ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-930105-052)

In The Matter Of:

RANDALL CHARLES BONFIGLIO, R.Ph.
259 Hickory Drive
Greenville, Ohio 45331
(R.Ph. No. 03-1-13507)

INTRODUCTION

THE MATTER OF RANDALL CHARLES BONFIGLIO CAME TO HEARING ON JUNE 22, 23, AND 24, 1993, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: METTA LOU HENDERSON, R.Ph. (presiding); PAUL F. LAMPING, R.Ph.; WAYNE C. MILLER, R.Ph.; RUTH A. PLANT, R.Ph.; NICHOLAS R. REPKE; JOSEPH R. SABINO, R.Ph.; AND ROBERT W. VALENTINE, R.Ph.

RANDALL CHARLES BONFIGLIO WAS REPRESENTED BY RALPH E. BREITFELLER, AND THE STATE OF OHIO WAS REPRESENTED BY RONDA ANDERSON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) David Avery, Ohio State Board of Pharmacy
(2) Judge Judson Shuttuck
(3) Richard L. Rob, Blue Cross & Blue Shield
(4) Cheryl Rooks, Ohio State Board of Pharmacy
(5) Beth Harding, Medicaid Fraud
(6) Tim Benedict, Ohio State Board of Pharmacy
(7) Bob Cole, Ohio State Board of Pharmacy

Respondent's Witnesses:

(1) Stephen Paul Bonfiglio, R.Ph.
(2) Richard R. Bonfiglio, R.Ph.
(3) Randall Charles Bonfiglio, R.Ph., Respondent
(4) Ronald E. Bonfiglio, R.Ph.
(5) Franklin Z. Wickham, Ohio State Board of Pharmacy

(B) Exhibits

State's Exhibits:

(1) Exhibit A1 - Notice of Opportunity letter of Richard R. Bonfiglio, R.Ph. dated January 5, 1993.
(2) Exhibit A2 - Notice of Opportunity letter of Randall Charles Bonfiglio, R.Ph. dated January 5, 1993.
(3) Exhibit A3 - Notice of Opportunity letter of Ronald E. Bonfiglio, R.Ph. dated January 5, 1993.

(4) Exhibit A4 - Notice of Opportunity letter of Stephen Paul Bonfiglio, R.Ph. dated January 5, 1993.
(5) Exhibit A5 - Notice of Opportunity letter of Bonfiglio Pharmacy South, Inc. now known as Arcanum Pharmacy Inc. dated January 5, 1993.
(6) Exhibit A6 - Notice of Opportunity letter of Greenville Pharmacy, Inc. dated January 5, 1993.
(7) Exhibit A7 - Hearing Request letter in the matter of Richard R. Bonfiglio dated February 1, 1993; Hearing Request Letter in the matter of Randall Charles Bonfiglio dated February 1, 1993; Hearing Request letter in the matter of Ronald E. Bonfiglio dated February 1, 1993; Hearing Request letter in the matter of Stephen Paul Bonfiglio dated February 1, 1993; Hearing Request letter in the matter of Greenville Pharmacy, Inc. dated February 1, 1993; and Hearing Request letter in the matter of Bonfiglio Pharmacy South, Inc. NKA Arcanum Pharmacy, Inc. dated February 1, 1993.
(8) Exhibit A8 - Hearing Schedule letter dated February 2, 1993.
(9) Exhibit A9 - Two-page correspondence from Ralph E. Breitfeller dated May 28, 1993.
(10) Exhibit B1 - Pharmacist File Front sheet of Richard Ralph Bonfiglio showing original date of registration as July 31, 1956; and Renewal Application for Pharmacist License, No. 03-1-06212, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Richard R. Bonfiglio dated June 26, 1992.
(11) Exhibit B2 - Pharmacist File Front sheet of Randall Charles Bonfiglio showing original date of registration as February 26, 1980; and Renewal Application for Pharmacist License, No. 03-1-13507, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Randall Charles Bonfiglio dated July 24, 1992.
(12) Exhibit B3 - Pharmacist File Front sheet of Ronald E. Bonfiglio showing original date of registration as August 5, 1955; and Renewal Application for Pharmacist License, No. 03-2-06213, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Ronald E. Bonfiglio dated June 30, 1992.
(13) Exhibit B4 - Pharmacist File Front sheet of Stephen Paul Bonfiglio showing original date of registration as March 1, 1985; and Renewal Application for Pharmacist License, No. 03-3-15801, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Stephen Paul Bonfiglio dated June 20, 1992.
(14) Exhibit B5 - Notification of Change of Responsible Person form of Arcanum Pharmacy Inc. dated May 9, 1992.
(15) Exhibit B6 - Page one of Application for Registration as a Distributor of Dangerous Drugs of Greenville Pharmacy Inc. showing pharmacy ownership; and Notification of Change of Responsible Person form of Greenville Pharmacy Inc. dated August 24, 1992.
(16) Exhibit AA - Prescription bottle number 605096 dated March 30, 1989.
(17) Exhibit AA2 - Prescription numbers 605096 and 605097.
(18) Exhibit AA3 - Blue Cross Blue Shield of Ohio Insurance card for Drew Thurston.
(19) Exhibit AA4 - Blue Cross Blue Shield of Ohio Insurance card for Karen Lipka.
(20) Exhibit AA5 - Prescription tube (in stock box) number 211345 dated March 2, 1989.
(21) Exhibit AA6 - Prescription bottle number 211347 dated March 2, 1989.
(22) Exhibit AA7 - Prescription bottle number 211348C dated March 2, 1989.
(23) Exhibit AA8 - Prescription bottle number 211349C dated March 2, 1989.

