



# OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-021021-021)

In The Matter Of:

**MARK ALAN MOORE, R.Ph.**

5146 Christy Avenue  
Riverside, Ohio 45431  
(R.Ph. No. 03-1-19236)

### INTRODUCTION

THE MATTER OF MARK ALAN MOORE CAME FOR HEARING ON MAY 13, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, 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.

MARK ALAN MOORE WAS REPRESENTED BY RICHARD P. ARTHUR AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witnesses

None

#### Respondent's Witnesses

1. Mark Alan Moore, R.Ph., Respondent

#### State's Exhibits

1. Reinstatement Hearing Request letter from Mark A. Moore [10-10-02]
- 1A-1D. Procedurals
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

- 11.
- 12.
- 13.
14. Copy of Renewal Application for Pharmacist License to Practice Pharmacy from 09-15-98 to 09-15-99 of Mark Alan Moore [07-07-98]
15. Copy of Renewal Application for Pharmacist License to Practice Pharmacy from 09-15-99 to 09-15-00 of Mark Alan Moore [07-08-99]

#### Respondent's Exhibits

- A. Copy of PRO Pharmacist's Recovery Contract for Mark Moore [05-03-02]; Pro Quarterly Reports from Mark A. Moore [06-09-02 to 04-05-03]
- B. Compass Vision Licensee Summary Report [05-28-02 to 05-06-03]; Letter from Melissa A. Mutter [05-09-03]; Specimen Chain of Custody Forms [05-28-02 to 05-06-03]
- C. Calendar for May 2002 to June 2003; Support Group Attendance Records [05-06-02 to 05-12-03]
- D.
- E. Certificate of Achievement for Mark Moore [02-06-02]; Letter from Allan Miller MS, PCC [05-03-02]; Miami Valley Hospital Discharge Summary re Mark Moore [02-06-02]; Letter from Allan Miller MS, PCC [05-14-02]; Letter from Randy Young, B.S., OCB REG CAND, Intern/Primary Therapist [09-12-02]; Nova House Association, Inc. 30 Day Summary/-Progress Reports re Mark Moore [09-02 to 04-30-03]; Letter from Massimo DeMarchis, Psy., D., CCDC III E [03-28-03]; Letter from Melissa A. Mutter [04-08-03]; Letter from Randy Young, B.S., OCB REG CAN, Intern/Primary Therapist [04-10-03]
- F.
- G. Continuing Pharmaceutical Education Credits and Certificates [08-19-02 to 04-07-03]

#### FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Mark Alan Moore has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-020109-031, effective April 11, 2002.

#### DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-19326, held by Mark Alan Moore to practice pharmacy in Ohio and places Mark Alan Moore on probation for five years effective as of the date of the mailing of this Order, with the following conditions:

- (A) Mark Alan Moore must enter into a 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, submit 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 for the first year and then at least once every three months for the remaining four years.

- (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 and alcohol screens must be negative. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.
    - (c) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.
  - (2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.
  - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
  - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Mark Alan Moore must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
  - (2) A written description of Mark Alan Moore 's progress towards recovery and what Mark Alan Moore has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Mark Alan Moore 's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - (2) Mark Alan Moore may not serve as a responsible pharmacist.
  - (3) Mark Alan Moore may not destroy, assist in, or witness the destruction of controlled substances.
  - (4) Mark Alan Moore must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
  - (5) Mark Alan Moore must not violate the drug laws of Ohio, any other state, or the federal government.
  - (6) Mark Alan Moore must abide by the rules of the State Board of Pharmacy.

(7) Mark Alan Moore must comply with the terms of this Order.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

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

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

**ORDER EFFECTIVE JUNE 5, 2003**



# OHIO STATE BOARD OF PHARMACY

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## SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

January 9, 2002

Mark Alan Moore, R.Ph.  
5146 Christy Avenue  
Riverside, Ohio 45431

Re: Ohio Registered Pharmacist  
Number 03-1-19236

Dear Mr. Moore:

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. 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 February 28, 1992, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to the use of controlled substances, to wit: you have admitted to a Board of Pharmacy agent that you are addicted.
- (3)
- (4)

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..."

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO ARE 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)

(2)

(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)

(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.

BY ORDER OF THE STATE BOARD OF PHARMACY

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William T. Winsley, M.S., R.Ph.  
Executive Director

CERTIFIED MAIL  
7000 0520 0012 5179 7853  
Return Receipt

WTW:pm (D-020109-031)

cc: Sally Ann Steuk, Assistant Attorney General



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## ADDENDUM NOTICE

March 5, 2002

Mark Alan Moore, R.Ph.  
5146 Christy Avenue  
Riverside, Ohio 45431

Re: Ohio Registered Pharmacist  
Number 03-1-19236

Dear Mr. Moore:

YOU ARE HEREBY NOTIFIED that, in addition to the allegations stated in the January 9, 2002, Summary Suspension Order/Notice of Opportunity letter, the following allegations will also be considered, as numbered:

- (5)
- (6) You did, on or about July 7, 1998, knowingly make a false statement with purpose to secure the issuance of a license or registration.
- (7) You did, on or about July 8, 1999, knowingly make a false statement with purpose to secure the issuance of a license or registration.

