



# OHIO STATE BOARD OF PHARMACY

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

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TEL: 614/466-4143

E-MAIL: [exec@bop.state.oh.us](mailto:exec@bop.state.oh.us)

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-940922-019)

In The Matter Of:

**JACK H. SCHLANSER, R.Ph.**

5448 Sheits Road  
Cincinnati, Ohio 45252  
(R.Ph. No. 03-2-03893)

### INTRODUCTION

THE MATTER OF JACK H. SCHLANSER CAME TO HEARING ON DECEMBER 5, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JACK H. SCHLANSER WAS REPRESENTED BY FRANK R. RECKER, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Jack H. Schlanser, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Notice of Opportunity letter dated September 22, 1994.
- (2) Exhibit 1A - Hearing Request letter dated October 17, 1994.
- (3) Exhibit 1B - Hearing Schedule letter dated October 21, 1994.
- (4) Exhibit 1C - Pharmacist File Front Sheet of Jack H. Schlanser showing original date of registration as April 11, 1944; and Renewal Application for Pharmacist License, No. 03-2-03893, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Jack H. Schlanser dated June 23, 1994.

- (5) Exhibit 1D - Letter of Representation from Frank R. Recker dated November 1, 1994.
- (6) Exhibit 1E - Letter from David L. Rowland dated November 7, 1994.
- (7) Exhibit 1F - Rescheduling request from Frank R. Recker dated November 22, 1994.
- (8) Exhibit 1G - Hearing Schedule letter dated November 22, 1994.
- (9) Exhibit 2 - Black and white composition notebook of Schlanser Pharmacy, Exempt Narcotics Sales Register, dated from September 26, 1989, through October 9, 1990.
- (10) Exhibit 3 - Black and white composition notebook of Schlanser Pharmacy, Exempt Narcotics Sales Register, dated from October 9, 1990, through November 2, 1991.
- (11) Exhibit 4 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Ronald Greer from September 26, 1990, through January 11, 1991.
- (12) Exhibit 5 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Ronald Hill from January 6, 1990, through January 25, 1991.
- (13) Exhibit 6 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Bruce Shepherd from September 12, 1990, through January 31, 1991.
- (14) Exhibit 7 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Derrick Greer from February 8, 1990, through January 21, 1991.
- (15) Exhibit 8 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Milton Greer (Milton R. Greer) from February 9, 1990, through January 29, 1991.
- (16) Exhibit 9 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Ike Palmer from April 30, 1990, through January 14, 1991.
- (17) Exhibit 10 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Marilyn Bone from February 5, 1990, through January 31, 1991.
- (18) Exhibit 11 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient John Brewer from February 8, 1990, through January 26, 1991.
- (19) Exhibit 12 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Stanley Fondor from May 2, 1990, through January 21, 1991.
- (20) Exhibit 13 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Larry Good (L. D. Good) from February 12, 1990, through January 31, 1991.
- (21) Exhibit 14 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Kenneth Greer dated from February 22, 1990, through January 22, 1991.
- (22) Exhibit 15 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Darlene Hawkins dated from October 15, 1990, through January 28, 1991.
- (23) Exhibit 16 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Garland Hillman from May 30, 1990, through January 24, 1991.
- (24) Exhibit 17 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient C. Isaacs (Cleveland Isaacs) from February 5, 1990, through January 23, 1991.
- (25) Exhibit 18 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Theopolis Jenkins from April 9, 1990, through January 31, 1991.
- (26) Exhibit 19 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Gerard Johnson (G. Johnson) from May 14, 1990, through January 28, 1991.
- (27) Exhibit 20 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient James Jung from May 5, 1990, through January 28, 1991.
- (28) Exhibit 21 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient D. Leslie dated from February 10, 1990, through January 26, 1991.
- (29) Exhibit 22 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Ken Leslie (K. Leslie) from February 1, 1990, through January 30, 1991.
- (30) Exhibit 23 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient B. T. Love (Booker T. Love) from February 6, 1990, through January 29, 1991.
- (31) Exhibit 24 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient E. Love dated from February 2, 1990, through January 25, 1991.
- (32) Exhibit 25 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient James Page from April 12, 1990, through December 15, 1990.