(24) Exhibit AA9 - Prescription bottle number 211351C dated March 2, 1989.
(25) Exhibit AA10 - Prescription bottle number 211352 dated March 2, 1989.
(26) Exhibit AA11 - Prescription bottle number 211353 dated March 2, 1989.
(27) Exhibit AA12 - Prescription bottle number 211354 dated March 2, 1989.
(28) Exhibit AA13 - Prescription bottle number 211355C dated March 2, 1989.
(29) Exhibit AA14 - Prescription bottle number 211356C dated March 2, 1989.
(30) Exhibit AA15 - Prescription bottle number 211357C dated March 2, 1989.
(31) Exhibit AA16 - Prescription bottle number 211358 dated March 2, 1989.
(32) Exhibit AA17 - Twelve-page copy of transcript interview of Ron Holzapfel with Rob, Avery, Winsley, and Amick on July 26, 1989.
(33) Exhibit AA19 - Copy of statement of Joan Garey signed and notarized on July 28, 1989.
(34) Exhibit AA20 - Statement of Elma L. Moss signed and notarized on July 31, 1989.
(35) Exhibit AA21 - Certified Journal Entry in the Court of Common Pleas, State of Ohio, Cuyahoga County, Case No. CR-245627, in the matter of Randall C. Bonfiglio dated April 23, 1991.
(36) Exhibit AA22 - Certified Journal Entry in the Court of Common Pleas, State of Ohio, Cuyahoga County, Case No. CR-245627, in the matter of Stephen P. Bonfiglio dated April 23, 1991.
(37) Exhibit AA23 - Certified Journal Entry in the Court of Common Pleas, State of Ohio, Cuyahoga County, Case No. CR-245627, in the matter of Ronald E. Bonfiglio dated April 23, 1991.
(38) Exhibit AA24 - Certified Journal Entry in the Court of Common Pleas, State of Ohio, Cuyahoga County, Case No. CR-245627, in the matter of Richard R. Bonfiglio dated April 23, 1991.
(39) Exhibit AA25 - Certified Journal Entry in the Court of Common Pleas, State of Ohio, Cuyahoga County, Case No. CR-245627, in the matter of Pharmacy Bonfiglio Inc. dated April 23, 1991.
(40) Exhibit AB - Prescription bottle number 605097 dated March 30, 1989.
(41) Exhibit AC - Prescription bottle number 605098 dated March 30, 1989.
(42) Exhibit AC2 - Prescription numbers 605098 and 605099.
(43) Exhibit AD - Prescription bottle 605099 dated March 30, 1989.
(44) Exhibit AE - Prescription tube number 605100 dated March 30, 1989.
(45) Exhibit AE1 - 8" x 10" photo of tube of Mycolog-II Nystatin and Triamcinolone Acetonide Cream manufactured by Squibb.
(46) Exhibit AE2 - Prescription numbers 605100 and 605101.
(47) Exhibit AF - Prescription bottle number 605101 dated March 30, 1989.
(48) Exhibit AG - Prescription bottle number 605102 dated March 30, 1989.
(49) Exhibit AG2 - Prescription number 605102 and 605103.
(50) Exhibit AH - Prescription bottle number 605103 dated March 30, 1989.
(51) Exhibit AI - Prescription bottle number 605140 dated March 31, 1989.
(52) Exhibit AI2 - Prescription numbers 605140 and 605141.
(53) Exhibit AJ - Prescription bottle number 605141 dated March 31, 1989.
(54) Exhibit AK - Prescription bottle number 605142 dated March 31, 1989.
(55) Exhibit AK1 - Prescription numbers 605142 and 605143.
(56) Exhibit AL - Prescription bottle number 605143 dated March 31, 1989.
(57) Exhibit AM - Prescription bottle number 605096 dated April 18, 1989.
(58) Exhibit AN - Prescription bottle number 605097 dated April 18, 1989.
(59) Exhibit AO - Prescription bottle number 605098 dated April 18, 1989.
(60) Exhibit AP - Prescription bottle number 605099 dated April 18, 1989.
(61) Exhibit AQ - Prescription tube number 605100 dated April 18, 1989.
(62) Exhibit AR - Prescription bottle number 605101 dated April 18, 1989.
(63) Exhibit AS - Prescription bottle number 605102 dated April 18, 1989.

