

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-030606-078)

In The Matter Of:

MARK STEVEN LANG
P.O. Box 24438
Cincinnati, Ohio 45224-0438
(D.O.B. 02/09/61)

INTRODUCTION

THE MATTER OF MARK STEVEN LANG CAME FOR HEARING ON NOVEMBER 3, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, 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.

MARK STEVEN LANG WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. Christopher Reed, Ohio State Board of Pharmacy

Respondent's Witnesses

1. Mark Steven Lang, Respondent

State's Exhibits

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing letter [06-06-03]
1A-1C. Procedurals
2. Copy of State Board of Pharmacy Order in re Mark Steven Lang, R.Ph. [12-08-95]
3. Copy of State Board of Pharmacy Order in re Mark Steven Lang [12-15-97]
4. Information, United States of America v. Mark Lang, Case No. CR-1-94-079, United States District Court, Southern District of Ohio, Western Division [08-30-94]
5. Plea Agreement [10-07-94]
6. Judgment Including Sentence Under the Sentencing Reform Act [01-27-95]

Respondent's Exhibits

- A. Change of Address letter from Mark Lang [not dated]
- B. Notice of Termination, Docket No. CR-1-94-079-001, United States Probation Department, Southern District of Ohio [01-26-97]; and Pages 1, 3, & 4 of the Judgment Including Sentence Under the Sentencing Reform Act [01-27-95] United States of America v. Mark Lang, CR-1-94-79-01, United States District Court, Southern District of Ohio, Western Division.

- C. Copy of Continuing Pharmacy Education Certificates [06-28-97 to 06-30-97]
- D. Copy of Academic Achievement Letter and Certificates [1995 to 1999]
- E. Copy of Certificates for University of Cincinnati Bachelor of Science in Pharmacy Degree [06-15-86]; University of Cincinnati Bachelor of Arts Degree [08-31-00]; and Certified Conservation Educator [08-26-02]
- F. Four Photographs [not dated]
- G. Copy of DEA Controlled Substances Registration Certificate for Westwood Pharmacy, Inc. [04-25-90 to 05-31-93]; Copy of Ohio Terminal Distributor of Dangerous Drugs License for Westwood Pharmacy [1990]; Anabolic Steroid Inventory form
- H. Copy of eight Letters of Support [02-26-96 to 11-02-03]

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 Mark Steven Lang submitted an Application For Examination As A Pharmacist on or about May 6, 2003.
- (2) Records further indicate that Mark Steven Lang was originally licensed by the State of Ohio as a pharmacist on August 6, 1986, and that his license to practice pharmacy in Ohio was revoked by the Board of Pharmacy effective December 8, 1995. On or about April 1, 1997, Mark Steven Lang submitted an Application For Examination As A Pharmacist, and the application was denied by the Board of Pharmacy effective December 15, 1997.
- (3) On December 8, 1995, Mark Steven Lang's license to practice pharmacy in Ohio was revoked based on the following Findings by the Board:
 - (a) Records of the Board of Pharmacy indicate that Mark Steven Lang was originally licensed in the State of Ohio on August 6, 1986, pursuant to examination, and was currently licensed to practice pharmacy in the state of Ohio. Records further reflect that during the relevant time periods stated herein, to wit: September 17, 1987, through August 21, 1991, Mark Steven Lang was the Responsible Pharmacist at Westwood Pharmacy in Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
 - (b) Mark Steven Lang was, on or about October 7, 1994, found guilty pursuant to a plea of one count of Wire Fraud in violation of Section 1343 of the United States Code in the United States District Court, Southern District of Ohio, Western Division, a class D felony. United States of America v. Mark Lang, Case No. CR-1-94-79-01, United States District Court For the Southwestern District of Ohio Western Division.
 - (c) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which was not secured by a physical

barricade when personal supervision of the dangerous drug stock was not provided, to wit: Mark Steven Lang allowed Jean Russ, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code.

