



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-021120-039)

In The Matter Of:

RALPH G. HOMER, R.Ph.

7192 Timber Lane

Olmsted Twp., Ohio 44138

(R.Ph. No. 03-2-09922)

INTRODUCTION

THE MATTER OF RALPH G. HOMER CAME FOR HEARING ON MARCH 5, 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.

RALPH G. HOMER WAS REPRESENTED BY JOHN R. IRWIN, M.D. 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. Ralph G. Homer, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from John R. Irwin, M.D. [11-18-02]
- 1A-1B. Procedurals
2. Copy of State Board of Pharmacy Order in re Ralph G. Homer [01-11-02]
- 2A. Photocopy of Hydromet Syrup bottle [09-01-01]
3. Photocopy of Medicine Vial containing Hydromet/Hydramine [not dated]
4. Photocopy of Medicine Vial containing Vioxx tablet [09-06-01]
5. Photocopy of Medicine Vial containing hydrocodone bitartrate, Norgesic Forte, and temazepam tablets [09-06-01]
6. Photocopy of Medicine Vial containing temazepam, Halcion, and diazepam tablets [not dated]
7. Photocopy of Medicine Vial containing hydrocodone bitartrate tablets [(not visible)-06-01]
8. Photocopy of Medicine Vial containing ibuprofen tablets [09-06-01]
9. Accountability Statement for drug audit of hydrocodone compound syrup 5mg/5m at Tops Pharmacy #874 [10-25-01]
10. Accountability Statement for drug audit of hydrocodone/acet 5/500 tablets at Tops Pharmacy #874 [10-25-01]

11. Accountability Statement for drug audit of hydrocodone/acet 7.5/750 tablets at Tops Pharmacy #874 [10-25-01]
12. Accountability Statement for drug audit of hydrocodone/acet 10/650 tablets at Tops Pharmacy #874 [10-25-01]
13. Accountability Statement for drug audit of Vicoprofen at Tops Pharmacy #874 [10-25-01]
14. Copy of Notarized Statement of Evelyn L. Diaz, R.Ph. [11-19-01]
15. Accountability Statement for drug audit of diazepam 5 mg tablets at Tops Pharmacy #874 [10-25-01]
16. Accountability Statement for drug audit of diazepam 10 mg tablets at Tops Pharmacy #874 [10-25-01]
17. Accountability Statement for drug audit of temazepam 15 mg capsules at Tops Pharmacy #874 [10-25-01]
18. Accountability Statement for drug audit of temazepam 30 mg capsules at Tops Pharmacy #874 [10-25-01]
19. Accountability Statement for drug audit of Norgesic Forte 60 mg tablets at Tops Pharmacy #874 [10-25-01]
20. Accountability Statement for drug audit of Vioxx 50 mg tablets at Tops Pharmacy #874 [10-25-01]
21. Accountability Statement for drug audit of Vioxx 25 mg tablets at Tops Pharmacy #874 [10-25-01]
22. Accountability Statement for drug audit of Vioxx 12.5 mg tablets at Tops Pharmacy #874 [10-25-01]
23. Bill of Information [02-21-02]; Waiver of indictment With Counsel [not dated]; and Journal Entry [04-19-02]. State of Ohio vs. Ralph Homer, Case No. CR 414766, Cuyahoga County Common Pleas Court.

Respondent's Exhibits

- A. PRO Pharmacist's Recovery Contract for Ralph G. Homer [01-21-02]
- B. Calendar pages for December 2001 to February 2003
- C. Support Group Attendance Records [12-01-01 to 02-24-03]
- D. Calendar pages for November 2001 to February 2003
- E. Drug Screen Report [11-21-01]
- F. Drug Screen Report [12-12-01]
- G. Drug Screen Report [05-04-02]
- H. Drug Screen Licensee Summary Report [01-01-02 to 12-31-02]
- I. Drug Screen Report [01-17-03]
- J. Drug Screen Report [02-13-03]
- K. Letter from Michael D. Quigley, R.Ph. [02-26-03]
- L. Letter from Tim McNally [01-18-03]
- M. Tops Markets Receipt and Promissory Note re Ralph G. Homer [12-03-02]
- N. Letters from Joseph W. Janesz, Ph.D., PCC, CCDCIII-E, CRC and Gregory B. Collins, M.D. [02-13-03]; Robert J. Dougherty, R.Ph. [02-12-03]; Richard Pasela [02-04-03]; Walter Hubish, R.Ph. [03-05-03]; Emil Dontenville [02-21-03]
- O. Continuing Pharmaceutical Education Certificates [08-01-99 to 11-15-02]