(64) Exhibit AT - Prescription bottle number 605103 dated April 18, 1989.
(65) Exhibit AU - Prescription bottle number 302507 dated May 3, 1989.
(66) Exhibit AU1 - Prescription number 302507.
(67) Exhibit AV - Prescription bottle number 302508 dated May 3, 1989.
(68) Exhibit AV1 - Prescription number 302508.
(69) Exhibit AW - Prescription bottle number 302114 dated May 3, 1989.
(70) Exhibit AX - Prescription bottle number 607923 dated July 25, 1989.
(71) Exhibit AY - Prescription bottle number 609889 dated July 25, 1989.
(72) Exhibit AZ - Prescription bottle number 609887 dated July 25, 1989.
(73) Exhibit BA - Prescription bottle number 603292 dated July 25, 1989.
(74) Exhibit BB - Prescription bottle number 603630 dated July 25, 1989.
(75) Exhibit BC - Prescription bottle number 609878 dated July 24, 1989.
(76) Exhibit BC2 - Customer prescription bag numbered 609878.
(77) Exhibit BD - Prescription bottle number 606840 dated May 8, 1989.
(78) Exhibit BD2 - Prescription number 606840.
(79) Exhibit BF - Prescription bottle number 607923 dated July 3, 1989.
(80) Exhibit BF1 - Prescription number 607923.
(81) Exhibit BG - Prescription bottle number 604666 dated June 13, 1989.
(82) Exhibit BG2 - Prescription number 604666.
(83) Exhibit BH - Prescription bottle number 607637 dated June 27, 1989.
(84) Exhibit BI - Prescription bottle number 607637 dated July 24, 1989.
(85) Exhibit BJ - Prescription bottle number 601872 dated June 27, 1989.
(86) Exhibit BK - Prescription bottle number 603685 dated July 24, 1989.
(87) Exhibit BK1 - Prescription number 603635.
(88) Exhibit BL - Prescription bottle number 606230 dated July 24, 1989.
(89) Exhibit BM - Prescription bottle number 609860 dated July 24, 1989.
(90) Exhibit BN - Prescription bottle number 605287 dated May 30, 1989.
(91) Exhibit BN3 - Prescription number 605287.
(92) Exhibit BO - Prescription bottle number 607068 dated June 5, 1989.
(93) Exhibit BP - Prescription bottle number 603630 dated June 27, 1989.
(94) Exhibit BQ - Prescription bottle number 602563 dated June 27, 1989.
(95) Exhibit BR - Prescription bottle number 302509 dated May 3, 1989.
(96) Exhibit BR2 - Prescription number 302509.
(97) Exhibit BS - Prescription bottle number 606587 dated May 2, 1989.
(98) Exhibit BS1 - Prescription number 606587.
(99) Exhibit BS4 - 8" x 10" photograph of dark aqua/light aqua capsule with imprint code DISTA H71 KEFLEX 500mg.
(100) Exhibit BT - Prescription bottle number 606588 dated May 2, 1989.
(101) Exhibit BT1 - Prescription number 606588.
(102) Exhibit BT4 - 8" x 10" photograph of white tablet with imprint code 5 VALIUM (R).
(103) Exhibit BU - Prescription tube number 606589 dated May 2, 1989.
(104) Exhibit BU1 - Prescription number 606589.
(105) Exhibit BV - Prescription bottle number 606591 dated May 2, 1989.
(106) Exhibit BV1 - Prescription number 606591.
(107) Exhibit BW - Prescription bottle number 605096 dated May 2, 1989.
(108) Exhibit BX - Prescription bottle number 605101 dated May 2, 1989.
(109) Exhibit BY - Prescription bottle number 605103 dated May 2, 1989.
(110) Exhibit BZ - Prescription bottle number 606880 dated May 9, 1989.
(111) Exhibit BZ2 - Prescription number 606880.

