



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:

CASE NO. A-2019-0507

David Baker, RPh
3429 Turtle Shell Drive
Dayton, Ohio 45414

License No. 03-214143

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and David Baker, for the purpose of resolving all issues between the parties relating to the Board investigation of David Baker documenting patient clinical interventions that were not performed. Together, the Board and David Baker are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. David Baker is a licensed pharmacist in Ohio under license number 03-214143.

FACTS

1. The Board initiated an investigation of David Baker, pharmacist license number 03-214143, related to documenting patient clinical interventions that were not performed.
2. On or about October 18, 2021, the Board sent a Notice of Opportunity for Hearing to David Baker, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

77 South High Street, 17th Floor, Columbus, Ohio 43215

T: (614) 466.4143 | F: (614) 752.4836 | contact@pharmacy.ohio.gov | www.pharmacy.ohio.gov

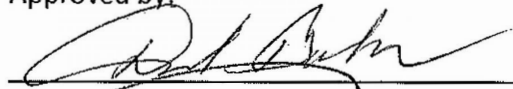


1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. David Baker neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated October 18, 2021; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. David Baker agrees to pay to the Board a monetary penalty in the amount of \$100.00. This fine will be attached to your license record and must be paid no later than 180 days from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
4. David Baker must obtain, within 180 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. David Baker agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. David Baker understands that he has the right to be represented by counsel for review and execution of this agreement.
7. David Baker agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
8. David Baker waives his opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

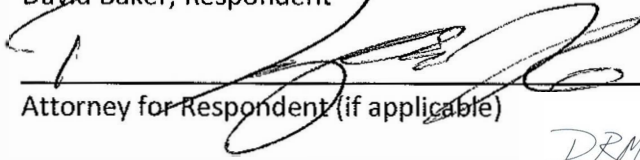
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.


Approved by:



David Baker, Respondent



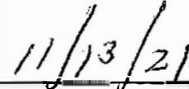
Attorney for Respondent (if applicable)



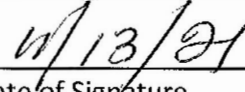
Rich Miller, RPh, President,
State of Ohio Board of Pharmacy



Henry Appel, Ohio Assistant Attorney General



Date of Signature



Date of Signature

11.30.2021

Date of Signature

11.30.2021

Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY



**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

CASE NO. A-2019-0507

David Baker, RPh
3429 Turtle Shell Drive
Dayton, Ohio 45414

License No. 03-214143

October 18, 2021

Dear Mr. David Baker:

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license for violations of Chapter 4729. of the Revised Code and Section 4729 of the Administrative Code under authority of Section 4729.16 of the Revised Code.

JURISDICTION

1. Pursuant to division (A)(1) of Section 4729.16 (effective September 29, 2017) of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.16(A)(1)(a); and/or
 - b. Reprimand or place the license holder on probation, ORC 4729.16(A)(1)(b); and/or
 - c. Impose a monetary penalty or forfeiture not to exceed in severity any penalty designated under the Revised Code for a similar offense or in the case of a violation of a section of the Revised Code that does not bear a penalty, impose a monetary penalty or forfeiture of not more than \$500, ORC 4729.16(A)(1)(c).
2. Rule 4729:1-4-01 of the Ohio Administrative Code (OAC) provides that the Board may discipline or deny the issuance of a certificate of registration or an identification card to practice pharmacy as a pharmacist in Ohio.
3. David Baker is a licensed pharmacist in the state of Ohio under license number 03-214143.

77 South High Street, 17th Floor, Columbus, Ohio 43215



ALLEGATIONS

1. From on or about September 10, 2019 to September 26, 2019, while working as a pharmacist at Kroger Pharmacy, located at 155 North Heincke Road, Miamisburg, Ohio, you fraudulently documented patient clinical interventions that you were not actually doing. An audit indicated you documented three patient interventions that did not occur. On or about September 30, 2019, Kroger staff confirmed with all three patients they did not have any interaction with you or any pharmacist performing clinical interventions. Kroger staff confirmed that in all three cases, you entered the fraudulent clinical interventions into the software system that reimburses Kroger for patient encounters through the patient's insurance.
2. On or about October 10, 2019, you were interviewed by an agent of the Board. You stated you took credit for the 30 to 90-day supply conversions in order to meet your intervention performance goals. In one incident, you may not have spoken to the patient on the exact day you recorded the intervention, but you likely spoke with him prior to that date.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of September 29, 2017, each violation constituting a minor misdemeanor, each punishable by a maximum penalty of \$150:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and/or
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e).
 - c. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
2. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018, each violation punishable by a maximum penalty of \$500:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and/or
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or
 - c. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m); and/or

- d. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p).