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 Ralph G. Homer has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-010913-009, effective January 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. 03-2-09922, held by Ralph G. Homer to practice pharmacy in Ohio and places Ralph G. Homer on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Ralph G. Homer 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) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.
 - (c) 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.
 - (d) 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 and alcohol 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) Ralph G. Homer 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 Ralph G. Homer's progress towards recovery and what Ralph G. Homer 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 Ralph G. Homer'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) Ralph G. Homer may not serve as a responsible pharmacist.

(3) Ralph G. Homer may not destroy, assist in, or witness the destruction of controlled substances.

(4) Ralph G. Homer must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Ralph G. Homer must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Ralph G. Homer must abide by the rules of the State Board of Pharmacy.

(7) Ralph G. Homer 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.

If Ralph G. Homer's pharmacist identification card to practice pharmacy in Ohio is not issued within three years of the effective date of this Order, Ralph G. Homer must also take and pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination accepted by the Board.

Ralph G. Homer 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 APRIL 9, 2003



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010913-009)

In The Matter Of:

RALPH G. HOMER, R.Ph.

7192 Timber Lane

Olmsted Twp., Ohio 44138

(R.Ph. No. 03-2-09922)

INTRODUCTION

THE MATTER OF RALPH G. HOMER CAME FOR HEARING ON DECEMBER 4, 2001 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.

RALPH G. HOMER WAS REPRESENTED BY JOHN R. IRWIN AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) James Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Ralph G. Homer, Respondent
- (2) Marion Homer, Wife of Respondent
- (3) Todd Jaros, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated September 13, 2001.
- (2) Exhibit 1A--Hearing Request letter from John R. Irwin, M.D. dated October 2, 2001.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated October 12, 2001.
- (4) Exhibit 1C--Copy of three-page Amendment Notice dated November 13, 2001.
- (5) Exhibit 1D--Copy of Ohio Pharmacist Computer Record of Ralph George Homer.

- (6) Exhibit 2--One-pint stock bottle labeled "Hydromet Syrup, 5mg and 1.5mg/5ml" manufactured by Alpharma, with handwritten label stating "Removed From Pharmacy Trash ... on 9/1/01 ...".
- (7) Exhibit 3--Amber bottle with handwritten label stating "Found In Pharmacy on 9/6/01 ... 20ml Hydromet Syrup and Hydramine liquid ...".
- (8) Exhibit 4--Amber prescription vial with handwritten label stating "Taken From Residence, Ralph Homer, 9/6/01, 1 white tab-Vioxx 25mg".
- (9) Exhibit 5--White prescription vial with handwritten label stating "Taken From Home of Ralph Homer on 9/6/01, 7 white tabs 'M360'-2 Norgesic Forte, 3 yellow caps Mylan 5050".
- (10) Exhibit 6--Amber prescription vial with handwritten label stating "Taken From R. Homer Residence 9/6/01, 6 yellow caps-Mylan 5050, 3 white tabs- Halcion 0.5mg, 26 yellow tabs-generic valium".
- (11) Exhibit 7--Amber prescription vial with handwritten label stating "Taken From Home of Ralph Homer on 9/6/01, 5 tabs M360".
- (12) Exhibit 8--Brown prescription vial with handwritten label stating "Taken From Home of Ralph Homer 9/6/01, 2 white tabs G800 Ibuprofen 800mg".
- (13) Exhibit 9--Accountability Statement for Hydrocodone Compound Syrup 5mg/5m at Tops Pharmacy #874 dated October 25, 2001.
- (14) Exhibit 10--Accountability Statement for Hydrocodone/Acet 5/500 tablets at Tops Pharmacy #874 dated October 25, 2001.
- (15) Exhibit 11--Accountability Statement for Hydrocodone/Acet 7.5/750 tablets at Tops Pharmacy #874 dated October 25, 2001.
- (16) Exhibit 12--Accountability Statement for Hydrocodone/Acet 10/650 tablets at Tops Pharmacy #874 dated October 25, 2001.
- (17) Exhibit 13--Accountability Statement for Vicoprofen at Tops Pharmacy #874 dated October 25, 2001.
- (18) Exhibit 14--Statement of Evelyn L. Diaz notarized November 19, 2001.
- (19) Exhibit 15--Accountability Statement for Diazepam 5mg tablets at Tops Pharmacy #874 dated October 25, 2001.
- (20) Exhibit 16--Accountability Statement for Diazepam 10mg tablets at Tops Pharmacy #874 dated October 25, 2001.
- (21) Exhibit 17--Accountability Statement for Temazepam 15mg capsules at Tops Pharmacy #874 dated October 25, 2001.
- (22) Exhibit 18--Accountability Statement for Temazepam 30mg capsules at Tops Pharmacy #874 dated October 25, 2001.
- (23) Exhibit 19--Accountability Statement for Norgesic Forte 60mg tablets at Tops Pharmacy #874 dated October 25, 2001.
- (24) Exhibit 20--Accountability Statement for Vioxx 50mg tablets at Tops Pharmacy #874 dated October 25, 2001.
- (25) Exhibit 21--Accountability Statement for Vioxx 25mg tablets at Tops Pharmacy #874 dated October 25, 2001.
- (26) Exhibit 22--Accountability Statement for Vioxx 12.5 mg tablets at Tops Pharmacy #874 dated October 25, 2001.