- (33) Exhibit 26 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient John Parker from July 16, 1990, through January 29, 1991.
- (34) Exhibit 27 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Terry Riser from May 1, 1990, through January 28, 1991.
- (35) Exhibit 28 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Jane Robinette (J. Robinette) from April 5, 1990, through January 28, 1991.
- (36) Exhibit 29 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Dana Shepherd from August 30, 1990, through January 28, 1991.
- (37) Exhibit 30 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Debra Shepherd dated from August 22, 1990, through January 30, 1991.
- (38) Exhibit 31 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Paul Shepherd dated from March 7, 1990, through January 28, 1991.
- (39) Exhibit 32 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Kathy Smith (K. Smith) from June 16, 1990, through January 29, 1991.
- (40) Exhibit 33 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Doug Warren from February 9, 1990, through January 28, 1991.
- (41) Exhibit 34 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Charles E. Williams (Charles Williams, C. Williams) from February 6, 1990, through January 25, 1991.
- (42) Exhibit 35 - Two-page list of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Marshall Wilson (Marshall J. Wilson) from February 6, 1990, through January 28, 1991.
- (43) Exhibit 36 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Ricky Wilson (Rick Wilson) dated from August 24, 1990, through January 28, 1991.
- (44) Exhibit 37 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Hudson Wright from August 6, 1990, through January 23, 1991.
- (45) Exhibit 38 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Bryan Young from September 24, 1990, through January 28, 1991.
- (46) Exhibit 39 - List of Exempt Narcotic Sales made by Schlanser Pharmacy to patient Mark Young from April 18, 1990, through January 31, 1991.
- (47) Exhibit 40 - Two-page pink carbon copy of Dangerous Drug Distributor Inspection Report of Schlanser Pharmacy dated February 22, 1991, and two page green carbon copy of Dangerous Drug Distributor Inspection Report of Schlanser Pharmacy dated February 22, 1991, with typewritten response signed by Jack Schlanser, not dated.

Respondent's Exhibits:

- (1) Exhibit A - Fifteen-page Respondent Schlanser's Motion to Dismiss Charges dated December 1, 1994, with seventy-eight pages of attachments.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Jack H. Schlanser was originally licensed in the state of Ohio on April 11, 1944, pursuant to examination, is currently licensed to practice pharmacy in the state of Ohio; and during the relevant time periods stated herein, Jack H. Schlanser was the owner and Responsible Pharmacist at Schlanser Pharmacy in Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.

- (2) Jack H. Schlanser did, on or about the following dates, sell, under the exemptions of Section 3719.15 of the Ohio Revised Code to the same person (on each occasion) preparations included within Section 3719.15, when he knew or by reasonable diligence could have ascertained that the sale provided the recipient with more than one such preparation within a forty-eight consecutive hour period, to wit:

<u>Date of Sale</u>	<u>Purchaser</u>	<u>Quantity</u>	<u>Drug</u>
10-09-90	Ronald Greer	120 ml	ETH & C
10-10-90	Ronald Greer	120 ml	Cheracol
12-06-90	Ronald Hill	120 ml	Novahistine DH
12-07-90	Ronald Hill	120 ml	Novahistine DH
10-02-90	Bruce Shepherd	120 ml	ETH & C
10-03-90	Bruce Shepherd	120 ml	ETH & C
08-02-90	Derrick Greer	120 ml	ETH & C
08-02-90	Derrick Greer	120 ml	Cheracol
09-18-90	Milton Greer	120 ml	ETH & C
09-19-90	Milton Greer	120 ml	Cheracol
06-13-90	Ike Palmer	120 ml	Cheracol
06-14-90	Ike Palmer	120 ml	Cheracol
01-02-91	Milton Greer	120 ml	Cheracol
01-03-91	Milton Greer	120 ml	Cheracol
01-07-91	Bruce Shepherd	120 ml	ETH & C
01-08-91	Bruce Shepherd	120 ml	ETH & C

Such conduct is in violation of Section 3719.16 of the Ohio Revised Code.