(112) Exhibit CA - Prescription tube number 606589 dated May 9, 1989.
(113) Exhibit CB - Prescription box number 301800 dated April 6, 1989.
(114) Exhibit CB1 - Prescription number 301800.
(115) Exhibit CB2 - Ohio Department of Human Services Pharmacy Invoice 6746, Provider Name: Bonfiglio Pharmacy, Inc., Billing Date: May 31, 1989 for three prescriptions numbered 301801, 301800, and 301875.
(116) Exhibit CC - Prescription box number 301801 dated April 6, 1989.
(117) Exhibit CC3 - Prescription number 301801.
(118) Exhibit CC4 - Statement of Katherine Moore signed and notarized on August 10, 1989.
(119) Exhibit CD - Prescription bottle number 605895 dated June 19, 1989.
(120) Exhibit CD2 - Prescription number 605895.
(121) Exhibit CE - Prescription bottle number 605895 dated July 17, 1989.
(122) Exhibit CF - Prescription bottle number 607923 dated July 11, 1989.
(123) Exhibit CG - Prescription bottle number 603001 dated June 19, 1989.
(124) Exhibit CG1 - Prescription number 603001.
(125) Exhibit CH - Prescription bottle number 601167 dated June 19, 1989.
(126) Exhibit CI - Prescription bottle number 603292 dated June 19, 1989.
(127) Exhibit CJ - Prescription bottle number 608498 dated June 19, 1989.
(128) Exhibit CK - Prescription bottle number 607358 dated June 19, 1989.
(129) Exhibit CK2 - Prescription number 607358.
(130) Exhibit CL - Prescription bottle number 606230 dated June 19, 1989.
(131) Exhibit CM - Prescription bottle number 603015 dated June 19, 1989.
(132) Exhibit CN - Prescription bottle number 603015 dated July 17, 1989.
(133) Exhibit CN1 - Prescription number 599665.
(134) Exhibit CN2 - Prescription bottle number 599665 dated December 8, 1988.
(135) Exhibit CN3 - Bonfiglio Pharmacy Inc., patient printout of William E. Landis for drugs dispensed from January 1, 1988, through January 1, 1989.
(136) Exhibit CN4 - Blue Cross Blue Shield Explanation of Benefit Payments of William E. Landis dated December 30, 1988.
(137) Exhibit CN5 - Statement of William H. Osterbur, M.D. signed and notarized on March 6, 1989.
(138) Exhibit CN6 - Physician's notes for patient William Landis made on February 20, 1987; March 16, 1988; March 28, 1988; December 6, 1988; and December 8, 1988.
(139) Exhibit CN7 - Statement of Kathleen Landis signed and notarized on March 6, 1989.
(140) Exhibit CN8 - Statement of William E. Landis signed and notarized on March 6, 1989.
(141) Exhibit CO - Prescription bottle number 302114 dated April 18, 1989.
(142) Exhibit CO1 - Prescription number 302114.
(143) Exhibit CP - Prescription bottle number 302115 dated April 18, 1989.
(144) Exhibit CP1 - Prescription number 302115.
(145) Exhibit CQ - Prescription bottle number 302117 dated April 18, 1989.
(146) Exhibit CQ1 - Prescription number 302117.
(147) Exhibit CR - Prescription label number 606840 dated June 28, 1989.
(148) Exhibit CS - Prescription label number 606840 dated June 4, 1989.
(149) Exhibit CT - Prescription tube number 303801 dated June 26, 1989.
(150) Exhibit CT1 - Prescription numbers 303801 and 303802.
(151) Exhibit CU - Prescription bottle number 303462 dated June 12, 1989.
(152) Exhibit CU2 - Copy of Bonfiglio Pharmacy, Inc. patient profile computer printout of Katherin Morningstar for drugs dispensed from January 1, 1989 through July 25, 1989.

