



OHIO STATE BOARD OF PHARMACY

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

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-050505-062)

In The Matter Of:

MAYNARD D. TURNER, R.Ph.

Rural Route 1

6912 White Oak Road NE

Bloomington, Ohio 43106

(R.Ph. No. 03-2-09730)

INTRODUCTION

THE MATTER OF MAYNARD D. TURNER CAME FOR HEARING ON JUNE 6, 2005, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

MAYNARD D. TURNER WAS REPRESENTED BY BARRY A. WALLER. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witness

1. Maynard D. Turner, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from Maynard D. Turner, R.Ph. [04-07-05]
1A-1C. Procedurals
2. State Board of Pharmacy Settlement Agreement In Re Maynard D. Turner, R.Ph. [09-08-03]
3. Notarized Statement of Maynard Dwight Turner [08-22-02]
4. CVS/Revco #3408 Pharmacist's Statement for Dwight Turner [04-30-99 to 08-22-02]
5. Rx #342026 [08-20-02]
6. Photocopy of a medicine vial for Rx #342032 [08-20-02]
7. CVS/Revco #3408 Drug Usage Report by NDC Number [01-01-02 to 08-28-02]
8. Notarized Statement of Nalynn Hall [08-28-02]
9. Bill of Information, State of Ohio vs. M. Dwight Turner, Case No. 2003-00116 CRI, Fayette County Common Pleas Court [06-17-03]; Plea [06-17-03]; Judgment Entry [07-14-03]

Respondent's Exhibits

- A1. Twenty-six page Scioto Paint Valley Mental Health Center Substance Abuse Service Plan for Dwight Turner [10-02-02 to 01-27-05]
- A2. Support Group Attendance Records[09-16-03 to 04-30-05]
- A3. Copy of twenty checks made payable to Treasurer, State of Ohio [09-25-03 to 05-18-05]
- A4. Copy of twenty Ohio State Board of Pharmacy Monetary Penalty Transmittal Forms [09-30-03 to 04-05]
- A5. Fayette County Memorial Hospital Drug Screen Reports [09-16-03 to 05-16-05]
- A6. Treatment Summary letter from Judith Rheinscheld, LISW, CCDC III-E [09-02-04]
- A7. Treatment Progress Report from Judith Rheinscheld, LISW, LICDC [04-04-05]
- A8. Letter from Teresa Bryant [05-11-05]
- A9. Business Health Services Toxicology Specimen Chain of Custody Forms [09-16-03 to 04-27-05]
- A10. C.P.E. Report Form for Maynard D. Turner [05-19-05]; Continuing Pharmaceutical Education Credits and Certificates [04-27-03 to 03-17-05]; E-mail letter from Lori D. Moore [03-05-05]
- A11. Letter from Robert U. Anderson, M.D. [not dated]
- A12. Copy of National City Bank Check No. 661459357 made payable to Treasurer, State of Ohio [12-17-04]
- A13. Letter of Service from Cheryl Royster[05-13-05]
- A14. Judgment Entry Granting Intervention in Lieu of Conviction, State of Ohio vs Maynard D. Turner, Case No 20030116, Fayette County Common Pleas Court [10-15-03]
- A15. Copy of Notarized Statements of Paul Van Buren [08-05-03] and Douglas Bryon [08-05-03]
- A16. Two letters of Support [06-02-05 and 06-03-05]

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 Maynard D. Turner has complied with the terms set forth in the Settlement Agreement with the State Board of Pharmacy, Docket No. 020910-007, effective September 8, 2003

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-09730, held by Maynard D. Turner to practice pharmacy in Ohio and places Maynard D. Turner on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Maynard D. Turner 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 submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. 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 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) 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) Maynard D. Turner 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 Maynard D. Turner's progress towards recovery and what Maynard D. Turner 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 Maynard D. Turner'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 4729-3-1 of other Ohio Administrative Code.
 - (2) Maynard D. Turner may not serve as a responsible pharmacist.
 - (3) Maynard D. Turner may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Maynard D. Turner may not, during the first year of practice, work in a pharmacy more than a maximum of 45 hours per week.
 - (5) Maynard D. Turner must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (6) Maynard D. Turner must not violate the drug laws of Ohio, any other state, or the federal government.

