven-page Notice of Opportunity for Hearing letter dated October 20, 1998.
- (2) Exhibit 1A--Hearing Request letter dated October 26, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated November 3, 1998.
- (4) Exhibit 1C--Application for Examination as a Pharmacist of John Joseph Perry signed and notarized on September 1, 1998.
- (5) Exhibit 2--Copy of ten-page Order of the State Board of Pharmacy, Docket No. D-940628-091, in the matter of John Joseph Perry, R.Ph. No. 03-1-13086, dated January 31, 1995.

John Joseph Perry, R.Ph.

- (6) Exhibit 3--Copy of two-page Indictment, United States of America vs. John Joseph Perry, Case No. 4:94CR417, U.S. District Court for the Northern District of Ohio dated December 7, 1994.
- (7) Exhibit 4--Copy of eight-page Superseding Indictment, United States of America vs. John Joseph Perry, Case No. 4:94CR417, U.S. District Court for the Northern District of Ohio, not dated.
- (8) Exhibit 5--Copy of four-page Judgment in a Criminal Case, United States of America vs. John Joseph Perry, Case No. 4:94CR417, U.S. District Court for the Northern District of Ohio, dated June 20, 1995.
- (9) Exhibit 6--Letter from Gregory B. Thompson, U.S. Probation Officer, dated February 8, 1999.

Respondent's Exhibits:

- (1) Exhibit A--Copy of eleven letters as follows: James A. Traficant, Jr. dated March 3, 1999; Felix Savon dated February 24, 1999; James A. Philomena dated March 4, 1999; Mark D. DeGenova dated February 24, 1999; Marilyn Caggiano, Leigh Perkins, and Sandy Kellerman, not dated; Thomas R. Ivany dated February 26, 1999; David Montanaro dated March 2, 1999; Lynn Sfara Bruno dated March 4, 1999; John E. Phillipson, Jr., not dated; Albert A. Franceschelli, not dated; and James S. Paris dated February 22, 1999; and one two-page copy of e-mail message from Jim Chalfin dated March 1, 1999.

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 of Pharmacy indicate that John Joseph Perry submitted an application for examination as a pharmacist on or about September 16, 1998.
- (2) Records further indicate that John Joseph Perry was originally licensed to practice pharmacy in the state of Ohio on May 24, 1978. On or about January 31, 1995, the Board found the following to be fact:
 - (a) Records of the Board indicate that John Joseph Perry was originally licensed to practice pharmacy in the state of Ohio on May 24, 1978. On June 28, 1994, John Joseph Perry's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
 - (b) John Joseph Perry did, on or about April 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 603244 written for 30 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
 - (c) John Joseph Perry did, on or about April 18, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 30 units of Percocet pursuant to false or forged prescription number 603244 when not for a legitimate medical

John Joseph Perry, R.Ph.

purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (d) John Joseph Perry did, on or about April 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry possessed a blank prescription, control number 53406, for a particular patient, for the purpose of forging and filling the prescription at a later date. Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.
- (e) John Joseph Perry did, on or about May 16, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 604987 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (f) John Joseph Perry did, on or about May 16, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 45 units of Roxicet pursuant to false or forged prescription number 604987 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (g) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 605363 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (h) John Joseph Perry did, on or about May 23, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 605363 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (i) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription, control number 53436, written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (j) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry possessed a blank prescription, control number 53429, for a particular patient, for the purpose of forging and filling the prescription at a later date. Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.

John Joseph Perry, R.Ph.

- (k) John Joseph Perry did, on or about June 6, 1994, intentionally make and/or knowingly affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: John Joseph Perry affixed a false or forged label to a vial stating the contents as being Daypro 600mg when, in fact, the vial contained Vicodin ES. Such conduct is in violation of Section 2925.23(D) of the Ohio Revised Code.
- (l) John Joseph Perry did, on or about June 6, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 40 units of Vicodin ES without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (m) John Joseph Perry did, on or about January 14, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 597356 written for 90 units of Percodan. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (n) John Joseph Perry did, on or about January 14, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Percodan pursuant to false or forged prescription number 597356 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (o) John Joseph Perry did, on or about January 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 597527 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (p) John Joseph Perry did, on or about January 18, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 597527 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (q) John Joseph Perry did, on or about January 28, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598108 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

John Joseph Perry, R.Ph.