(153) Exhibit CV - Prescription bottle number 302116 dated April 18, 1989.
(154) Exhibit CV1 - Prescription number 302116.
(155) Exhibit CW - Prescription bottle number 606587 dated May 31, 1989.
(156) Exhibit CX - Prescription tube number 606589 dated May 31, 1989.
(157) Exhibit CY - Prescription bottle number 606591 dated May 31, 1989.
(158) Exhibit CZ - Prescription box number 602945 dated July 10, 1989.
(159) Exhibit CZ2 - Prescription number 602945.
(160) Exhibit DA - Prescription bottle number 609396 dated July 11, 1989.
(161) Exhibit DC - Prescription number 606903 and 606906.
(162) Exhibit DD - Prescription number 609360.
(163) Exhibit DE - Prescription number 584438.
(164) Exhibit DF - Prescription number 584797.
(165) Exhibit DG - Prescription number 584695.
(166) Exhibit DH - Prescription number 585103.
(167) Exhibit DI - Prescription number 590717.
(168) Exhibit DJ - Two-page Dangerous Drug Distributor Inspection Report of Bonfiglio Pharmacy Co., Inc., License No. 02-128150 dated December 6, 1984; and pink sheet response dated December 17, 1984.
(169) Exhibit DQ - Two-page Dangerous Drug Distributor Inspection Report of Bonfiglio Pharmacy, License No. 02-511550 dated July 25, 1989; correspondence from Stephen P. Bonfiglio (pink sheet response) dated August 9, 1989.
(170) Exhibit EA - One 8" x 10" photograph of one tube of Mycolog and two tubes, both labeled as prescription number 606589; one 8" x 10" photograph of an orange tablet with imprint code RUGBY on top of a prescription bottle; and one 8" x 10" photograph of orange tablet with imprint code RUGBY beside prescription bottle number 606880.
(171) Exhibit EB - Four-page report prepared by Rich Rob, Blue Cross & Blue Shield of Ohio of drugs dispensed and drugs billed to Blue Cross & Blue Shield of Ohio by Bonfiglio Pharmacy Co., Inc. signed by Richard L. Rob on July 25, 1989.
(172) Exhibit EC - 18" x 24" poster of computer printout of Blue Cross & Blue Shield of Ohio of claims paid to Bonfiglio Pharmacy on May 22, 1989; 18" x 24" poster of Bonfiglio Pharmacy, Inc. patient profile printout of Drew Thurston for the time period of January 1, 1989 through July 25, 1989; 18" x 24" poster of Bonfiglio Pharmacy, Inc. claim form for prescription number 606589 filled on May 9, 1989; and 18" x 24" poster of Blue Cross Blue Shield cancelled check number 0120939 dated May 22, 1989.
(173) Exhibit ED - 18" x 24" poster of Price List Chart of Nystatin-Triamcinolone Cream 15mg and 60mg tubes.
(174) Exhibit EE - 10" x 12½" x 15½" box of Audit Records of Bonfiglio Pharmacy, Inc. and Arcanum Pharmacy, Inc. prepared and/or used by Medicaid Fraud.
(175) Exhibit EF - 10" x 12½" x 15½" box of Audit Records of Bonfiglio Pharmacy, Inc. and Arcanum Pharmacy, Inc. prepared and/or used by Medicaid Fraud.
(176) Exhibit EG - 10" x 12½" x 15½" box of Audit Records of Bonfiglio Pharmacy, Inc. and Arcanum Pharmacy, Inc. prepared and/or used by Medicaid Fraud.
(177) Exhibit EH - Bar Graph of Bonfiglio Pharmacy, Inc. and Arcanum Pharmacy, Inc. for Brand Purchased and Brand Billed prepared by Medicaid Fraud.
(178) Exhibit EI - Dangerous Drug Distributor Inspection Report of Bonfiglio Pharmacy Co., Inc., License No. 02-128150, dated May 3, 1985.
(179) Exhibit EJ - Dangerous Drug Distributor Inspection Report of Bonfiglio Pharmacy Co., Inc., License No. 02-128150, dated Jaunary 21, 1986.
(180) Exhibit EK - Table of Bonfiglio Pharmacy, Drug Billed, Amount Reimbursed, Amount Due, and Difference, prepared by Medicaid Fraud.