- (7) Maynard D. Turner must abide by the rules of the State Board of Pharmacy.
- (8) Maynard D. Turner must comply with the terms of this Order.

Maynard D. Turner 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.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by filing the original Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: JULY 14, 2005

CERTIFIED MAIL / Return Receipt
7003 0500 0002 4340 8473

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



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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-020910-007)

In The Matter Of:

MAYNARD D. TURNER, R.Ph.

Rural Route 1

6912 White Oak N.E.

Bloomington, Ohio 43106

(R.Ph. No. 03-2-09730)

This Settlement Agreement is entered into by and between Maynard D. Turner and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Maynard D. Turner voluntarily enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Maynard D. Turner acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, on or about September 10, 2002, pursuant to Chapter 119. of the Ohio Revised Code, Maynard D. Turner was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Maynard D. Turner requested a hearing; it was scheduled and continued. The September 10, 2002 Summary Suspension and July 22, 2003 Addendum Notice contain the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that Maynard D. Turner was originally licensed in the State of Ohio on February 8, 1971, pursuant to examination, and was Summarily Suspended on September 10, 2002. Records further reflect during the relevant time periods stated herein, Maynard D. Turner was the Responsible Pharmacist at CVS/Pharmacy #3408 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
- (2) Maynard D. Turner is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: on or about August 22, 2002, Maynard D. Turner admitted to an agent of the Board of Pharmacy that he believes he has been addicted to Xanax and Fioricet for the past two years;

and, that his addiction has reached its peak within the past few weeks at six (6) to eight (8) Xanax a day and four (4) to five (5) Fioricet a day. Maynard D. Turner admitted to stealing Xanax to cope with the stress of working at CVS/Pharmacy #3408, and he admitted stealing Fioricet for headaches. Such conduct indicates that Maynard D. Turner is addicted to the use of controlled substances within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code.

- (3) Maynard D. Turner did, on or about unknown dates prior to August 22, 2002, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/Pharmacy #3408, by deception, to wit: Maynard D. Turner stole the following drugs over the past two years. Maynard D. Turner also stole various other types of maintenance medications for the treatment of colds and allergies.

<u>Drug</u>	<u>Qty.</u>
Vicodin 5/500 mg	200
Ambien	200
Valium	200
hydrocodone/apap 5/500 mg	1.5
alprazolam 0.25 mg	8
alprazolam 0.5 mg	3
alprazolam 1 mg	14
diazepam 5 mg	3
butalbital/apap/caffeine	3
flurbiprofen 100 mg	3
Levbid Extended-Release 0.375 mg	3
Claritin-D	1
sulfamethoxazole/trimethoprim	1
Guaifenes PSE 120 mg	4.5
Mycelex Troche 10 mg	3
Cetirizine HCl	3
butalbital/apap/Caffeine	5
Acetaminophen/Codeine #4	4
atropine sulfate/diphenoxylate HCL	19
Concerta 36 mg	27

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

- (4) Maynard D. Turner did, on or about unknown dates prior to August 22, 2002, knowingly possess or use controlled substances when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: agents of the Board of Pharmacy removed the following drugs, obtained without valid prescriptions, from Maynard D. Turner's residence:

<u>Drug</u>	<u>Qty.</u>
hydrocodone/apap 5/500 mg	1.5
alprazolam 0.25 mg	8
alprazolam 0.5 mg	3
alprazolam 1 mg	14
diazepam 5 mg	3
Acetaminophen/Codeine #4	4
atropine sulfate/diphenoxylate HCL	19

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

- (5) Maynard D. Turner did, on or about unknown dates prior to August 22, 2002, knowingly possess or use dangerous drugs when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: agents of the Board of Pharmacy removed the following dangerous drugs, obtained without valid prescriptions, from Maynard D. Turner's residence:

<u>Drug</u>	<u>Qty.</u>
butalbital/apap/caffeine	3
flurbiprofen 100 mg	3
Levbid Extended-Release 0.375 mg	3
Claritin-D	1
sulfamethoxazole/trimethoprim	1
Guaifenesin PSE 120 mg	4.5
Mycelex Troches 10 mg	3
cetirizine HCl	3
butalbital/apap/caffeine	5

Such conduct is in violation of Section 4729.51(C)(3) of the Ohio Revised Code.