(d) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, hold or offer for sale drugs which were adulterated and/or misbranded, to wit: Mark Steven Lang possessed for sale, interspersed throughout the stock shelves of Westwood Pharmacy, 409 containers of outdated dangerous drugs, 59 containers of controlled substances, and 17 containers or bags of dangerous drugs which were either not labeled or did not have the required lot numbers, expiration dates, or manufacturers' names. Such conduct is in violation of Section 3715.52(A) of the Ohio Revised Code.

(e) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 4,713 unit doses of oxycodone with APAP 325 mg (C-II), (32.4% of the stock); 732 unit doses of oxycodone with ASA 325 mg (C-II), (20.6% of the stock); and 183 unit doses of Seconal 100 mg (C-II), (17% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

(f) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 88 unit doses of Tylox (C-II), (2.5% of the stock); 58 unit doses of Preludin 75mg (C-II), (58% of the stock); and 57 unit doses of Dilaudid 4 mg (C-II), (14.3% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

(g) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 90 unit doses of methylphenidate 10 mg (C-II), (3.8% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

(h) Mark Steven Lang as the Responsible Pharmacist did, from February 27, 1991, through April 3, 1991, fail to take a physical inventory of Westwood Pharmacy's schedule III controlled substance anabolic steroids after the Ohio Legislature enacted law which scheduled anabolic steroids as schedule III and after having been instructed by compliance bulletin issued by this Board to do so. Such conduct is in violation of Section 3719.07(G) of the Ohio Revised Code.

(i) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, intentionally make and/or knowingly possess false or forged uncompleted pre-printed prescription blanks used for writing prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following eleven prescriptions written for controlled substances, grouped together with a rubber band, which Mr. Lang admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:

- Two prescriptions for Valium 10 mg (C-IV), (100 u.d.) with five refills.
- Two prescriptions for Valium 10 mg (C-IV), (38 u.d.) with five refills.
- One prescription for Valium 5 mg (C-IV), (100 u.d.) with five refills.
- One prescription for Darvocet N-100 (C-IV), (60 u.d.) with five refills.
- One prescription for Lomotil (C-V), (40 u.d.) with two refills.
- One prescription for Tylenol #3 (C-III), (30 u.d.) with one refill.
- One prescription for Vicodin ES (C-III), (60 u.d.) with no refills.
- One prescription for Xanax 0.5 mg (C-IV), (100 u.d.) with five refills.
- One prescription for Tranxene 3.75 mg (C-IV), (120 u.d.) with five refills.

Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.

(j) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, make false or forged prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following 101 prescriptions written for dangerous drugs, grouped together with a rubber band, which Mr. Lang admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:

- One prescription for Tuss Ornade (50 u.d.) with five refills.
- One prescription for Norgesic (100 u.d.) with five refills.
- Two prescriptions for Ceclor 250 mg (28 u.d.) with no refills.
- One prescription for Ceclor 250 mg (32 u.d.) with no refills.
- Three prescriptions for Flexeril 100 mg (100 u.d.) with five refills.
- One prescription for Flexeril 100 mg (60 u.d.) with two refills.
- One prescription for Flexeril 100 mg (60 u.d.) with five refills.
- Five prescriptions for Prozac 20 mg (48 u.d.) with five refills.
- Thirteen prescriptions for Prozac 20 mg (68 u.d.) with five refills.
- One prescription for Prozac 20 mg (68 u.d.) with six refills.
- One prescription for Vasotec 10 mg (100 u.d.) with five refills.
- One prescription for Vasotec 10 mg (60 u.d.) with five refills.
- One prescription for Vasotec 20 mg (60 u.d.) with five refills.