Respondent's Exhibits:

(1) Exhibit 1 - Copy of Affidavit of Jonathan P. Hein signed and notarized on June 17, 1993; two-page copy of letter from Philip J. Brumbaugh dated April 24, 1991; copy of letter from Joseph R. Sabino dated June 27, 1991; and copy of letter from Philip J. Brumbaugh dated July 3, 1991.
(2) Exhibit 2 - Eighty-six count Indictment of Stephen P. Bonfiglio, Randall C. Bonfiglio, Ronald E. Bonfiglio, Richard R. Bonfiglio, and Ronald S. Holzapfel in the Common Pleas Court, Darke County, Ohio, Case No. 10614, dated January 17, 1992.
(3) Exhibit 3 - Certificate of Good Standing of S and R Greenville Pharmacy, Inc. signed June 21, 1993.
(4) Exhibit 4 - Certificate of Good Standing of S and R Arcanum Pharmacy, Inc. signed June 21, 1993.
(5) Exhibit 5 - Certified Judgment Entry of Acquittal of Stephen P. Bonfiglio, Ronald E. Bonfiglio, Richard R. Bonfiglio, and Randall C. Bonfiglio in the Common Pleas Court of Darke County, Ohio, Case No. 10614, dated October 15, 1992.
(6) Exhibit 6 - Certified Journal Entries in the matters of Ronald E. Bonfiglio, Stephen P. Bonfiglio, Randall C. Bonfiglio, Richard R. Bonfiglio, and Bonfiglio Pharmacy, Inc., Case No. CR-245627, in the Court of Common Pleas, State of Ohio, Cuyahoga County.
(7) Exhibit 7 - Document of Loss To Blue Cross & Blue Shield of Ohio for prescription number 606590.
(8) Exhibit 8 - Prescription bottle number 606590 dated May 31, 1989.
(9) Exhibit 9 - 366-page computer priontout from the Ohio Department of Human Services, Medicaid Management Information System for provider number 0833950, for the time frame of January 1, 1987 through December 31, 1989.
(10) Exhibit 10 - Cassette tape copy of May 31, 1989, surveillance at Bonfiglio Drugs, Case No. 89-1142.
(11) Exhibit 11 - Three-page copy of the "Ohio Pharmacist", including an article on "Pink Sheets" by Tim Benedict in the July 1990 issue.
(12) Exhibit 12 - Copy of newspaper article from the Greenville Advocate entitled "Charges are dropped against Greenville men" dated October 16, 1992.
(13) Exhibit 14 - Certificate to Copy of Journal Entry in the State of Ohio, Darke County, Common Pleas Court dated May 28, 1993; Four-page Petition in the Common Pleas Court of Darke County, Ohio in re: Petition for the Appointment of a Special Assistant Prosecuting Attorney, Case No. 52190, dated July 25, 1991; and Entry in the Common Pleas Court of Darke County, Ohio in re: Application for the Appointment of a Special Assistant Prosecuting Attorney, Case No. 52190, dated July 25, 1991.