- (6) Maynard D. Turner did, on or about unknown dates prior to August 22, 2002, intentionally make and/or knowingly possess a false or forged prescription, to wit: Maynard D. Turner compounded prescriptions #342026, #342027, #342028, #342029 and #342032, labeled "Fluffo Cream" for various patients having skin problems. Such conduct violates Section 2925.23(B) of the Ohio Revised Code.
- (7) Maynard D. Turner did, on or about unknown dates prior to August 22, 2002, knowingly sell a dangerous drug when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Maynard D. Turner gave a customer a 100 lot bottle of Viagra in exchange for spring mushrooms, stating, "This should cover it." Such conduct violates Section 4729.51(C)(2) of the Ohio Revised Code.
- (8) On June 17, 2003, Maynard D. Turner pled guilty to two (2) counts of Theft of Drugs, felonies of the fourth degree under Section 2913.02 of the Ohio Revised Code; one (1) count of Aggravated Possession of Drugs, a felony of the fifth degree under Section 2925.11 of the Ohio Revised Code; and two (2) counts of Illegal Processing of Drug Documents, felonies of the fifth degree under Section 2913.02 of the Ohio Revised Code. On the same date you requested Intervention in Lieu of Conviction. State of Ohio vs M. Dwight Turner, Case No. 20030116 CRI, Fayette County Common Pleas Court. Such conduct indicates that Maynard D. Turner is guilty of a felony or gross immorality, dishonesty or unprofessional conduct in the practice of pharmacy, and/or addicted to or abusing drugs to render him unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Maynard D. Turner neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated September 10, 2002 and Addendum Notice dated July 22, 2003; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Maynard D. Turner knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

Maynard D. Turner's license to practice pharmacy in the State of Ohio is hereby INDEFINITELY SUSPENDED. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Maynard D. Turner may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during the suspension.

Further, Maynard D. Turner agrees to the imposition of a monetary penalty of Six Thousand Dollars (\$6,000.00) pursuant to an approved payment plan as follows: One Hundred Dollars (\$100.00) per month, due on or before the last day of each month, until the balance is paid in full. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126. At any future 119. hearing pursuant to a petition for reinstatement, the payment plan will be revised and/or adjusted in the discretion of the Board, if Maynard D. Turner's license to practice pharmacy is reinstated.

After a period two (2) years following the date of the Summary Suspension Order of September 10, 2002, the Board will consider any petition filed by Maynard D. Turner for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of Maynard D. Turner's license to practice pharmacy if the following conditions have been met:

- (A) Maynard D. Turner 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 submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. 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 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.

If, in the judgment of the Board, Maynard D. Turner appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Maynard D. Turner acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Maynard D. Turner waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Maynard D. Turner waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Maynard D. Turner agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

SIGNED AND EFFECTIVE SEPTEMBER 8, 2003



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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

September 10, 2002

Maynard D. Turner, R.Ph.
6912 White Oak N. E.
Bloomington, Ohio 43106

Re: Ohio Registered Pharmacist
Number 03-2-09730

Dear Mr. Turner:

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 February 8, 1971, pursuant to examination, 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 CVS/Pharmacy #3408 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
- (2) You are addicted to liquor or drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: on or about August 22, 2002, you admitted to an agent of the Board of Pharmacy that you believed you have been addicted to Xanax and Fioricet for the past two years; and, that your addiction had reached its peak within the past few weeks at six (6) to eight (8) Xanax a day and four (4) to five (5) Fioricet a day. You admitted to stealing Xanax to cope with the stress of working at CVS/Pharmacy #3408, and you admitted stealing Fioricet for headaches. Such conduct indicates that you are addicted to the use of controlled substances within the meaning of Section 3719.121 of the Ohio Revised Code; and that you are addicted to or abusing controlled substances to such a degree as to render you unfit to practice pharmacy; 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.
- (3) You did, on or about unknown dates prior to August 22, 2002, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/Pharmacy #3408, by deception, to wit: you stole the following drugs over the

past two years. You also stole various other types of maintenance medications for the treatment of colds and allergies.