- (r) John Joseph Perry did, on or about January 28 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 598108 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (s) John Joseph Perry did, on or about January 31, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598230 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (t) John Joseph Perry did, on or about January 31, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 598230 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (u) John Joseph Perry did, on or about February 6, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598606 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (v) John Joseph Perry did, on or about February 6, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 598606 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (w) John Joseph Perry did, on or about February 10, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598911 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (x) John Joseph Perry did, on or about February 10, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 598911 when not for a legitimate

John Joseph Perry, R.Ph.

medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (y) John Joseph Perry did, on or about February 11, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599024 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (z) John Joseph Perry did, on or about February 11, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 599024 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
 - (aa) John Joseph Perry did, on or about February 17, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599354 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
 - (bb) John Joseph Perry did, on or about February 17, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 599354 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
 - (cc) John Joseph Perry did, on or about February 20, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599528 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
 - (dd) John Joseph Perry did, on or about February 20, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 599528 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
 - (ee) John Joseph Perry did, on or about February 25, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription

John Joseph Perry, R.Ph.

number 599937 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (ff) John Joseph Perry did, on or about February 25, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 599937 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (gg) John Joseph Perry did, on or about February 20, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599948 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (hh) John Joseph Perry did, on or about February 20, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Percocet pursuant to false or forged prescription number 599548 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (ii) John Joseph Perry did, from May 1, 1993, through June 9, 1994, knowingly sell a controlled substance in an amount equal to or 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: while working at Rite Aid Pharmacy #3104, John Joseph Perry sold 86 units of Fiorinal w/Codeine 30mg, a schedule III controlled substance, without a legitimate prescription and without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (jj) John Joseph Perry did, from May 1, 1993, through June 9, 1994, knowingly sell a controlled substance in an amount equal to or 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: while working at Rite Aid Pharmacy #3104, John Joseph Perry sold the following drugs in the following amounts without a legitimate prescription and without a legitimate medical purpose:

<u>Drug</u>	<u>Schedule</u>	<u>Shortage</u>
Dexedrine Spansule 15mg	CII	140
Fastin (Phentermine) 30mg	CIV	999
Methylphenidate 20mg	CII	425
Adipex-P 37.5mg	CIV	94

Vicodin ES (Hydrocodone Bitartrate/APAP) 7.5mg CIII
633

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (kk) John Joseph Perry was, on or about June 24, 1994, in the Mahoning County Common Pleas Court, indicted for twelve felony counts, to wit: three counts of Aggravated Trafficking in Drugs in violation of Section 2925.03(A)(5) of the Ohio Revised Code; one count of Trafficking in Drugs in violation of Section 2925.03(A)(5) of the Ohio Revised Code; and eight counts of Illegal Processing of Drug Documents in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

The Board concluded that John Joseph Perry was guilty of dishonesty and unprofessional conduct in the practice of pharmacy and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925., 3719., or 4729. of the Revised Code as provided in Section 4729.16 of the Ohio Revised Code. For these reasons, John Joseph Perry's license, No. 03-1-13086, was revoked.

- (3) After the charges in Mahoning County Common Pleas Court were dismissed, John Joseph Perry did, on or about June 21, 1995, enter a guilty plea in the United States District Court, Northern District of Ohio, to four felony counts of Distribution of a Schedule II Controlled Substance, to wit: 49.5 kilograms of Oxycodone, in violation of Title 21 USC Section 841(a)(1) and (b)(1)(C), United States of America v. John Joseph Perry, Case No. 4:94CR0417.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of violating a state or federal pharmacy or drug law as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Ohio Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.

John Joseph Perry, R.Ph.

ACTION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice pharmacy and, therefore, denies the Application for Examination as a Pharmacist submitted by John Joseph Perry. Further, John Joseph Perry may not submit an Application for Examination as a Pharmacist prior to ten years from the date of this Order.

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

MOTION CARRIED.

SO ORDERED.