Joint Exhibit:

(1) Exhibit 1 - Pages 537, 538, and 539 of the Ohio State Board of Pharmacy, Record of the Proceedings, dated June 24, 1991, and June 25, 1991.

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 Randall Charles Bonfiglio was originally licensed in the state of Ohio on February 26, 1980, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.

(2) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Propoxyphene Napsylate 100mg pursuant to prescription number 605096, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Darvocet N-100. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(3) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diazepam pursuant to prescription number 605097, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Valium. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(4) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Dipyridamole pursuant to prescription number 605098, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Persantine. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(5) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Cephalexin pursuant to prescription number 605099, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Keflex. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(6) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Nystatin & Triamcinolone Acetonide cream pursuant to prescription number 605100, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Mycolog Cream. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(7) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diphenoxylate Hydrochloride with Atropine Sulfate pursuant to prescription number 605101, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Lomotil. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(8) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Prednisone pursuant to prescription number 605102, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Deltasone. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(9) Randall Charles Bonfiglio did, on or about March 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Amitriptyline HCl pursuant to prescription number 605103, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Elavil. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(10) Randall Charles Bonfiglio did, on or about March 31, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Phentermine Hydrochloride pursuant to prescription number 605140, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Fastin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(11) Randall Charles Bonfiglio did, on or about March 31, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diazepam pursuant to prescription number 605141, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Valium. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(12) Randall Charles Bonfiglio did, on or about March 31, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Propoxyphene Napsylate 100mg pursuant to prescription number 605142, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Darvocet N-100. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(13) Randall Charles Bonfiglio did, on or about March 31, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Metronidazole pursuant to prescription number 605143, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Flagyl. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(14) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Propoxyphene Napsylate 100mg pursuant to prescription number 605096, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Darvocet N-100. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(15) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diazepam pursuant to prescription number 605097, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Valium. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(16) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Dipyridamole pursuant to prescription number 605098, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Persantine. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(17) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Cephalexin, pursuant to prescription number 605099, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Keflex. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(18) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Nystatin & Triamcinolone Acetonide cream pursuant to prescription number 605100, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Mycolog cream. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(19) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diphenoxylate Hydrochloride with Atropine Sulfate pursuant to prescription number 605101, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Lomotil. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(20) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Prednisone pursuant to prescription number 605102, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Deltasone. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(21) Randall Charles Bonfiglio did, on or about April 18, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Amtriptyline HCl pursuant to prescription number 605103, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Elavil. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(22) Randall Charles Bonfiglio did, on or about May 3, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Propoxyphene Napsylate 100mg pursuant to prescription number 302507, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Darvocet N-100. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(23) Randall Charles Bonfiglio did, on or about May 3, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Diazepam pursuant to prescription number 302508, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Valium. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(24) Randall Charles Bonfiglio did, on or about May 3, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Metronidazole pursuant to prescription number 302114, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Flagyl. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(25) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Fenoprofen Calcium pursuant to prescription number 607923, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Nalfon. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(26) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Digoxin pursuant to prescription number 609889, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Lanoxin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(27) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Prazosin Hydrochloride pursuant to prescription number 609887, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Minipress. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(28) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Hydrochlorothiazide & Triamterene pursuant to prescription number 603292, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Dyazide. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(29) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Doxepin HCl pursuant to prescription number 603630, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Adapin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(30) Randall Charles Bonfiglio did, on or about July 25, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Butalbital, Aspirin & Caffeine pursuant to prescription number 609878, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Fiorinal. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(31) Randall Charles Bonfiglio did, on or about May 8, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Fenoprofen Calcium pursuant to prescription number 606840, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Nalfon. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(32) Randall Charles Bonfiglio did, on or about February 17, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Fenoprofen Calcium pursuant to prescription number 606840, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Nalfon. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(33) Randall Charles Bonfiglio did, on or about July 3, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Fenoprofen Calcium pursuant to prescription number 607923, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Nalfon. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(34) Randall Charles Bonfiglio did, on or about June 13, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Oxazepam pursuant to prescription number 604666, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Serax. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(35) Randall Charles Bonfiglio did, on or about June 27, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Hydrochlorothiazide & Triamterene pursuant to prescription number 607637, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Dyazide. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(36) Randall Charles Bonfiglio did, on or about July 24, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Hydrochlorothiazide & Triamterene pursuant to prescription number 607637, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Dyazide. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(37) Randall Charles Bonfiglio did, on or about June 27, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Hydrochlorothiazide & Triamterene pursuant to prescription number 601872, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Dyazide. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(38) Randall Charles Bonfiglio did, on or about July 24, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Prazosin Hydrochloride pursuant to prescription number 603635, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Minipress. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(39) Randall Charles Bonfiglio did, on or about July 24, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Methyldopa pursuant to prescription number 606230, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Aldomet. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(40) Randall Charles Bonfiglio did, on or about July 24, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Penicillin V Potassium pursuant to prescription number 609860, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug PenVee K. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(41) Randall Charles Bonfiglio did, on or about May 30, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Fluphenazine Decanoate pursuant to prescription number 605287, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Prolixin Decanoate. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(42) Randall Charles Bonfiglio did, on or about June 27, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Doxepin HCl pursuant to prescription number 603630, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Adapin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(43) Randall Charles Bonfiglio did, on or about June 27, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Digoxin pursuant to prescription number 602563, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Lanoxin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(44) Randall Charles Bonfiglio did, on or about May 3, 1989, knowingly make and affix a false or forged label to a package or receptacle containing a dangerous drug, to wit: when dispensing the generic drug Methylphenidate Hydrochloride pursuant to prescription number 302509, Randall Charles Bonfiglio labeled the container as if it contained the brand-name drug Ritalin. Such conduct is in violation of Sections 3715.52 and 4729.38(B) of the Ohio Revised Code.

