OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-940628-090)

In The Matter Of:

LESLIE OTCASEK SCHNEIDER, R.Ph.
11717 Concord-Hambden Road
Concord Township, Ohio 44077
(R.Ph. No. 03-2-15661)

INTRODUCTION

THE MATTER OF LESLIE OTCASEK-SCHNEIDER CAME TO HEARING ON DECEMBER 7, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

LESLIE OTCASEK-SCHNEIDER WAS REPRESENTED BY EDWARD T. BRICE, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) Ronald Foster, R.Ph., Director, Finast Pharmacy
(2) Frank J. Bodi, Ohio State Board of Pharmacy
(3) Leslie Otcasek Schneider, Respondent

Respondent's Witnesses:

(1) Leslie Otcasek Schneider, Respondent

(B) Exhibits

State's Exhibits:

(1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated June 28, 1994.
(2) Exhibit 1A - Hearing Request letter dated July 7, 1994.
(3) Exhibit 1B - Hearing Schedule letter dated July 13, 1994.
(4) Exhibit 1C - Two-page letter from Edward T. Brice dated July 25, 1994.

(5) Exhibit 1D - Letter from Franklin Z. Wickham dated August 10, 1994.
(6) Exhibit 2 - Pharmacist File Front Sheet of Leslie Lynn Otcasek Schneider showing original date of registration as August 8, 1984; and Renewal Application for Pharmacist License, No. 03-2-15661, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Leslie Otcasek Schneider dated August 15, 1994.
(7) Exhibit 3 - Renewal Application for DDD License, No. 02-586250, for a Terminal Distributor of Dangerous Drugs License from January 1, 1994, through December 31, 1994, signed by Leslie O. Schneider on September 29, 1993; Notification of Change of Responsible Person form of Finast Pharmacy showing Leslie Otcasek Schneider as Responsible Person effective June 13, 1989; and Notification of Change of Responsible Person form of Finast Pharmacy showing Kelli Schafer as Responsible Person effective June 11, 1994.
(8) Exhibit 4 - One unlabeled prescription vial containing 42 assorted capsules and tablets as follows: Darvon Compound, Fiorinal with Codeine, Soma 350mg, Cyclobenzaprine, Talacen, and Alprazolam.
(9) Exhibit 5 - Seven-page handwritten statement of Leslie Schneider signed and notarized on June 10, 1994.
(10) Exhibit 6 - Audio tape of interview of Leslie Schneider on June 10, 1994.
(11) Exhibit 7 - Finast Pharmacy Narcotic Audits for inventory ending on June 11, 1994 of: Soma Compound with Codeine; Finorinal with Codeine #3; Talacen Caplet; Alprazolam 0.5mg; Carisoprodol 350mg; and Propoxyphene Compound 65mg.
(12) Exhibit 8 - Seven-page Lake County Regional Forensic Laboratory Report, Case No. 94-1430, regarding the case of Leslie Schneider dated July 6, 1994.
(13) Exhibit 9 - Nine Count Certified Secret Indictment of Leslie O. Schneider in the Lake County Common Pleas Court dated September 28, 1994.

Respondent's Exhibits:

(1) Exhibit A - Copy of Hearing Notice in the Lake County Court of Common Pleas, Case No. 94-CR-00583, of Leslie Schneider dated November 23, 1994.
(2) Exhibit B - Copy of Judgment Entry in the Lake County Court of Common Pleas, Case No. 94 CR 000583, of Leslie O. Schneider dated November 23, 1994.
(3) Exhibit C - Copy of requirements for rehabilitation regarding defendants for Treatment in Lieu of Conviction, Probation, Conditional Probation, and Shock Probations.
(4) Exhibit D - Copy of North Coast Family Foundation Receipt of Leslie Schneider dated July 20, 1994.
(5) Exhibit E - Copy of letter from Eve R. Abernethy dated November 17, 1994.
(6) Exhibit F - Copy of letter from R. Denison Stewart dated July 26, 1994.
(7) Exhibit G - Copy of medical record of Dr. Stewart regarding patient Leslie Schneider dated July 26, 1994.
(8) Exhibit H - Copy of Progress Notes regarding patient Leslie Schneider dated from March 27, 1994, through August 8, 1994.

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 Leslie Otcasek Schneider was originally licensed to practice pharmacy in the state of Ohio on August 8, 1984. On June 28, 1994, Leslie Otcasek Schneider's license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.

(2) Leslie Otcasek Schneider did, from May 2, 1993, through June 10, 1994, with the purpose to deprive, knowingly obtain or exert control over the property of another, Finast Pharmacy in Mentor, Ohio, beyond the express or implied consent of the owner, the property being dangerous drugs, to wit: Leslie Otcasek Schneider stole the following drugs for her own personal use:

Darvon Compound 65mg and generic equivalents	1,895 capsules
Fiorinal with Codeine and generic equivalents	1,212 capsules
Soma Compound with Codeine	334 tablets

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

(3) Leslie Otcasek Schneider is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Leslie Otcasek Schneider has stolen and abused drugs; Leslie Otcasek Schneider has practiced pharmacy while under the influence of drugs; Leslie Otcasek Schneider has abused drugs while on duty as a pharmacist; and, Leslie Otcasek Schneider was found in possession of an unlabeled prescription drug bottle on June 10, 1994, which contained the following drugs:

(a) eight capsules red and gray in color, marked as 93-686, which were identified as Propoxyphene Compound 65mg.

(b) nine capsules blue and yellow in color, marked SFC, Sandoz 78-107, which were identified as Fiorinal with Codeine 30mg.

(c) seventeen round tablets white in color, marked as MP 58, which were identified as Carisoprodol 350mg tablets.

(d) six small round tablets, white in color, marked as G 1919, which were identified as Cyclobenzaprine.

(e) one large oblong tablet light blue in color, marked as UAD 63-50, which was identified as Talacen.

(f) one small oval shaped tablet, peach in color, marked as GG257, which was identified as Alprazolam 0.5mg.

Such conduct relates to the provisions of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

(2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her 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 paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued June 28, 1994.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Leslie Otcasek Schneider:

(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 Leslie Otcasek Schneider 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, Leslie Otcasek Schneider 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) Twelve months after the effective date of this Order, the Board will consider any petition filed by Leslie Otcasek Schneider for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of her license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:

(1) Leslie Otcasek Schneider must enter into a 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 one year 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 every three months. 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) Leslie Otcasek Schneider must provide, at the time of petitioning the Board for reinstatement, written documentation from her treatment provider regarding compliance with the program pursuant to the contract.

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

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (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 Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this notice 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
AND EFFECTIVE: **JANUARY 31, 1995**

CERTIFIED MAIL
Return Receipt
#Z 000 929 551

By: _____
Franklin Z. Wickham, R.Ph., M.S.
Executive Director

FZW/so

xc: Robert J. McClaren, Assistant Attorney General
Edward T. Brice, Attorney for Respondent; Newman, Leary & Brice; 214 East Park Street; Chardon, Ohio 44024