



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-060320-066)

In The Matter Of:

### **CHERYL HUTCHINS**

2126 St. James Avenue, Apt. 1  
Cincinnati, Ohio 45206

### INTRODUCTION

THE MATTER OF CHERYL HUTCHINS CAME FOR HEARING ON SEPTEMBER 12, 2006, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JAMES E. TURNER, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; AND DOROTHY S. TEATER, PUBLIC MEMBER.

CHERYL HUTCHINS WAS NOT REPRESENTED BY COUNSEL. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witness

1. Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

#### Respondent's Witness

1. Cheryl Hutchins, Respondent

#### State's Exhibits

1. Proposal to Deny/Notice of Opportunity For Hearing letter [03-20-06]  
1A-1C. Procedurals
2. State Board of Pharmacy Order In Re Cheryl Hutchins, R.Ph. [03-19-90]
- 2A. State Board of Pharmacy Order In Re Cheryl Hutchins, R.Ph. with United States Postal Service Certified Mail Return Receipt for Article No. P 497 578 675 [03-19-90]
3. Copy of Renewal Application for Pharmacist License for Cheryl Hutchins [08-02-89]
4. Indictment, State of Ohio vs. Cheryl A. Hutchins aka Cheryl Mundy, Case No. B871647, Hamilton County Common Pleas Court [05-06-87]; Entry Withdrawing Plea of Not Guilty and Entering Plea of Guilty [05-28-87]; Entry Ordering Probation Investigation and Report [05-28-87]; Judgment Entry: Sentence Suspended: Probation [06-25-87]
5. State Board of Pharmacy Order In Re Cheryl Hutchins, R.Ph. [12-06-96]
6. Notarized Statement of Marilyn Cherry [12-27-90]
7. Report of Probation Violation, State of Ohio vs. Cheryl Hutchins, Case No. B871647, Hamilton County Common Pleas Court [04-29-91]; Judgment Entry Revoking Probation and Ordering Execution of Sentence [05-17-91]
8. Ohio Department of Rehabilitation and Correction Offender Data [05-23-91 to 11-25-91]

9. Two-page copy of Check No. 255 made payable to Treasurer, State of Ohio, Marked "Returned Unpaid" [04-13-93]; Copy of Money Order No. 65270164860, made payable to Treasurer State of Ohio [10-24-96]
10. Application for Examination as a Pharmacist submitted by Cheryl Ann Cherry Hutchins [04-29-86]
11. Docket Sheet, State of Ohio vs. Cheryl Mundy, Case No. 83 CRB 5674, Hamilton County Municipal Court [03-13-84]

#### Respondent's Exhibits

- A. Ten Letters of Support [04-21-05 to 09-11-06]

#### 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 Board of Pharmacy indicate that Cheryl Hutchins submitted an application for examination as a pharmacist on or about March 8, 2006.

(2) Records of the Board indicate that Cheryl Hutchins was originally licensed by the State of Ohio as a pharmacist on August 6, 1986; and, on March 19, 1990, her license was suspended by the Board for a period of 72 months due to the following findings:

(a) Cheryl Hutchins did, on or about August 2, 1989, knowingly make a false statement with purpose to secure the issuance by a governmental agency of a license, to wit: Cheryl Hutchins indicated on her 1989 renewal application that she had not been found guilty of a felony or drug law violations when such answer was false. Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.

(b) Cheryl Hutchins was, on or about May 28, 1987, convicted of one count of Theft of Drugs, a felony of the fourth degree in violation of Section 2925.21 of the Ohio Revised Code and two counts of Illegal Processing of Drug Documents, felonies of the fourth degree in violation of Section 2925.23 of the Ohio Revised Code. State of Ohio vs. Cheryl Hutchins, Case No. B-871647, Hamilton County Common Pleas Court.

(c) Cheryl Hutchins did, on or about April 1, 1987, obtain a dangerous drug by committing or attempting to commit a theft offense, to wit: Cheryl Hutchins stole the following drugs from Kroger Pharmacy, 3829 Montgomery Road, Cincinnati, Ohio: 200 tablets of Valium 10 mg, 233 tablets of Tylenol #4, 100 tablets of Talwin, 1 pint of Hycomine Syrup, 100 tablets of Soma, and 2 bottles of 4 oz Benadryl Elixir. Such conduct is in violation of Section 2925.21 of the Ohio Revised Code.

(d) Cheryl Hutchins did, on or about March 31, 1987, with purpose to commit the commission of aggravated trafficking and/or theft of drugs, agree with another person that she would steal drugs and sell them, to wit: Cheryl Hutchins agreed with another to steal drugs from Kroger Pharmacy and sell them to that other person. Such conduct is in violation of Section 2923.01(A)(2) as it relates to Section 2925.03 of the Ohio Revised Code.