<u>Drug</u>	<u>Qty.</u>
Vicodin 5/500 mg	200
Ambien	200
Valium	200
hydrocodone/apap 5/500 mg	1.5
alprazolam 0.25 mg	8
alprazolam 0.5 mg	3
alprazolam 1 mg	14
diazepam 5 mg	3
butalbital/apap/caffeine	3
flurbiprofen 100 mg	3
Levbid Extended-Release 0.375 mg	3
Claritin-D	1
sulfamethoxazole/trimethoprim	1
Guaifenesin PSE 120 mg	4.5
Mycelex Troche 10 mg	3
Cetirizine HCl	3
butalbital/apap/Caffeine	5
Acetaminophen/Codeine #4	4
atropine sulfate/diphenoxylate HCL	19
Concerta 36 mg	27

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.

- (4) You did, on or about unknown dates prior to August 22, 2002, knowingly possess or use controlled substances when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: agents of the Board of Pharmacy removed the following drugs, obtained without valid prescriptions, from your residence:

<u>Drug</u>	<u>Qty.</u>
hydrocodone/apap 5/500 mg	1.5
alprazolam 0.25 mg	8
alprazolam 0.5 mg	3
alprazolam 1 mg	14
diazepam 5 mg	3
Acetaminophen/Codeine #4	4
atropine sulfate/diphenoxylate HCL	19
Concerta 36 mg	27

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; 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.

- (5) You did, on or about unknown dates prior to August 22, 2002, knowingly possess or use dangerous drugs when not in accordance with Chapters 3719., 4729., and 4731.

of the Ohio Revised Code, to wit: agents of the Board of Pharmacy removed the following dangerous drugs, obtained without valid prescriptions, from your residence:

<u>Drug</u>	<u>Qty.</u>
butalbital/apap/caffeine	3
flurbiprofen 100 mg	3
Levbid Extended-Release 0.375 mg	3
Claritin-D	1
sulfamethoxazole/trimethoprim	1
Guaifenesin PSE 120 mg	4.5
Mycelex Troches 10 mg	3
cetirizine HCl	3
butalbital/apap/caffeine	5

Such conduct is in violation of Section 4729.51(C)(3) 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.

- (6) You did, on or about unknown dates prior to August 22, 2002, intentionally make and/or knowingly possess a false or forged prescription, to wit: you compounded prescriptions #342026, #342027, #342028, #342029 and #342032, labeled "Fluffo Cream" for various patients having skin problems. Such conduct violates Section 2925.23(B) 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. or the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.
- (7) You did, on or about unknown dates prior to August 22, 2002, knowingly sell a dangerous drug when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you gave a customer a 100 lot bottle of Viagra in exchange for spring mushrooms, stating, "This should cover it." Such conduct violates Section 4729.51(C)(2) of the Ohio Revised Code 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.
- (8) On June 17, 2003, you pled guilty to two (2) counts of Theft of Drugs, felonies of the fourth degree under Section 2913.02 of the Ohio Revised Code; one (1) count of Aggravated Possession of Drugs, a felony of the fifth degree under Section 2925.11 of the Ohio Revised Code; and two (2) counts of Illegal Processing of Drug Documents, felonies of the fifth degree under Section 2913.02 of the Ohio Revised Code. On the same date you requested Intervention in Lieu of Conviction. State of Ohio vs M. Dwight Turner, Case No. 20030116 CRI, Fayette County Common Pleas Court. Such conduct indicates that you are guilty of a felony or gross immorality, dishonesty or unprofessional conduct in the practice of pharmacy, and/or addicted to or abusing drugs to render you unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

[paragraph added by Notice dated 07/22/03]

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-020910-007)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE SEPTEMBER 10, 2002

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Settlement Agreement Effective September 8, 2003)*