Respondent's Exhibits:

- (1) Exhibit A1--Letter from Gregory B. Collins, M.D. dated November 21, 2001.
- (2) Exhibit A2--Letter from Joseph W. Janesz, Ph.D., PCC, CCDC III-E, CRC and Gregory B. Collins, M.D. dated November 21, 2001.
- (3) Exhibit A3--Letter from Rudy Kump, M.A., CCDCIII.
- (4) Exhibit A4--Three-page PRO Inc. Pharmacist's Recovery Contract of Ralph G. Homer Jr., dated October 6, 2001.

- (5) Exhibit A5-A--September 2001 calendar page.
- (6) Exhibit A5-B-F--Five pages of support group attendance verification records dated from September 12, 2001 to November 27, 2001.
- (7) Exhibit A6--Copy of Cleveland Clinic Foundation Lab Results Summary covering August 22, 2001 through March 30, 2002 re Ralph J.(sic) Homer dated November 30, 2001.
- (8) Exhibit A7--Copy of letter from Robert J. Dougherty, R.Ph. dated November 29, 2001.
- (9) Exhibit A8--Letter from Margaret A. Darty dated November 21, 2001.

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 Ralph G. Homer was originally licensed by the State of Ohio on July 26, 1971, pursuant to examination, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective September 13, 2001.
- (2) Ralph G. Homer is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code, to wit: Ralph G. Homer has admitted to stealing and abusing drugs for the past ten years. Additionally, Ralph G. Homer has been observed by a Board of Pharmacy agent abusing drugs while practicing pharmacy.
- (3) Ralph G. Homer did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: Ralph G. Homer stole 1,286 ounces of hydrocodone compound syrup, 530 tablets of Vicoprofen, 5,785 tablets of hydrocodone/acetaminophen 5/500mg, 6,160 tablets of hydrocodone/acetaminophen 7.5/750mg, and 545 tablets of hydrocodone/acetaminophen 10/650mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Ralph G. Homer did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: Ralph G. Homer admittedly stole 3,257 tablets of diazepam 5mg, 588 tablets of diazepam 10mg, 383 tablets of temazepam 15mg, and 1,392 capsules of temazepam 30mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Ralph G. Homer did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: Ralph G. Homer admittedly stole 237 tablets of Norgesic Forte 60mg, 15 tablets of Vioxx 12.5mg, 49 tablets of Vioxx 25mg, 16 tablets of Vioxx 50mg, and 2 tablets of ibuprofen 800mg. Such conduct is in violation of Section 2913.02 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) through (5) 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 (2) 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) 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.

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 Ralph G. Homer on September 13, 2001.

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. 03-2-09922, held by Ralph G. Homer and such suspension is effective as of the date of the mailing of this Order.