(3) Records of the Board indicate that on December 6, 1996, Cheryl Hutchins' license was revoked by the Board due to the following findings:

(a) Cheryl Hutchins did, from March 19, 1990, through May 5, 1990, while under suspension and not a registered pharmacist, compound, dispense, or sell dangerous drugs, to wit: after Cheryl Hutchins' suspension from the practice of pharmacy, she continued to practice pharmacy as a pharmacist at the Central Community Health Board of Hamilton County. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

(b) Cheryl Hutchins' court-ordered probation was revoked on or about April 29, 1991, and her sentence of 1½ to 5 years incarceration was imposed for having committed violations of her court-ordered probation, to wit: Cheryl Hutchins tested positive on April 22, 1991, for consuming a controlled substance; and, she was employed as a pharmacist when ordered by the court not to practice pharmacy.

(c) Cheryl Hutchins did, on or about April 13, 1993, submit a personal check, No. 255, in the amount of \$110.00 to the Ohio State Board of Pharmacy for the purpose of sitting for the Jurisprudence Examination on April 27, 1993. Said examination had been a condition for earlier reinstatement of her license, pursuant to the Order of the Board, Docket No. D-890920-046. However, the check was returned to the Board for reimbursement to the Treasurer due to insufficient funds. As of the date of the Proposal to Deny/Notice of Opportunity for Hearing letter dated September 27, 1996, the Board had not been compensated for the cost of allowing Cheryl Hutchins to sit for the examination. A certified letter from the Board to her home requesting payment went unclaimed by her.

On each occasion the Board concluded that Cheryl Hutchins was guilty of a felony or gross immorality and dishonesty and unprofessional conduct in the practice of pharmacy and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. or 4729. of the Revised Code as provided in Section 4729.16 of the Ohio Revised Code. For these reasons, Cheryl Hutchins' license No. 03-2-16453, was revoked. Such conduct constitutes not being of good moral character and habits; and/or having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) 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.

(3) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the

Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Examination As A Pharmacist submitted by Cheryl Hutchins on March 8, 2006.

Further, the Board places Cheryl Hutchins on probation for ten years beginning on the date of the issuance of her pharmacist license. The terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Cheryl Hutchins' 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) Cheryl Hutchins may not serve as a responsible pharmacist.

(3) Cheryl Hutchins may not destroy, assist in, or witness the destruction of controlled substances.

(4) Cheryl Hutchins must not violate the drug laws of Ohio, any other state, or the federal government.

(5) Cheryl Hutchins must abide by the rules of the State Board of Pharmacy.

(6) Cheryl Hutchins must comply with the terms of this Order.

(7) Cheryl Hutchins' license will not be in good standing until successful completion of the probationary period.

(8) 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-5/Nay-0).

MOTION CARRIED.

SO ORDERED.

**BY ORDER OF THE STATE BOARD OF PHARMACY**

ORDER MAILED & EFFECTIVE: OCTOBER 12, 2006



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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960927-017)

In The Matter Of:

**CHERYL HUTCHINS, R.Ph.**

4494 Colerain Avenue  
Cincinnati, Ohio 45223  
(R.Ph. No. 03-2-16453)

### INTRODUCTION

THE MATTER OF CHERYL HUTCHINS CAME TO HEARING ON OCTOBER 23, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

CHERYL HUTCHINS 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) Christopher K. Reed, Ohio State Board of Pharmacy
- (2) Cheryl Hutchins, Respondent

Respondent's Witnesses:

- (1) Cheryl Hutchins, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Proposal to Deny/Notice of Opportunity for Hearing letter dated September 27, 1996.
- (2) Exhibit 1A--Hearing Request letter, not dated, received in the Board office on October 7, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated October 10, 1996.