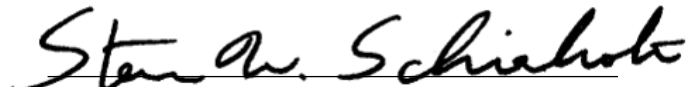
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. 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 there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY


Steven W. Schierholt, Esq., Executive Director

SWS/alg/kll

CMRRR: 9414 7118 9956 1392 4480 76



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

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

FAX: 614/752-4836

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

URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960227-041)

In The Matter Of:

DAVID W. BAKER, R.Ph.
3109 Benchwood Road
Dayton, Ohio 45414
(R.Ph. No. 03-3-14143)

INTRODUCTION

THE MATTER OF DAVID W. BAKER CAME TO HEARING ON OCTOBER 21, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID W. BAKER WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) David W. Baker, Respondent
- (2) Nick A. Kallis, Pharmacists Rehabilitation Organization, Inc.
- (3) Richard A. Kryc, Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Ohio State Board of Pharmacy Journal, Entry No. J-940815-030, Order of the State Board of Pharmacy, Docket No. D-930621-094, in the matter of David W. Baker dated August 15, 1994.

- (2) Exhibit 1A--Hearing Request letter dated February 22, 1996.
- (3) Exhibit 1B--Two-page Hearing Schedule letter dated February 27, 1996.

Respondent's Exhibits:

- (1) Exhibit A--All documents are copies. Section 1: PRO and RMS Contracts: Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of David W. Baker dated June 21, 1994; Revised two-page copy of Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacist's Contract of David W. Baker dated June 21, 1994; letter from Kevin Kramer dated June 28, 1994; Shepherd Hill Hospital Recovery Monitoring Services Agreement of David Baker dated October 12, 1994; letter from Fred N. Karaffa dated October 6, 1994; Turning Point Continuing Care Contract of David Baker dated October 27, 1994; and letter from Stephen J. Cahill dated October 5, 1995. Section 2: Urine Drug Screens: Licking Memorial Hospital Certification of Debbie Znosko dated September 16, 1996; forty-one urine drug screen reports of David Baker dated as follows: August 15, 1996; July 29, 1996; two-page report dated July 24, 1996; June 22, 1996; June 15, 1996; 2 reports dated May 22, 1996; April 25, 1996; two-page report dated April 5, 1996; two-page report dated March 27, 1996; 2 two-page reports dated March 1, 1996; two-page report dated February 8, 1996; two-page report dated February 1, 1996; 2 two-page reports dated December 30, 1995; November 28, 1995; November 20, 1995; October 30, 1995; October 27, 1995; October 4, 1995; October 3, 1995; August 31, 1995; August 18, 1995; July 28, 1995; July 6, 1995; June 21, 1995; June 5, 1995; May 27, 1995; 2 reports dated May 1, 1995; March 24, 1995; March 21, 1995; February 21, 1995; January 31, 1995; January 5, 1995; December 19, 1994; December 7, 1994; November 24, 1994; November 7, 1994; and October 24, 1994. Section 3: AA Attendance: AA Attendance Log sheet dated from June 25th to July 26th; copy of flyer for and name-badge of Dave B. for the 38th Annual Ohio State Conference dated July 29, 30, 31, 1994; and twenty pages of AA Attendance Log Sheets of David Baker dated from July 27, 1994, through October 19, 1996. Section 4: Letters of Recommendation: two-page letter from Mary Spain dated October 2, 1996; letter from Nick A. Kallis dated September 26, 1996; letter from Rick Kryc dated September 26, 1996; two-page letter from Gordon F. Smith dated September 29, 1996; letter from Rodney E. Stone dated September 23, 1996; letter from James H. McCreary dated September 25, 1996; letter from Keith M. Wire dated September 26, 1996; letter from Julia Lucente dated September 29, 1996; letter from Susan M. Fesus dated September 25, 1996; letter from William D. Miles dated September 25, 1996; letter from James W. Smetana dated September 25, 1996; letter from Dettleff E. Olson dated September 24, 1996; letter from Michael R. Haley, not dated; letter from Jack M. McDonald dated September 27, 1996; and letter from Margaret C. Baker dated September 25, 1996. Section 5: Continuing Education: Certificate dated June 23, 1995, and Certificate of Participation dated July 18, 1995, for participation in "The University of Utah School on Alcoholism and Other Drug Dependencies", Program No. 679-068-95-023, of David Baker; Certification of Participation for "Quality of Care and the Law - Defining Standards and Structuring Enforcement", Program No. 680-048-94-001, not dated; Certification of Participation for "Emerging Legal and Ethical Issues in a Managed Care Environment", Program No. 680-048-95-003, not dated; Certification of Participation for "Legal Implications of Telemedicine & Electronic Prescriptions", Program No. 048-000-96-024-L03, dated July 26, 1996; Certification of Participation for "Legal Implications of Telemedicine & Electronic Prescriptions", Program No. 048-000-96-005-L03, of David Baker dated July 26, 1996; Certification of Participation for "Legal Implications of Telemedicine & Electronic Prescriptions",