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us
614/752-4836

FAX:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940628-091)

In The Matter Of:

JOHN JOSEPH PERRY, R.Ph.

4560 Rush Boulevard
Boardman, Ohio 44512
(R.Ph. No. 03-1-13086)

INTRODUCTION

THE MATTER OF JOHN JOSEPH PERRY CAME TO HEARING ON DECEMBER 8, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, 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.

JOHN JOSEPH PERRY WAS REPRESENTED BY MICHAEL P. RICH, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

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

Respondent's Witnesses:

- (1) John Joseph Perry, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated June 28, 1994.
- (2) Exhibit 1A - Hearing request letter, not dated, received in the Board of Pharmacy office on July 13, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated July 14, 1994.
- (4) Exhibit 1C - Addendum Notice dated October 28, 1994.
- (5) Exhibit 1D - Pharmacist File Front Sheet of John Joseph Perry showing original date of registration as May 24, 1978; and Renewal Application for Pharmacist License, No. 03-1-13086, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of John Joseph Perry dated August 5, 1993.
- (6) Exhibit 1E - Renewal Application for DDD License, No. 02-407100, for a Terminal Distributor of Dangerous Drugs License from January 1, 1993,

John Joseph Perry, R.Ph.

through December 31, 1993, of Rite Aid Discount Pharmacy #3104, signed by John J. Perry on December 1, 1992.

- (7) Exhibit 2 - Olympus Microcassette tape recording of interview of John Perry on June 9, 1994.
- (8) Exhibit 2A - Youngstown Police Department constitutional rights/wavier form signed by John J. Perry and witnessed on June 9, 1994.
- (9) Exhibit 3 - Prescription No. 603244; and copy of blank prescription form of Western Reserve Care System, Control No. 53409, for patient William E. Gruver.
- (10) Exhibit 3A - Prescription No. 594603.
- (11) Exhibit 3B - YHA, Inc. Southside Medical Center receipt for prescriptions dated February 10, 1993.
- (12) Exhibit 4 - Prescription Vial No. 603244; and photocopy of label and contents.
- (13) Exhibit 4A - Copy of Tri-State Laboratories, Inc. (TSL) Lab Report, No. 94-260, in letter form, from Melissa Kennedy and A. Bari Lateef dated May 20, 1994; and copy of bag which the contents of report was delivered in.
- (14) Exhibit 4B - Copy of blank prescription form of Western Reserve Care System, Control No. 53406, for patient William E. Gruver.
- (15) Exhibit 5 - Prescription No. 604987, and copy of blank prescription form of Western Reserve Care System , Control No. 53407, for patient William E. Gruver.
- (16) Exhibit 6 - Prescription Vial No. 604987; and copy of label and contents.
- (17) Exhibit 6A - Copy of TSL Lab Report, No. 94-330, in letter form, from Melissa Kennedy and A. Bari Lateef dated June 21, 1994; and copy of bag which contents of report was delivered in.
- (18) Exhibit 7 - Prescription No. 605363; and copy of blank prescription form of Western Reserve Care System, Control No. 53405, for patient Lisa M. Julian.
- (19) Exhibit 8 - Copy of one ten dollar bill, No. F45476007A, and two twenty dollar bills, No. B54159437N and D85826775B.
- (20) Exhibit 8A - Copy of Rite Aid Pharmacy, Third Party Imprint Form and label for Prescription No. 605363; Prescription Vial No. 605363, and copy of vial and contents.
- (21) Exhibit 8B - Copy of TSL Lab Report, No. 94-354, in letter form, from Melissa Kennedy and A. Bari Lateef dated June 1, 1994 and copy of bag which the contents of report was delivered in.
- (22) Exhibit 9 - Prescription No. 605422.
- (23) Exhibit 10 - Copy of Ohio State Board of Pharmacy Release of Prescription dated April 25, 1994.
- (24) Exhibit 11 - Copy of blank prescription form of Western Reserve Care System, Control No. 53429, for patient Ellen E. Kostecky.
- (25) Exhibit 12 - Prescription No. 588819.
- (26) Exhibit 13 - Copy of Prescription Vial No. 588819 and its contents.
- (27) Exhibit 14 - Copy of TSL Lab Report, No. 94-380, in letter form, from Melissa Kennedy and A. Bari Lateef dated August 12, 1994, and copy of bag which the contents of report was delivered in.
- (28) Exhibit 14A - Prescription Vial No. 588819 dated June 6, 1994.
- (29) Exhibit 15 - Prescription No. 597356.
- (30) Exhibit 16 - Prescription No. 597527.
- (31) Exhibit 17 - Prescription No. 598108.
- (32) Exhibit 18 - Prescription No. 598230.
- (33) Exhibit 19 - Prescription No. 598606.
- (34) Exhibit 20 - Prescription No. 598911.
- (35) Exhibit 21 - Prescription No. 599024.