- (4) Exhibit 1C--Pharmacist File Front Sheet of Cheryl Ann Cherry Hutchins showing original date of registration as August 6, 1986.
- (5) Exhibit 2--Four-page Order of the State Board of Pharmacy, Docket No. D-890920-046, in the matter of Cheryl Hutchins dated March 19, 1990.
- (6)Exhibit 3--Renewal Application for Pharmacist License, No. 03-2-16453, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, not dated; Continuing Pharmacy Education Report form of Cheryl Hutchins dated July 26, 1996; and eighteen certificates of continuing pharmaceutical education participation of Cheryl Hutchins numbered and dated as follows: 057-999-95-056-H01 dated February 5, 1996; 680-057-95-026 dated December 29, 1995; 680-057-95-039 dated February 5, 1996; 057-999-95-048-H01 dated February 5, 1996; 679702-94-018 dated June 17, 1996; 679702-94-017 dated July 4, 1996; 679-702-94-012 dated July 6, 1996; 679702-93-010 dated July 13, 1996; 057-999-96-042-H01 dated July 22, 1996; 057-999-96-029-H04 dated July 22, 1996; 057-999-96-002-H01 dated July 22, 1996; 057-999-96-028-H04 dated June 14, 1996; 057-999-96-022-H01 dated June 14, 1996; 057-999-96-003-H01 dated June 3, 1996; 057-999-96-008-H01 dated June 3, 1996; 057-999-96-007-H01 dated June 3, 1996; 057-999-96-040-H01 dated July 22, 1996; and 057-999-96-021 dated July 3, 1996.
- (7) Exhibit 4--Handwritten statement of Marilyn Cherry signed and notarized on December 27, 1990.
- (8) Exhibit 5--Two-page letter from Marilyn Cherry signed and notarized on March 14, 1991.
- (9) Exhibit 6--Copy of letter from Cheryl C. Hutchins, not dated, received April 24, 1990.
- (10) Exhibit 7--Copy of Staff Identification Card from the Central Community Health Board of Hamilton County, Inc. of Cheryl A. C. Hutchins issued May 31, 1989.
- (11) Exhibit 8--Certified copy of Report of Probation Violation in the Hamilton County Court of Common Pleas, Case No. B-871647, of Cheryl Hutchins dated April 29, 1991.
- (12) Exhibit 9--Certified copy of Judgment Entry Revoking Probation and Ordering Execution of Sentence in the Hamilton County Court of Common Pleas, Case No. B-871647, of Cheryl A. Hutchins dated May 17, 1991.
- (13) Exhibit 10--Unpaid Check No. 255 of Cheryl Hutchins dated April 13, 1993.
- (14) Exhibit 11--Inter-Office Communication from Pat Humes, Cashier Department, Treasurer of State's Office, dated April 30, 1993.
- (15) Exhibit 12--Letter from Karen E. Prather dated May 4, 1993.
- (16) Exhibit 13--Copies of twenty-four Time-Sheets of Central Community Health Board Drug Services dated as follows: March 22, 1990; March 23, 24, 25, 1990; March 23, 1990; March 26, 1990; March 27, 1990; March 28, 1990; March 29, 1990; March 30, 31, 1990, and April 1, 1990; April 2, 1990; April 3, 1990; April 4, 1990; April 5, 1990; two dated April 6, 7, 8, 1990; April 9, 1990; April 10, 1990; April 11, 1990; April 12, 1990; April 13, 14, 15, 1990; April 16, 1990; April 17, 1990; April 18, 1990; April 19, 1990; and April 20, 1990.

Respondent's Exhibits:

- (1) Exhibit A--Eight-page fax copy consisting of the following: two-page letter from Cheryl Hutchins; customer receipt No. 65270164860 of Cheryl Hutchins dated October 24, 1996; three-page Hamilton County Clerk of Court, Case Cost Statement and Docket Entries of Cheryl A. Hutchins dated from May 6, 1987, through January 31, 1995; Certificate of Parole/Release Authorization from the Adult Parole Authority, Columbus, Ohio regarding Cheryl A. Hutchins dated November 6, 1991; and Final Release from Parole Supervision of Cheryl Hutchins, effective December 30, 1992.

## 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 Cheryl Hutchins was originally licensed in the state of Ohio on August 6, 1986, pursuant to examination, and Ms. Hutchins' license to practice pharmacy in the state of Ohio was suspended by the Board on March 19, 1990, for a period of 72 months. Cheryl Hutchins applied for renewal upon termination of her suspension on or about August 5, 1996.
- (2) Cheryl Hutchins did, from March 19, 1990, through May 5, 1990, while under suspension and not a registered pharmacist, compound, dispense, or sell dangerous drugs, to wit: after her suspension from the practice of pharmacy, Cheryl Hutchins continued to practice pharmacy as a pharmacist at the Central Community Health Board of Hamilton County. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Cheryl Hutchins' court-ordered probation was revoked on or about April 29, 1991, and Ms. Hutchins' sentence of 1½ to 5 years incarceration was imposed for having committed violations of her court-ordered probation, to wit: Cheryl Hutchins tested positive on April 22, 1991, for consuming a controlled substance; and, Cheryl Hutchins was employed as a pharmacist when ordered by the court to not practice pharmacy.
- (4) Cheryl Hutchins did, on or about April 13, 1993, submit a personal check, No. 255, in the amount of \$110.00 to the Ohio State Board of Pharmacy for the purpose of sitting for the Jurisprudence Examination on April 27, 1993. Said examination had been a condition for earlier reinstatement of Ms. Hutchins license, pursuant to the Order of the Board, Docket No. D-890920-046. However, the check was returned to the Board for reimbursement to the Treasurer due to insufficient funds. As of the date of the Proposal to Deny/Notice of Opportunity for Hearing letter dated September 27, 1996, the Board had not been compensated for the cost of allowing Cheryl Hutchins to sit for the examination. A certified letter from the Board to Cheryl Hutchins' home requesting payment went unclaimed by her.

## CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (1) of the Findings of Fact constitutes having been disciplined by the Ohio State Board of Pharmacy pursuant to Section 4729.16 of the Revised Code as provided in paragraph (E) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (4) 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.

- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) 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 4729.12 of the Ohio Revised Code, and on the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby denies the issuance of an identification card to practice pharmacy in the state of Ohio and thereby denies the renewal application of Cheryl Hutchins.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Cheryl Hutchins:

- (A) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-16453, held by Cheryl Hutchins effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-16453, held by Cheryl Hutchins effective as of the date of the mailing of this Order.

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

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

MOTION CARRIED.

SO ORDERED.