(45) Randall Charles Bonfiglio did, between January 1, 1988, and July 29, 1989, knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program, to wit: Randall Charles Bonfiglio submitted billings to the state Medicaid program for having dispensed brand name drugs when generics were in fact dispensed. Such conduct is in violation of Section 2913.40 of the Ohio Revised Code.

(46) Randall Charles Bonfiglio did, between March 30, 1989, and July 29, 1989, with the purpose to deprive, knowingly obtain money by deception from Blue Cross and Blue Shield of Ohio, to wit: Randall Charles Bonfiglio submitted billings to BC/BS for having dispensed brand name drugs when generics were in fact dispensed. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(47) Randall Charles Bonfiglio was, on or about April 17, 1991, convicted in the Cuyahoga County Common Pleas Court of one count of filing false insurance claims in violation of Section 3999.22 of the Ohio Revised Code, a misdemeanor of the first degree.

CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (46) of the Findings of Fact constitute being guilty of dishonesty 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 paragraph (47) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) 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 paragraphs (2) through (44) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Randall Charles Bonfiglio:

(A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby places the identification card, No. 03-1-13507, held by Randall Charles Bonfiglio on probation for five years effective as of the date of the mailing of this Order. The terms of probation are as follows:

(1) Randall Charles Bonfiglio must not violate the drug laws of the state of Ohio, any other state, or the federal government;

(2) Randall Charles Bonfiglio must abide by the rules of the State Board of Pharmacy; and

(3) Randall Charles Bonfiglio must comply with the terms of this Order.

(B) 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 imposes a monetary penalty of two thousand dollars ($2,000.00).

(C) Further, the Board will suspend one thousand dollars ($1,000.00) of the monetary penalty imposed provided that Randall Charles Bonfiglio takes and successfully completes the Jurisprudence examination offered by the Board prior to October 1, 1994. The one thousand dollars ($1,000.00) that was not suspended is due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Randall Charles Bonfiglio's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns for a period of five years effective as of the date of the mailing of this Order.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-0).

MOTION CARRIED.

SO ORDERED.