Program No. 048-000-96-006-L03, dated July 26, 1996; Continuing Pharmaceutical Education Certificate for "Self Care Consulting Guide", Program No. 687-348-91-002, of David Baker dated August 23, 1994; Certificate of Participation for "Security in Pharmacy: What You Don't Know Can Hurt You", Program No. 686-342-91-024, of David W. Baker dated August 14, 1991; and Certificate of Participation for "Chemical Dependency and the Pharmacist", Program No. 679-105-95-13, of David W. Baker dated May 6, 1995. Section 6: LCC: sixteen letters from Jack McDonald dated as follows: June 7, 1994; June 27, 1994; August 4, 1994; September 6, 1994; October 6, 1994; November 2, 1994; December 14, 1994; February 8, 1995; March 8, 1995; June 2, 1995; July 7, 1995; September 7, 1995; October 19, 1995; November 20, 1995; March 4, 1996; and August 1, 1996. Section 7: Quarterly Letters: letter from Stephen J. Cahill dated July 25, 1994; letter from Gordon F. Smith dated July 25, 1994; letter from Stephen J. Cahill dated December 23, 1994; letter from Gordon F. Smith dated March 28, 1995; letter from Stephen J. Cahill dated April 10, 1995; letter from Nick A. Kallis dated April 12, 1995; letter from Fred N. Karaffa dated May 10, 1995; letter from Stephen J. Cahill dated June 12, 1995; letter from Gordon F. Smith dated July 2, 1995; letter from Stephen J. Cahill dated August 14, 1995; letter from Gordon dated October 1, 1995; letter from Mary Spain dated January 2, 1996; letter from Gordon Smith dated January 1, 1996; letter from Fred N. Karaffa dated April 3, 1996; letter from Gordon F. Smith dated April 1, 1996; letter from Mary Spain dated July 2, 1996; and letter from Gordon F. Smith dated July 4, 1996. Section 8: Legal: page five of the Order of the Board for David W. Baker; two-page hearing schedule letter dated February 27, 1996; two-page Decision and Entry in the Common Pleas Court of Montgomery County, Ohio, General Division, Case No. 92-CR-3492, of David W. Baker dated August 19, 1996; and letter from Terry L. Lewis dated August 22, 1996.

FINDING 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) David W. Baker is in compliance with the Order of the State Board of Pharmacy, Docket No. D-930621-094, dated August 15, 1994.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of David W. Baker to practice pharmacy in the state of Ohio and places him on probation for five years from the date his identification card is issued, with the following conditions:

- (A) David W. Baker must enter into a new contract, after the effective date of this Order, with a limited 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 with the renewal application. The contract must provide that:
 - (1) random, **observed** urine screens shall be conducted at least once a month for the entire five-year period. The urine drug screens must report testing for alcohol and must also report testing for creatinine as the dilutional standard or specific gravity;

- (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) David W. Baker 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 his progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of David W. Baker is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) David W. Baker may not serve as a responsible pharmacist.
 - (3) David W. Baker may not destroy, or may not assist in or witness the destruction of, controlled substances.
 - (4) David W. Baker must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) David W. Baker must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) David W. Baker must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) David W. Baker must comply with the terms of this Order.

