

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-030520-075)

In The Matter Of:

DENNIS EDWARD CHAPIN, R.Ph.
4641 Katie Lane
Oxford, Ohio 45056
(R.Ph. No. 03-1-14952)

INTRODUCTION

THE MATTER OF DENNIS EDWARD CHAPIN CAME FOR HEARING ON MARCH 8, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

DENNIS EDWARD CHAPIN WAS REPRESENTED BY F. JOSEPH SCHIAVONE AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Jesse Wimberly, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Dennis Edward Chapin, R.Ph., Respondent

State's Exhibits

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [05-20-03]
1A-1B. Procedurals
1C. Copy of Addendum Notice [10-21-03]
1D-1F. Procedurals
2. Copy of Oxford Township Police Department Incident Report No. 03-146 [04-14-03]
3. Copy of Butler County Sheriff's Office Drug and Vice Investigations Unit Report of Investigation Report #03-146 [04-14-03]
4. Notarized Statement of Dennis Chapin [04-23-03]
5. Accountability Statements for Butalbital/ASA/Caff and for APAP/Codeine #4 at The Medicine Shoppe [05-01-03]
6. Copy of Dangerous Drug Distributor Inspection Report of Medicine Shoppe [05-01-03]; copy of response from Dennis Chapin [05-19-03]
7. Bill of Information [not dated]; Entry of Plea of Guilty to an Information [10-03-03]; Judgment Entry of Conviction [11-13-03]; Entry Re-Assigning Case to Drug Court [11-14-03]; Drug Court (CDAT) Participation Agreement [11-17-03]; State of Ohio vs. Dennis E. Chapin, Case No. CR03-09-1409, Butler County Common Pleas Court

Respondent's Exhibits

- A1-A8. Bill of Information [not dated]; Jury Waiver [not dated]; Statutory Period Waiver [not dated]; Waiver of Right of Prosecution by Indictment, and Request for Filing of Information [not dated]; Waiver of Indictment [not dated]; Entry of Plea of Guilty to an Information [10-03-03]; Entry Re-Assigning Case to Drug Court [11-14-03]; Judgment Entry of Conviction [11-17-03]; State of Ohio vs. Dennis E. Chapin, Case No. CR03-09-1409, Butler County Common Pleas Court
- B. Drug Court (CDAT) Participation Agreement [11-17-03]
- C. Copy of Treatment Overview from Neil Trask, L.I.S.W. [01-14-04]
- D. Copy of Treatment Plan for Dennis Chapin from Doug Ulrich, LISW, CCDClII [06-05-03]
- E. Copy of letter from Tiffany Berry [03-03-04]
- F. Progress Report from Rae Johnson LSW, CCDCl [03-02-04]
- G. Letter from Jeanne Valerio, Community Service Coordinator [03-08-04]
- H. Support Group Attendance Records [05-20-03 to 02-28-04]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

(1) Records of the State Board of Pharmacy indicate that Dennis Edward Chapin was originally licensed by the State of Ohio as a pharmacist on March 22, 1983, pursuant to reciprocity, and that his license to practice pharmacy in Ohio was summarily suspended effective May 20, 2003. Records further reflect during the relevant time periods stated herein, Dennis Edward Chapin was the Responsible Pharmacist at Medicine Shoppe, 603 Main Street, Hamilton, Ohio pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

(2) Dennis Edward Chapin is addicted to controlled substances, to wit: Dennis Edward Chapin has admitted to a Board agent that he is addicted to codeine (Tylenol #4), a Schedule III Controlled Substance, and butalbital (Fiorinal), a Schedule III Controlled Substance. Dennis Edward Chapin has stated that he began abusing drugs approximately 16 years ago, and for the past several years his use has escalated to approximately 20 to (22 tablets per day. Dennis Edward Chapin advised that he has diverted approximately 80,000 tablets over the sixteen-year time period. When experiencing withdrawal symptoms, he diverted up to 20 loperamide hydrochloride per day, and atropine sulfate/diphenoxylate hydrochloride, a Schedule V Controlled Substance, to relieve his symptoms.