Two prescriptions for Ioptin SR 240 mg (30 u.d.) with five refills.
Two prescriptions for Diamox 250 mg (100 u.d.) with five refills.
Two prescriptions for Materna 1+60 (100 u.d.) with five refills.
Four prescriptions for Buspar 10 mg (100 u.d.) with five refills.
One prescriptions for Buspar 10 mg (68 u.d.) with five refills.
Two prescriptions for Elavil 50 mg (60 u.d.) with five refills.
Two prescriptions for Axid CP (30 u.d.) with five refills.
Two prescriptions for Zovirax 200 mg (100 u.d.) with six refills.
One prescription for Rufen 600 mg (100 u.d.) with five refills.
Seven prescriptions for Feldene 20 mg (30 u.d.) with five refills.
One prescription for Proventil 8 mg (60 u.d.) with five refills.
Five prescriptions for Mevacor 20 mg (60 u.d.) with five refills.
Two prescriptions for Proventil Inhalers with five refills.
Two prescriptions for Procardia 20 mg (100 u.d.) with five refills.
One prescriptions for Reglan 10 mg (100 u.d.) with five refills.
One prescriptions for Augmentin 250 mg (30 u.d.) with no refills.
One prescription for Augmentin 500 mg (30 u.d.) with one refill.
Two prescriptions for Tagamet 300 mg (125 u.d.) with five refills.
One prescription for Tagamet 300 mg (125 u.d.) with six refills.
One prescription for Tagamet 300 mg (60 u.d.) with five refills.
Two prescriptions for Tagamet 400 mg (125 u.d.) with five refills.
Two prescriptions for Tolectin DS (100 u.d.) with five refills.
Two prescriptions for Voltaren 75 mg (120 u.d.) with five refills.
One prescription for Voltaren 75 mg (100 u.d.) with five refills.
One prescription for Suprax 400 mg (15 u.d.) with no refills.
Two prescriptions for Dilatrate SR (100 u.d.) with five refills.
Two prescriptions for Ceclor 500 mg (28 u.d.) with no refills.
Two prescriptions for Carnitor (90 u.d.) with five refills.
One prescriptions for Carnitor (90 u.d.) with six refills.
One prescription for Cipro 500 mg (20 u.d.) with no refills.
One prescription for Naprosyn 500 mg (60 u.d.) with five refills.
One prescription for Psorcon (60 u.d.) with four refills.
One prescription for Seldane 60 mg (60 u.d.) with six refills.
One prescription for Seldane 60 mg (60 u.d.) with five refills.
One prescription for Lasix 40 mg (60 u.d.) with five refills.
One prescription for Hismanal 10 mg (34 u.d.) with six refills.
One prescription for K-Tab 10 meq (60 u.d.) with five refills.
One prescription for Cleocin-T (60 u.d.) with five refills.
One prescription for Asendin 100 mg (60 u.d.) with five refills.
One prescription for Vibratab 100 mg (30 u.d.) with three refills.
One prescription for Mucomyst 30 ml vial with five refills.

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

(k) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang possessed in the files of Westwood Pharmacy the following pre-printed prescriptions which were possessed and filled in violation of Section 1306.05 of the Code of Federal Regulations:

<u>Rx No.</u>	<u>Drug</u>	<u>Schedule</u>	<u>Qty</u>	<u>Dispensing Date</u>
468653	Nembutal 100mg	II	1	02/13/88
468738	Tylox	II	15	02/17/88
468735	Tylox	II	20	02/17/88
471494	Nembutal 100mg	II	1	05/06/88
471495	Mepergan Fortis	II	1	05/06/88
474619	Demerol 50mg	II	18	07/12/88
479144	Tylox	II	15	09/28/88
494405	Mepergan Fortis	II	1	07/24/89
494404	Nembutal 100mg	II	1	07/24/89
None	Tylox	II	20	09/11/89
498???	Tylox	II	20	10/20/89
504869	Demerol 50mg	II	18	04/03/90

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

(l) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates knowingly sell a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold the following drugs pursuant to prescriptions written for a schedule II controlled substance for weight control when such had been prohibited and was not for legitimate medical purpose:

<u>Rx No.</u>	<u>Drug</u>	<u>Qty</u>	<u>Dispensing Date</u>
460353	Preludin 75 mg	14	06/15/87
460867	Preludin 75 mg	14	06/30/87
461305	Preludin 75 mg	14	07/14/87
462403	Preludin 75 mg	14	08/18/87
462771	Preludin 75 mg	14	08/31/87
463850	Preludin 75 mg	14	10/02/87
464367	Preludin 75 mg	14	10/16/87
464966	Preludin 75 mg	14	11/02/87
465512	Preludin 75 mg	14	11/17/87
466534	Preludin 75 mg	14	12/17/87
467058	Preludin 75 mg	14	12/31/87
467946	Preludin 75 mg	14	01/26/88

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

(m) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang created and possessed in the files of Westwood Pharmacy the following telephone prescriptions which were dispensed in violation of Sections 3719.05 of the Ohio Revised Code and 1306.11 of the Code of Federal Regulations, dispensed in quantities greater than that necessary to adequately treat the patient during an emergency period, and dispensed without having the phrase "Authorization for Emergency Dispensing" indicated thereon:

<u>Rx No.</u>	<u>Drug</u>	<u>Schedule</u>	<u>Qty</u>	<u>Dispensing Date</u>
474046	Dilaudid 4mg	II	100	06/29/88
480977	Percocet	II	60	10/28/88
481874	Percocet	II	100	11/14/88
482283	Percocet	II	60	11/21/88
483018	Percocet	II	100	12/02/88
483912	Percocet	II	60	12/17/88
484134	Oxycodone/APAP 325	II	100	12/20/88
485176	Oxycodone/APAP 325	II	100	01/09/89
485487	Oxycodone/APAP 325	II	60	01/13/89
486040	Oxycodone/APAP 325	II	100	01/23/89
486869	Oxycodone/APAP 325	II	100	02/07/90
487665	Oxycodone/APAP 325	II	100	02/23/89
488271	Oxycodone/APAP 325	II	100	03/08/90
488503	Demerol 50mg	II	50	03/13/89
48??74	Percocet	II	100	03/25/89
493534	Percocet	II	100	07/03/89
495915	Dilaudid 4 mg	II	50	08/30/89
497755	Ritalin 10 mg	II	100	10/06/89
505783	Percocet	II	100	05/01/90
511978	Percocet	II	100	02/26/91

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

The Board concluded that Mark Steven Lang was guilty of a felony; guilty of 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 Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code. For these reasons, Mark Steven Lang's license, No. 03-2-16472, was revoked.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of violating any state or federal pharmacy or drug law as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been disciplined by the Ohio 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.

DECISION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card and, therefore, denies the Application for Examination as a Pharmacist submitted by Mark Steven Lang on or about May 6, 2003. Further, Mark Steven Lang may not submit an Application for Examination as a Pharmacist prior to ten years from the effective date of this Order.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE DECEMBER 10, 2003

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-970701-002)

In The Matter Of:

MARK STEVEN LANG
6320 Meis Avenue
Cincinnati, Ohio 45224
(D.O.B. 2/9/61)

INTRODUCTION

THE MATTER OF MARK STEVEN LANG CAME TO HEARING ON OCTOBER 8, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARK STEVEN LANG 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

Respondent's Witnesses:

- (1) Mark Steven Lang, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity for Hearing letter dated July 1, 1997.
- (2) Exhibit 1A--Hearing Request letter dated July 3, 1997.
- (3) Exhibit 1B--Hearing Schedule letter dated July 8, 1997.
- (4) Exhibit 2--Application for Examination as a Pharmacist of Mark Steven Lang signed and notarized on March 19, 1997, with the following attachments: explanation regarding charges/convictions of Mark Lang dated March 19, 1997; and copy of United States Probation Department Southern District of Ohio, Notice of Termination, Docket No. CR 1-94-079-001, of Mark Lang dated January 26, 1997.
- (5) Exhibit 3--Pharmacist File Front Sheet of Mark Steven Lang showing original date of registration as August 6, 1986.
- (6) Exhibit 4--Copy of ten-page Order of the State Board of Pharmacy, Docket No. D-950307-039, in the matter of Mark Steven Lang, R.Ph. dated December 8, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Copy of letter from Joseph A. Caruso dated July, 1996; and copy of certificate for being named to the University of Cincinnati McMicken College of Arts and Sciences Dean's List of Mark Steven Lang for the spring quarter of the 1995-96 academic year.
- (2) Exhibit B--Copy of United States Probation Department Southern District of Ohio Notice of Termination, Docket No. CR 1-94-079-001, of Mark Lang dated January 26, 1997.
- (3) Exhibit C--Affidavit of Nicholas S. Johnson signed and notarized on January 29, 1997.
- (4) Exhibit D--Affidavit of Herbert (last name illegible) signed and notarized on February 26, 1996.
- (5) Exhibit E--Affidavit of Jerome Frantz signed and notarized on January 31, 1997.
- (6) Exhibit F--Affidavit of William D. Betz signed and notarized on January 15, 1997.
- (7) Exhibit G--Affidavit of David J. Ryan signed and notarized on January 21, 1997.
- (8) Exhibit H--Copy of two certificates of continuing pharmaceutical education dated June 28, 1997, of Mark Lang numbered as follows: 05699997001H01 and 05699996012H01.
- (9) Exhibit I--Copy of three certificates of continuing pharmaceutical education dated June 28, 1997, of Mark Lang numbered as follows: 05699996008H04, 05699996011H01, and 05699996010H02.
- (10) Exhibit J--Copy of three certificates of continuing pharmaceutical education dated June 28, 1997, of Mark Lang numbered as follows: 05699997005H01, 05699997006H01, and 05699996119H01.
- (11) Exhibit K--Copy of three certificates of continuing pharmaceutical education dated June 30, 1997, of Mark Lang numbered as follows: XX-999-97-011-H04, XX-999-97-037-H01, and XX-999-96-024-H01.
- (12) Exhibit L--Copy of three certificates of continuing pharmaceutical education dated June 28, 1997, of Mark Lang numbered as follows: 05699996007H01, 05699996006H01, and 68005696002.

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 of Pharmacy indicate that Mark Steven Lang submitted an application for examination as a pharmacist on or about April 1, 1997.
- (2) Records further indicate that Mark Steven Lang was originally licensed to practice pharmacy in the state of Ohio on August 6, 1986, pursuant to examination.
- (3) On or about December 8, 1995, the Board found the following to be fact:
 - (a) Records of the Board of Pharmacy indicate that Mark Steven Lang was originally licensed in the state of Ohio on August 6, 1986, pursuant to examination, and was currently licensed to practice pharmacy in the state of Ohio. Records further reflect that during the relevant time periods stated herein, to wit: September 17, 1987, through August 21, 1991, Mark Steven Lang was the Responsible Pharmacist at Westwood Pharmacy in Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