David W. Baker 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.

MOTION CARRIED.

SO ORDERED.



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

TEL: 614/466-4143

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

FAX: 614/752-4836

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

URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-930621-094)

In The Matter Of:

DAVID W. BAKER, R.Ph.
3109 Benchwood Road
Dayton, Ohio 45414
(R.Ph. No. 03-3-14143)

INTRODUCTION

THE MATTER OF DAVID W. BAKER CAME TO HEARING ON JUNE 30, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID W. BAKER WAS REPRESENTED BY TERRY L. LEWIS AND TERI LYNN SMILES, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Detective Dennis Castle, Montgomery County Sheriff's Office
- (2) Sergeant Wesley Armstrong, Vandalia Police Department
- (3) Tricia Macdonald
- (4) Trooper Darren Fussner
- (5) David Baker, Respondent

Respondent's Witnesses:

- (1) Nick Kallis, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated June 21, 1993.
- (2) Exhibit 1A - Hearing Request letter from Terry L. Lewis dated July 14, 1993.
- (3) Exhibit 1B - Hearing Schedule letter dated July 19, 1993.
- (4) Exhibit 1C - Continuance Request letter from Terry L. Lewis dated November 11, 1993.
- (5) Exhibit 1D - Hearing Schedule letter dated November 16, 1993.
- (6) Exhibit 1E - Pharmacist File Front Sheet of David Wayne Baker showing original date of registration as July 31, 1981; and Renewal Application for Pharmacist License, No. 03-3-14143, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993 of David W. Baker dated July 6, 1992.
- (7) Exhibit 1F - Notice of Appearance and Certificate of Service; and Motion to Continue Hearing and Certificate of Service of David W. Grauer dated June 22, 1994.
- (8) Exhibit 1G - Hearing Schedule letter dated June 22, 1994.
- (9) Exhibit 1H - Continuance Request letter from Terry L. Lewis dated June 23, 1994.
- (10) Exhibit 1I - Schedule letter dated June 24, 1994.
- (11) Exhibit 2 - Eight-page facsimile copy of records from the Circuit Court of Manatee County, Florida, Case No. 83-543F of David Baker.
- (12) Exhibit 3 - Three-page copy of Records from the Vandalia Police Department, Report No. 84-18C-37, of David Baker dated January 4, 1985.
- (13) Exhibit 4 - Nine-page copy of records of the State of Ohio, State Highway Patrol, in the matter of David W. Baker dated December, 1992, and January, 1993.
- (14) Exhibit 5 - Handwritten statement of Tricia Macdonald signed and notarized on June 17, 1993.
- (15) Exhibit 6 - Two-page handwritten statement of Stuart Macdonald signed and notarized on June 17, 1993.
- (16) Exhibit 7 - Copy of Search Warrant of 3207 North Dixie Drive, Harrison Township, Montgomery County, State of Ohio with fourteen pages of attachments dated June 10, 1993.
- (17) Exhibit 8 - Copy of Search Warrant of 3109 Benchwood Road, Harrison Township, Montgomery County, State of Ohio with six pages of attachments dated June 10, 1993.
- (18) Exhibit 9 - Certified copy of Indictment in the Montgomery County Common Pleas Court, Case No. 92-CR-3492, of David W. Baker dated May 26, 1994.
- (19) Exhibit 10 - Copy of Montgomery County Sheriff's Office Supplementary Offense Report dated June 14, 1994.

Respondent's Exhibits:

- (1) Exhibit A - Letter from Kevin B. Kramer dated June 24, 1994.
- (2) Exhibit B - Two-page copy of Pharmacists Rehabilitation Organization, Inc. Recovering Pharmacists's Contract of David W. Baker dated June 21, 1994.
- (3) Exhibit C - MetPath Drug Screen Test Request Chain of Custody of David W. Baker dated April 20, 1994.
- (4) Exhibit D - MetPath Drug Screen Test Request Chain of Custody of David W. Baker dated May 22, 1994.
- (5) Exhibit E - MetPath Drug Screen Test Request Chain of Custody of David W. Baker dated June 19, 1994.