YOU ARE HEREBY ADVISED that Section 4729.16 of the Ohio Revised Code states in pertinent part that:

(A) The State Board of Pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, 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)

(2)

- (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)
- (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.

IF YOU DESIRE A HEARING, 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.

IN ACCORDANCE WITH THE SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY letter dated April 5, 2001, and pursuant to your adjudication hearing scheduled August 6, 2001, 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.

If you wish to request a continuance in this matter, such request should be sent by certified mail, return receipt requested, to the offices of the Ohio State Board of Pharmacy, 77 South High Street, 1702, Columbus, Ohio 43215-6126. However, you must submit such request prior to fourteen days from the date of the scheduled hearing on August 6, 2001. The request will be presented to the Board for consideration and you will be notified as soon as practical regarding the request. If you have any questions regarding this matter, feel free to contact the Board office.

BY ORDER OF THE STATE BOARD OF PHARMACY

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William T. Winsley, M.S., R.Ph.  
Executive Director

CERTIFIED MAIL  
7099 3400 0014 5032 5187  
Return Receipt

WTW:pm

cc: Sally Ann Steuk, Assistant Attorney General  
Richard P. Arthur; 1634 South Smithville Road, Dayton, Ohio 45410



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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-020109-031)

In The Matter Of:

**MARK ALAN MOORE, R.Ph.**

5146 Christy Avenue

Riverside, Ohio 45431

(R.Ph. No. 03-1-19236)

### INTRODUCTION

THE MATTER OF MARK ALAN MOORE CAME FOR HEARING ON MARCH 5, 2002 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

MARK ALAN MOORE WAS REPRESENTED BY RICHARD P. ARTHUR AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert Burdick, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Mark Alan Moore, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

- (1)
- (2) Exhibit 1A--Hearing Request letter from Richard P. Arthur dated January 29, 2002.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated January 30, 2002.
- (4) Exhibit 1C--Copy of Ohio Pharmacist Computer Record of Mark Alan Moore.
- (5)
- (6)
- (7)

- (8)
- (9)
- (10)
- (11)
- (12)
- (13) Exhibit 10--Copy of Renewal Application for Pharmacist License Number 03-1-19236 of Mark Alan Moore dated July 7, 1998.
- (14) Exhibit 11--Copy of Renewal Application for Pharmacist License Number 03-1-19236 of Mark Alan Moore dated July 8, 1999.

Respondent's Exhibits:

- (1) Exhibit A1--Copy of Pharmacy Related Work History.
- (2)
- (3) Exhibit A3--Copy of Turning Point Chemical Dependency Treatment Program Certificate of Achievement of Mark Moore dated February 6, 2002.
- (4) Exhibit A4--Copy of letter from Gayle M. Patterson, CPhT., dated February 20, 2002.
- (5) Exhibit A5--Copy of letter from Terri LeMaster CPhT., dated February 20, 2002.
- (6) Exhibit A6--Copy of letter from Stephen A. Summers, R.Ph. dated February 20, 2002.
- (7) Exhibit A7--Copy of letter from Michael D. DiLullo, not dated.
- (8) Exhibit A8--Copy of letter from Jeff Abney, 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) Records of the State Board of Pharmacy indicate that Mark Alan Moore was originally licensed by the State of Ohio on February 28, 1992, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective January 9, 2002.
- (2) Mark Alan Moore is addicted to the use of controlled substances, to wit: Mark Alan Moore admitted to a State Board of Pharmacy agent that he was addicted;
- (3)
- (4)
- (5)
- (6) Mark Alan Moore did, on or about July 7, 1998, knowingly make a false statement with purpose to secure the issuance of a license or registration,
- (7) Mark Alan Moore did, on or about July 8, 1999, knowingly make a false statement with purpose to secure the issuance of a license or registration,

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (7) of the Findings of Fact constitute being guilty of

gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) through (7) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (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) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes 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.

#### 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 to Mark Alan Moore on January 9, 2002.

Pursuant to Section 4729.16 of the Ohio Revised Code and 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. 03-1-19236, held by Mark Alan Moore effective as of the date of the mailing of this Order.

- (A) Mark Alan Moore, 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.
- (B) Mark Alan Moore, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the 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.

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Mark Alan Moore 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) Mark Alan Moore must enter into a 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. 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) Mark Alan Moore must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Mark Alan Moore 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, Mark Alan Moore must 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-8/Nay-0).  
MOTION CARRIED.  
SO ORDERED.

**ORDER EFFECTIVE APRIL 11, 2002**