- (b) Mark Steven Lang was, on or about October 7, 1994, found guilty pursuant to a plea of one count of Wire Fraud in violation of Section 1343 of the United States Code in the United States District Court, Southern District of Ohio, Western Division, a class D felony.
- (c) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which was not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: Mark Steven Lang allowed Jean Russ, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code.
- (d) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, hold or offer for sale drugs which were adulterated and/or misbranded, to wit: Mark Steven Lang possessed for sale, interspersed throughout the stock shelves of Westwood Pharmacy, 409 containers of outdated dangerous drugs, 59 containers of controlled substances, and 17 containers or bags of dangerous drugs which were either not labeled or did not have the required lot numbers, expiration dates, or manufacturers' names. Such conduct is in violation of Section 3715.52(A) of the Ohio Revised Code.
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- (f) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 88 unit doses of Tylox (2.5% of the stock); 58 unit doses of Preludin 75mg (58% of the stock); and 57 unit doses of Dilaudid 4mg (14.3% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (g) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 90 unit doses of Methylphenidate 10mg (3.8% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (h) Mark Steven Lang as the Responsible Pharmacist did, from February 27, 1991, through April 3, 1991, fail to take a physical inventory of Westwood Pharmacy's schedule III controlled substance anabolic steroids after the Ohio Legislature enacted law which scheduled anabolic steroids as schedule III and after having been instructed by compliance bulletin issued by this Board to do so. Such conduct is in violation of Section 3719.07(G) of the Ohio Revised Code.
- (i) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, intentionally make and/or knowingly possess false or forged uncompleted pre-printed prescription blanks used for writing prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following eleven prescriptions written for controlled substances, grouped together with a rubber band, which Mr. Lang admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:
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 - Two prescriptions for Valium 10mg (38 u.d.) w/five refills.
 - One prescription for Valium 5mg (100 u.d.) w/five refills.
 - One prescription for Darvocet N-100 (60 u.d.) w/five refills.
 - One prescription for Lomotil (40 u.d.) w/two refills.
 - One prescription for Tylenol #3 (30 u.d.) w/one refill.
 - One prescription for Vicodin ES (60 u.d.) w/no refills.
 - One prescription for Xanax 0.5mg (100 u.d.) w/five refills.
 - One prescription for Tranxene 3.75mg (120 u.d.) w/five refills.

Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.

- (j) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, make false or forged prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following 101 prescriptions written for dangerous drugs, grouped together with a rubber band, which Mr. Lang admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:

One prescription for Tuss Ornade (50 u.d.) w/five refills.
One prescription for Norgesic (100 u.d.) w/five refills.
Two prescriptions for Ceclor 250mg (28 u.d.) w/no refills.
One prescription for Ceclor 250mg (32 u.d.) w/no refills.
Three prescriptions for Flexeril 100mg (100 u.d.) w/five refills.
One prescription for Flexeril 100mg (60 u.d.) w/two refills.
One prescription for Flexeril 100mg (60 u.d.) w/five refills.
Five prescriptions for Prozac 20mg (48 u.d.) w/five refills.
Thirteen prescriptions for Prozac 20mg (68 u.d.) w/ five refills.
One prescription for Prozac 20mg (68 u.d.) w/six refills.
One prescription for Vasotec 10mg (100 u.d.) w/five refills.
One prescription for Vasotec 10mg (60 u.d.) w/five refills.
One prescription for Vasotec 20mg (60 u.d.) w/five refills.
Two prescriptions for Isoptin SR 240mg (30 u.d.) w/five refills.
Two prescriptions for Diamox 250mg (100 u.d.) w/five refills.
Two prescriptions for Materna 1+60 (100 u.d.) w/five refills.
Four prescriptions for Buspar 10mg (100 u.d.) w/five refills.
One prescriptions for Buspar 10mg (68 u.d.) w/five refills.
Two prescriptions for Elavil 50mg (60 u.d.) w/five refills.
Two prescriptions for Axid CP (30 u.d.) w/five refills.
Two prescriptions for Zovirax 200mg (100 u.d.) w/six refills.
One prescription for Rufen 600mg (100 u.d.) w/five refills.
Seven prescriptions for Feldene 20mg (30 u.d.) w/five refills.
One prescription for Proventil 8mg (60 u.d.) w/five refills.
Five prescriptions for Mevacor 20mg (60 u.d.) w/five refills.
Two prescriptions for Proventil Inhalers w/five refills.
Two prescriptions for Procardia 20mg (100 u.d.) w/five refills.
One prescriptions for Reglan 10mg (100 u.d.) w/five refills.
One prescriptions for Augmentin 250mg (30 u.d.) w/no refills.
One prescription for Augmentin 500mg (30 u.d.) w/one refill.
Two prescriptions for Tagamet 300mg (125 u.d.) w/five refills.
One prescription for Tagamet 300mg (125 u.d.) w/six refills.
One prescription for Tagamet 300mg (60 u.d.) w/five refills.
Two prescriptions for Tagamet 400mg (125 u.d.) w/five refills.
Two prescriptions for Tolectin DS (100 u.d.) w/five refills.
Two prescriptions for Voltaren 75mg (120 u.d.) w/five refills.
One prescription for Voltaren 75mg (100 u.d.) w/five refills.
One prescription for Suprax 400mg (15 u.d.) w/no refills.
Two prescriptions for Dilatrate SR (100 u.d.) w/five refills.
Two prescriptions for Ceclor 500mg (28 u.d.) w/no refills.
Two prescriptions for Carnitor (90 u.d.) w/five refills.
One prescriptions for Carnitor (90 u.d.) w/six refills.
One prescription for Cipro 500mg (20 u.d.) w/no refills.
One prescription for Naprosyn 500mg (60 u.d.) w/five refills.
One prescription for Psorcon (60 u.d.) w/four refills.
One prescription for Seldane 60mg (60 u.d.) w/six refills.
One prescription for Seldane 60mg (60 u.d.) w/ five refills.
One prescription for Lasix 40mg (60 u.d.) w/five refills.
One prescription for Hismanal 10mg (34 u.d.) w/six refills.