John Joseph Perry, R.Ph.

- (36) Exhibit 22 - Prescription No. 599354.
- (37) Exhibit 23 - Prescription No. 599528.
- (38) Exhibit 24 - Prescription No. 599937.
- (39) Exhibit 25 - Prescription No. 599548.
- (40) Exhibit 26 - Accountability Statement for Rite Aid #3104 for the drug Fiorinal w/Codeine 30mg, closing inventory date June 9, 1994.
- (41) Exhibit 27 - Rite Aid Pharmacy #3104 Pharmacist's Statement dated from January 1, 1992, through June 10, 1994.
- (42) Exhibit 28 - Five Accountability Statements for Rite Aid #3104, closing inventory date June 9, 1994, for the following drugs: Adipex-P 37.5mg; Dexedrine Spansule 15mg; Vicodin ES 7.5mg and generic equivalents; Methylphenidate 20mg; and Fastin 30mg and generic equivalents.
- (43) Exhibit 29 - Five prescriptions numbered as follows: 593708; 598671; 601610; 603391; 606352.
- (44) Exhibit 30 - Arrest Report of John Perry, R.Ph., Case No. 94-1257, dated July 1, 1994; and Twelve-count Indictment in the Mahoning County Court of Common Pleas, Case No. 94 CR 521, dated June 24, 1994.

Respondent's Exhibits:

- (1) Exhibit A - Letter from John Perry dated December 5, 1994.
- (2) Exhibit B - Copy of letter from Deidre Kocjan dated November 30, 1994.
- (3) Exhibit C - Copy of two-page letter from Fr. Pat Connally dated November 18, 1994.
- (4) Exhibit D - Copy of letter from Dr. Amil C. Hernandez dated December 6, 1994.
- (5) Exhibit E - Copy of letter from Nicholas J. Garritano dated November 18, 1994.
- (6) Exhibit F - Copy of letter from Dr. Ippolito Colla, not dated.

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 John Joseph Perry was originally licensed to practice pharmacy in the state of Ohio on May 24, 1978. On June 28, 1994, John Joseph Perry's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) John Joseph Perry did, on or about April 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 603244 written for 30 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (3) John Joseph Perry did, on or about April 18, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 30 units of Percocet pursuant to false or forged prescription number 603244 when not for a legitimate medical purpose.

John Joseph Perry, R.Ph.

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (4) John Joseph Perry did, on or about April 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry possessed a blank prescription, control number 53406, for a particular patient, for the purpose of forging and filling the prescription at a later date. Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.
- (5) John Joseph Perry did, on or about May 16, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 604987 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (6) John Joseph Perry did, on or about May 16, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 45 units of Roxicet pursuant to false or forged prescription number 604987 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (7) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 605363 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) John Joseph Perry did, on or about May 23, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 605363 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (9) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription, control number 53436, written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (10) John Joseph Perry did, on or about May 23, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry possessed a blank prescription, control number 53429, for a particular patient, for the purpose of forging and filling the prescription at a later date. Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.

John Joseph Perry, R.Ph.