- (3) Jack H. Schlanser did, during the following periods of time, knowingly sell a controlled substance in an amount exceeding three times the bulk amount but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Jack H. Schlanser sold the following schedule V exempt narcotic preparations in the following amounts when not for a legitimate medical purpose:

<u>Time Period</u>	<u>Customer</u>	<u>Quantity/Drug</u>
02-05-90 through 01-31-91	Marilyn Bone	86 bottles Cheracol 1 bottle ETH & C
02-08-90 through 0-26-91	John Brewer	58 bottles ETH & C 4 bottles Cheracol
05-02-90 through 01-21-91	Stanley Fondor	31 bottles ETH & C 4 bottles Cheracol
02-12-90 through 01-31-91	L. D. Good	22 bottles Cheracol 2 bottles ETH & C
02-08-90 through 01-21-91	Derrick Greer	41 bottles ETH & C 5 bottles Cheracol
02-22-90 through 01-22-91	Kenneth Greer	37 bottles Cheracol 4 bottles ETH & C
02-09-90 through 01-29-91	Milton Greer	26 bottles Cheracol 11 bottles ETH & C

	<u>Time Period</u>	<u>Customer</u>	<u>Quantity/Drug</u>
	07-25-90 through 01-28-91	Darlene Hawkins	42 bottles ETH & C
	03-23-90 through 01-25-91	Ronald Hill	19 bottles ETH & C 9 bottles Novahistine DH
	05-30-90 through 01-24-91	Garland Hillman	22 bottles ETH & C 12 bottles Cheracol
	02-05-90 through 01-23-91	C. Isaacs	47 bottles Cheracol 1 bottle Novahistine Exp.
	02-03-90 through 01-31-91	Theopolis Jenkins	78 bottles ETH & C 4 bottles Cheracol 2 bottles Novahistine DH
	05-14-90 through 01-28-91	Gerard Johnson	33 bottles ETH & C 5 bottles Cheracol
	05-05-90 through 01-28-91	James Jung	39 bottles ETH & C
Exp.	02-10-90 through 01-26-91	D. Leslie	33 bottles Novahistine
Exp.	02-01-90 through 01-30-91	Ken Leslie	44 bottles Novahistine 1 bottle ETH & C
	02-06-90 through 01-29-91	B. T. Love	41 bottles Cheracol 10 bottles Novahistine DH
	02-02-90 through 01-29-91	E. Love	27 bottles Cheracol 16 bottles Novahistine DH 1 bottle ETH & C
	04-12-90 through 12-15-90	James Page	38 bottles ETH & C 1 bottle Cheracol
	04-30-90 through 01-14-91	Ike Palmer	31 bottles ETH & C 5 bottles Cheracol
	07-16-90 through 01-29-91	John Parker	25 bottles ETH & C
	05-01-90 through 01-28-91	Terry Riser	42 bottles ETH & C
	04-05-90 through 01-28-91	Jane Robinette	40 bottles ETH & C
Exp.	09-12-90 through 01-31-91	Bruce Shepherd	24 bottles ETH & C 2 bottles Novahistine 1 bottle Cheracol
	08-30-90 through 01-28-91	Dana Shepherd	17 bottles ETH & C 1 bottle Novahistine Exp.
	08-22-90 through 01-30-91	Debra Shepherd	24 bottles ETH & C 1 bottle Novahistine Exp.
	03-07-90 through 01-28-91	Paul Shepherd	37 bottles ETH & C 1 bottle Cheracol
	06-16-90 through 01-29-91	Kathy Smith	25 bottles ETH & C 1 bottle Cheracol

<u>Time Period</u>	<u>Customer</u>	<u>Quantity/Drug</u>
02-09-90 through 01-28-91	Doug Warren	36 bottles ETH & C
02-06-90 through 11-23-90	Charles E. Williams	37 bottles ETH & C 1 bottle Cheracol
02-06-90 through 01-28-91	Marshall J. Wilson	48 bottles Cheracol 2 bottles ETH & C
08-24-90 through 01-28-91	Ricky Wilson	26 bottles ETH & C
08-06-90 through 01-23-91	Hudson Wright	22 bottles ETH & C 1 bottle Cheracol
07-18-90 through 01-28-91	Bryan Young	25 bottles ETH & C
04-18-90 through 01-31-91	Mark Young	32 bottles ETH & C 1 bottle Novahistine DH

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

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) 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. and 3719. 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 Jack H. Schlanser:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Jack H. Schlanser, No. 03-2-03893, indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Jack H. Schlanser may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) One year after the effective date of this Order, Jack H. Schlanser's license to practice pharmacy in the state of Ohio will be reinstated provided that Mr. Schlanser takes and successfully completes the Federal Drug Law Examination and State Jurisprudence examination offered by the Board, prior to that date. If Jack H. Schlanser has not successfully completed the examinations prior to one year from the effective date of this Order, his license will be reinstated when this condition has been achieved.

Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.