- One prescription for K-Tab 10mg (60 u.d.) w/five refills.
- One prescription for Cleocin-T (60 u.d.) w/five refills.
- One prescription for Asendin 100mg (60 u.d.) w/five refills.
- One prescription for Vibratab 100mg (30 u.d.) w/three refills.
- One prescription for Mucomyst 30ml vial w/five refills.

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (k) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang possessed in the files of Westwood Pharmacy the following pre-printed prescriptions which were possessed and filled in violation of Section 1306.05 of the Code of Federal Regulations:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
468653	Nembutal 100mg	1	02/13/88
468738	Tylox	15	02/17/88
468735	Tylox	20	02/17/88
471494	Nembutal 100mg	1	05/06/88
471495	Mepergan Fortis	1	05/06/88
474619	Demerol 50mg	18	07/12/88
479144	Tylox	15	09/28/88
494405	Mepergan Fortis	1	07/24/89
494404	Nembutal 100mg	1	07/24/89
None	Tylox	20	09/11/89
498???	Tylox	20	10/20/89
504869	Demerol 50mg	18	04/03/90

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (l) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates knowingly sell a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold the following drugs pursuant to prescriptions written for a schedule II controlled substance for weight control when such had been prohibited and was not for legitimate medical purpose:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
460353	Preludin 75mg	14	06/15/87
460867	Preludin 75mg	14	06/30/87
461305	Preludin 75mg	14	07/14/87
462403	Preludin 75mg	14	08/18/87
462771	Preludin 75mg	14	08/31/87
463850	Preludin 75mg	14	10/02/87
464367	Preludin 75mg	14	10/16/87

464966	Preludin 75mg	14	11/02/87
465512	Preludin 75mg	14	11/17/87
466534	Preludin 75mg	14	12/17/87
467058	Preludin 75mg	14	12/31/87
467946	Preludin 75mg	14	01/26/88