- (A) Ralph G. Homer, 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) Ralph G. Homer, 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 Ralph G. Homer 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) Ralph G. Homer 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) Ralph G. Homer 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) Ralph G. Homer must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Full restitution paid to Tops Pharmacy.
 - (2) 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.);
 - (3) 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;
 - (4) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Ralph G. Homer 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 JANUARY 11, 2002



OHIO STATE BOARD OF PHARMACY

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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

September 13, 2001

Ralph G. Homer, Jr., R.Ph.
7192 Timber Lane
Olmsted Twp., Ohio 44138

Re: Ohio Registered Pharmacist
License Number 03-2-09922

Dear Mr. Homer:

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 July 26, 1971, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to or abusing drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code, to wit: you have admitted to stealing and abusing drugs for the past ten years. Additionally, you have been observed by a Board of Pharmacy agent abusing drugs while practicing pharmacy.
- (3) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you stole 1,286 ounces of hydrocodone compound syrup, 530 tablets of Vicoprofen, 5,785 tablets of hydrocodone/acetaminophen 5/500mg, 6,160 tablets of hydrocodone/acetaminophen 7.5/750mg, and 545 tablets of hydrocodone/acetaminophen 10/650mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

[paragraph amended by Notice dated 11/13/01]

- (4) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 3,257 tablets of diazepam 5mg, 588 tablets of diazepam 10mg, 383 tablets of temazepam 15mg and 1,392 capsules of temazepam 30mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

[paragraph amended by Notice dated 11/13/01]

- (5) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 237 tablets of Norgesic Forte 60mg, 15 tablets of Vioxx 12.5mg, 49 tablets of Vioxx 25mg, 16 tablets of Vioxx 50mg and 2 tablets of ibuprofen 800mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

[paragraph amended by Notice dated 11/13/01]

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 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, 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.

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-010913-009)

BY ORDER OF THE STATE BOARD OF PHARMACY
SUMMARY SUSPENSION EFFECTIVE SEPTEMBER 13, 2001

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective January 11, 2002)*



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

PHONE: 614/466-4143

FAX: 614/752-4836

E-MAIL: exec@bop.state.oh.us

TTY/TDD Ohio Relay Service: 1-800/750-0750

URL: <http://www.state.oh.us/pharmacy/>

AMENDMENT NOTICE

November 13, 2001

Ralph G. Homer, R.Ph.

7192 Timber Lane
Olmsted Twp., Ohio 44138

Re: Ohio Registered Pharmacist
Number 03-2-09922

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that paragraphs three, four and five of the Summary Suspension Order/Notice of Opportunity letter September 13, 2001, is amended to read as follows:

- (3) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you stole 1,286 ounces of hydrocodone compound syrup, 530 tablets of Vicoprofen, 5,785 tablets of hydrocodone/acetaminophen 5/500mg, 6,160 tablets of hydrocodone/acetaminophen 7.5/750mg, and 545 tablets of hydrocodone/acetaminophen 10/650mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 3,257 tablets of diazepam 5mg, 588 tablets of diazepam 10mg, 383 tablets of temazepam 15mg and 1,392 capsules of temazepam 30mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) You did, from May 1, 1999, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 237 tablets of Norgesic Forte 60mg, 15 tablets of Vioxx 12.5mg, 49 tablets of Vioxx 25mg, 16 tablets of Vioxx 50mg and 2 tablets of ibuprofen 800mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

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, 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.

IN ACCORDANCE WITH THE SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY letter dated September 13, 2001, and pursuant to your adjudication hearing scheduled for December 4, 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 December 4, 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

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



OHIO STATE BOARD OF PHARMACY

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SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

September 13, 2001

Ralph G. Homer, Jr., R.Ph.
7192 Timber Lane
Olmsted Twp., Ohio 44138

Re: Ohio Registered Pharmacist
License Number 03-2-09922

Dear Mr. Homer:

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 July 26, 1971, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (2) You are addicted to or abusing drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code, to wit: you have admitted to stealing and abusing drugs for the past ten years. Additionally, you have been observed by a Board of Pharmacy agent abusing drugs while practicing pharmacy.
- (3) You did, from July 3, 2001, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you stole 122 ounces of Hydromet syrup and 27 hydrocodone/acetaminophen 7.5/750mg tablets. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) You did, from January 1, 2001, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 26 diazepam 5mg tablets and 9 temazepam 30mg capsules. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) You did, from January 1, 2001, through September 6, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Tops Pharmacy, beyond the express or implied consent of the owner, to wit: you admittedly stole 2 Norgesic Forte Tablets, 1 Vioxx 25mg tablet, and 2 ibuprofen 800mg tablets. Such conduct is in violation of Section 2913.02 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 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, 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.

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

Timothy J. Benedict, R.Ph.
Assistant Executive Director