(3) Dennis Edward Chapin did, on or about April 14, 2003, knowingly possess controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when Dennis Edward Chapin's son was stopped by police in possession of the following drugs, Dennis Edward Chapin admitted to officers that the drugs belonged to him:

<u>Drug</u>	<u>Strength</u>	<u>Schedule</u>	<u>Qty</u>
butalbital, aspirin and caffeine	50 mg/325 mg/40 mg	III	8
acetaminophen and codeine	300 mg/60 mg	III	14
atropine sulfate and diphenoxylate hydrochloride	0.025 mg/2.5 mg	V	189

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(4) Dennis Edward Chapin did, on or about April 14, 2003, knowingly possess a dangerous drug when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when Dennis Edward Chapin's son was stopped by police in possession of 8 unit doses of sucralfate 1 g., Dennis Edward Chapin admitted to officers that the drugs belonged to him. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(5) Dennis Edward Chapin did, over the preceding 16 years, with purpose to deprive, knowingly obtain or exert control over dangerous drugs by deception, to wit: Dennis Edward Chapin diverted the following drugs from his pharmacy:

<u>Drug</u>	<u>Qty</u>
Keflex	300
Protuss DM	300
Zantac	11,680
Carafate	11,680
butalbital, aspirin and caffeine	8
acetaminophen and codeine	14
atropine sulfate and diphenoxylate hydrochloride	189
sucralfate	8

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

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

(4) The State Board of Pharmacy concludes that paragraphs (3) and (4) 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. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION 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 to Dennis Edward Chapin on May 20, 2003.

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

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-14952, held by Dennis Edward Chapin and such suspension is effective as of the date of the mailing of this Order.

(1) Dennis Edward Chapin, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(2) Dennis Edward Chapin, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

(B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand five hundred dollars (\$2,500.00) on Dennis Edward Chapin and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Dennis Edward Chapin for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Dennis Edward Chapin must enter into a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, mail a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Dennis Edward Chapin must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) Dennis Edward Chapin must provide, at the reinstatement petition hearing, documentation of the following:

(1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Dennis Edward Chapin must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE APRIL 8, 2004

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

May 20, 2003

Dennis Edward Chapin, R.Ph.
4641 Katie Lane
Oxford, Ohio 45056

Re: Ohio Registered Pharmacist
Number 03-1-14952

Dear Mr. Chapin:

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on March 22, 1983, pursuant to reciprocity, and are currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, you were the Responsible Pharmacist at Medicine Shoppe, 603 Main Street, Hamilton, Ohio pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) You are addicted to controlled substances, to wit: you have admitted to a Board agent that you are addicted to codeine (Tylenol #4), a Schedule III Controlled Substance, and butalbital (Fiorinal), a Schedule III Controlled Substance. You have stated that you began abusing drugs approximately sixteen (16) years ago, and for the past several years your use has escalated to approximately twenty (20) to twenty-two (22) tablets per day. You advised that you have diverted approximately 80,000 tablets over the sixteen-year time period. When experiencing withdrawal symptoms, you diverted up to twenty (20) loperamide hydrochloride per day, and atropine sulfate/diphenoxylate hydrochloride, a Schedule V Controlled Substance, to relieve your symptoms.
- (3) You did, on or about April 14, 2003, knowingly possess controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when your son was stopped by police in possession of the following drugs, you admitted to officers that the drugs belonged to you:

<u>Drug</u>	<u>Strength</u>	<u>Schedule</u>	<u>Qty</u>
butalbital, aspirin and caffeine	50 mg/325 mg/40 mg	III	8
acetaminophen and codeine	300 mg/60 mg	III	14
atropine sulfate and diphenoxylate hydrochloride	0.025 mg/2.5 mg	V	189

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 2925. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

- (4) You did, on or about April 14, 2003, knowingly possess a dangerous drug when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: when your son was stopped by police in possession of 8 unit doses of sucralfate 1 g., you admitted to officers that the drugs belonged to you. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) You did, over the preceding sixteen (16) years, with purpose to deprive, knowingly obtain or exert control over dangerous drugs by deception, to wit: you diverted the following drugs from your pharmacy:

<u>Drug</u>	<u>Qty</u>
Keflex	300
Protuss DM	300
Zantac	11,680
Carafate	11,680
butalbital, aspirin and caffeine	8
acetaminophen and codeine	14
atropine sulfate and diphenoxylate hydrochloride	189
sucralfate	8

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) If the board under which a person has been issued a license, . . . , . . . determines that there is clear and convincing evidence that continuation of the person's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person's license, . . . , . . . , without a prior hearing.

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, during which time you may not engage in the practice of pharmacy.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, limit, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 or Chapter 2925. or 3719. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy;
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(9) Has violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;

(10) Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code.

IF YOU REQUEST A HEARING within 30 days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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.

(D-030520-075)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE MAY 20, 2003

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective April 8, 2004)*