- (6) Exhibit F - Two-page copy of Miami Valley Hospital patient records of David W. Baker dated June 16, 1994.
- (7) Exhibit G - Three-page letter from John and Mary Ruth Kirker dated June 22, 1994; and letter from Timothy Chuvalas , not dated.
- (8) Exhibit H - Two-page letter from Thomas J. Blair dated June 24, 1994.
- (9) Exhibit I - Letter from Howard and Carole Kelley dated June 21, 1994.
- (10) Exhibit J - Letter from Clayton D. Raynes dated June 15, 1994.
- (11) Exhibit K - Two-page letter from Leo A. Palewicz dated July 19, 1994.
- (12) Exhibit L - Letter from Jeanne A. and Charles E. Niswonger, not dated.

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 indicate that David W. Baker was originally licensed to practice pharmacy in the state of Ohio on July 31, 1981, and his license was summarily suspended on June 21, 1993.
- (2) David W. Baker was, on or about April 20, 1983, arrested in Florida for Illegal Possession of Narcotic Equipment; Driving While Intoxicated; Possession of Methaqualone; Possession of Valium; Illegally Possessing a Dangerous Drug; and Possession of Cocaine.
- (3) David W. Baker was, on or about November, 1983, convicted in Manatee County Florida for Driving While Intoxicated.
- (4) David W. Baker was found, on or about December 31, 1984, to be unconscious and lying on the floor of a supermarket, having fresh blood and needle marks on both of his arms.
- (5) David W. Baker was, on or about December 30, 1992, arrested in Montgomery County, Ohio, for Driving under the Influence of Alcohol and/or Drugs; Drug Abuse; and illegally carrying or possessing a semi-automatic pistol.
- (6) On or about May, 1993, David W. Baker was observed, by an anonymous individual, to be drinking alcohol while practicing pharmacy; employees of Mr. Baker's pharmacy indicated that David W. Baker drinks alcohol and abuses drugs while practicing pharmacy; David W. Baker has been observed to have passed out from alcohol and/or drugs while practicing pharmacy; patients have complained about smelling alcohol on his breath while he was practicing pharmacy; and, patients have complained on numerous occasions that David W. Baker dispensed the wrong medication.
- (7) On or about June 10, 1993, during the execution of a criminal search warrant of Baker's Northridge Drug Store, where David W. Baker regularly practiced pharmacy, a partial bottle of whiskey was found on a stock shelf, and additional bottles were found to be concealed in the basement of the pharmacy.
- (8) On or about June 10, 1993, during the execution of a criminal search warrant of David W. Baker's residence, two unlabeled containers containing the controlled substances Valium 10mg, Valium 5mg, Tylox, Tuinal, Xanax, and several other

various dangerous drugs were found in Mr. Baker's home, and a blank prescription pad was also found.

- (9) From on or about February, 1993, to May 10, 1993, David W. Baker permitted someone other than a pharmacist or pharmacy intern to practice pharmacy, to wit: David W. Baker permitted Tricia Macdonald, an employee of the pharmacy and not a pharmacist, pharmacy intern, or pharmacy technician, to take telephone prescriptions; read and translate prescriptions; fill and dispense prescriptions; and dispense exempt narcotics. David W. Baker did not check Tricia Macdonald's work and in fact had instructed her to call him if she had questions.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (6) and (7) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute 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.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) through (9) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (9) of the Findings of Fact constitutes being guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy as provided in Division (A)(6) 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 June 21, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of David W. Baker:

- (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 David W. Baker, No. 03-3-14143, 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, David W. Baker 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) Two years after the effective date of this Order the Board will consider any petition filed by David W. Baker for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
- (1) David W. Baker must enter into a new contract, from the effective date of this Order, with a certified Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment program acceptable to the Board, for a period of not less than two years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least once a month. The urinalysis drug screens must include reporting of specific gravity;
 - (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare;
 - (c) the intervener shall provide copies of all urine screens to the Board of Pharmacy in a timely fashion; and
 - (d) the program shall immediately report to the Board of Pharmacy any violations of the contract.
 - (2) David W. Baker must provide, at the time of petitioning the Board for reinstatement, written documentation from his treatment provider regarding compliance with the program pursuant to the contract.
 - (3) David W. Baker must provide, at the time of the adjudication hearing, evidence attesting that there have been no administrative actions or criminal convictions aside from those broached herein.

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 the 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.