- (11) John Joseph Perry did, on or about June 6, 1994, intentionally make and/or knowingly affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: John Joseph Perry affixed a false or forged label to a vial stating the contents as being Daypro 600mg when, in fact, the vial contained Vicodin ES. Such conduct is in violation of Section 2925.23(D) of the Ohio Revised Code.
- (12) John Joseph Perry did, on or about June 6, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 40 units of Vicodin ES without a prescription and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (13) John Joseph Perry did, on or about January 14, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 597356 written for 90 units of Percodan. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (14) John Joseph Perry did, on or about January 14, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Percodan pursuant to false or forged prescription number 597356 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (15) John Joseph Perry did, on or about January 18, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 597527 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (16) John Joseph Perry did, on or about January 18, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 597527 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (17) John Joseph Perry did, on or about January 28, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598108 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

John Joseph Perry, R.Ph.

- (18) John Joseph Perry did, on or about January 28, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 598108 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (19) John Joseph Perry did, on or about January 31, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598230 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (20) John Joseph Perry did, on or about January 31, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 598230 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (21) John Joseph Perry did, on or about February 6, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598606 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (22) John Joseph Perry did, on or about February 6, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 598606 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (23) John Joseph Perry did, on or about February 10, 1994 intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 598911 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (24) John Joseph Perry did, on or about February 10, 1994, knowingly sell a controlled substance in an amount, equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 598911 when not

John Joseph Perry, R.Ph.

for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (25) John Joseph Perry did, on or about February 11, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599024 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (26) John Joseph Perry did, on or about February 11, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 599024 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (27) John Joseph Perry did, on or about February 17, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599354 written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (28) John Joseph Perry did, on or about February 17, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Percocet pursuant to false or forged prescription number 599354 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (29) John Joseph Perry did, on or about February 20, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599528 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (30) John Joseph Perry did, on or about February 20, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Roxicet pursuant to false or forged prescription number 599528 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (31) John Joseph Perry did, on or about February 25, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599937

John Joseph Perry, R.Ph.

written for 60 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (32) John Joseph Perry did, on or about February 25, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 60 units of Roxicet pursuant to false or forged prescription number 599937 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (33) John Joseph Perry did, on or about February 20, 1994, intentionally make and/or knowingly possess a false or forged prescription, to wit: John Joseph Perry knowingly possessed false or forged prescription number 599548 written for 90 units of Percocet. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (34) John Joseph Perry did, on or about February 20, 1994, knowingly sell a controlled substance in an amount equal to or 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: John Joseph Perry sold 90 units of Percocet pursuant to false or forged prescription number 599548 when not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (35) John Joseph Perry did, from May 1, 1993, through June 9, 1994, knowingly sell a controlled substance in an amount equal to or 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: while working at Rite Aid Pharmacy #3104, John Joseph Perry sold 86 units of Fiorinal w/Codeine 30mg, a schedule III controlled substance, without a legitimate prescription and without a legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (36) John Joseph Perry did, from May 1, 1993, through June 9, 1994, knowingly sell a controlled substance in an amount equal to or 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: while working at Rite Aid Pharmacy #3104, John Joseph Perry sold the following drugs in the following amounts without a legitimate prescription and without a legitimate medical purpose:

<u>Drug</u>	<u>Schedule</u>	<u>Shortage</u>	
Dexedrine Spansule 15mg		CII	140
Fastin(Phentermine)30mg		CIV	999
Methylphenidate 20mg		CII	425
Adipex-P 37.5mg		CIV	94
Vicodin ES (Hydrocodone Bitartrate/APAP) 7.5mg		CIII	633

John Joseph Perry, R.Ph.

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (37) John Joseph Perry was, on or about June 24, 1994, in the Mahoning County Common Pleas Court, indicted for twelve felony counts, to wit: three counts of Aggravated Trafficking in Drugs in violation of Section 2925.03(A)(5) of the Ohio Revised Code; one count of Trafficking in Drugs in violation of Section 2925.03(A)(5) of the Ohio Revised Code; and eight counts of Illegal Processing of Drugs Documents in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (37) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (37) 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., 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 June 28, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of John Joseph Perry:

- (A) On the basis of the Findings of Fact and paragraph (A) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-13086, held by John Joseph Perry effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (B) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-13086, held by John Joseph Perry effective as of the date of the mailing of this Order.

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.

John Joseph Perry, R.Ph.

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

MOTION CARRIED.

SO ORDERED.