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (m) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang created and possessed in the files of Westwood Pharmacy the following telephone prescriptions which were dispensed in violation of Sections 3719.05 of the Ohio Revised Code and 1306.11 of the Code of Federal Regulations, dispensed in quantities greater than that necessary to adequately treat the patient during an emergency period, and dispensed without having the phrase "Authorization for Emergency Dispensing" indicated thereon:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
474046	Dilaudid 4mg	100	06/29/88
480977	Percocet	60	10/28/88
481874	Percocet	100	11/14/88
482283	Percocet	60	11/21/88
483018	Percocet	100	12/02/88
483912	Percocet	60	12/17/88
484134	Oxycodone/APAP 325	100	12/20/88
485176	Oxycodone/APAP 325	100	01/09/89
485487	Oxycodone/APAP 325	60	01/13/89
486040	Oxycodone/APAP 325	100	01/23/89
486869	Oxycodone/APAP 325	100	02/07/90
487665	Oxycodone/APAP 325	100	02/23/89
488271	Oxycodone/APAP 325	100	03/08/90
488503	Demerol 50mg	50	03/13/89
48??74	Percocet	100	03/25/89
493534	Percocet	100	07/03/89
495915	Dilaudid 4mg	50	08/30/89
497755	Ritalin 10mg	100	10/06/89
505783	Percocet	100	05/01/90
511978	Percocet	100	02/26/91

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

The Board concluded that Mark Steven Lang was guilty of a felony; guilty of 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 Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code. For these reasons, Mark Steven Lang's license, No. 03-2-16472, was revoked.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3)(b) of the Findings of Fact constitutes being guilty of a felony as provided in paragraph (A) 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 (3)(b) of the Findings of Fact constitutes having been convicted of violating state or federal pharmacy or drug laws as provided in paragraph (B) 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 (3)(b) through (3)(m) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) 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.

ACTION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code, and the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card, and therefore denies the Application for Examination as a Pharmacist submitted by Mark Steven Lang.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE DECEMBER 15, 1997

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950307-039)

In The Matter Of:

MARK STEVEN LANG, R.Ph.
P. O. Box 1702
Lake City, Florida 32056-1702
(R.Ph. No. 03-2-16472)

INTRODUCTION

THE MATTER OF MARK STEVEN LANG CAME TO HEARING ON OCTOBER 20, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

REPRESENTING MARK STEVEN LANG, IN HIS ABSENCE, WAS MICHAEL J. WIETHE, AND THE STATE OF OHIO WAS REPRESENTED BY LAWRENCE D. PRATT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated March 7, 1995.
- (2) Exhibit 1A--Hearing Request letter dated March 14, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated March 17, 1995.
- (4) Exhibit 1C--Continuance Request letter dated May 24, 1995.
- (5) Exhibit 1D--Hearing Schedule letter dated June 1, 1995.
- (6) Exhibit 1E--Pharmacist File Front Sheet of Mark Steven Lang showing original date of registration as August 6, 1986.
- (7) Exhibit 1F--Renewal Application for Pharmacist License, No. 03-2-16472, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Mark Steven Lang dated June 21, 1994.
- (8) Exhibit 1G--Application for Registration as a Terminal Distributor of Dangerous Drugs license of Westwood Pharmacy, 3400 Glenmore Avenue, Cincinnati, Ohio 45211, dated August 16, 1987.
- (9) Exhibit 1H--Renewal Applications for Westwood Pharmacy, Terminal Distributor License No. 02-518800, for the years of 1988, 1989, 1990, and 1991.

- (10) Exhibit 1I--Written Notice of Discontinuing Business form of Westwood Pharmacy, Inc. dated August 24, 1991, and attached letter from Mark S. Lang dated August 29, 1991.
- (11) Exhibit 1J--Letter of Representation from Michael J. Wiethe dated August 22, 1995, and attached Motion to Suppress Evidence in the matter of Mark Steven Lange (sic).
- (12) Exhibit 1K--Copy of letter from David L. Rowland dated August 24, 1995.
- (13) Exhibit 1L--Copy of letter from David L. Rowland dated August 29, 1995.
- (14) Exhibit 1M--Continuance Request letter dated September 11, 1995.
- (15) Exhibit 1N--Hearing Schedule letter dated September 19, 1995.
- (16) Exhibit 2--Two-page Certified Copy of Plea Agreement in the United States District Court, Southern District of Ohio, Western Division, Case No. CR-1-94-079, of Mark Lang dated October 7, 1994.
- (17) Exhibit 3--Handwritten Statement of Jean Russ signed and notarized on April 3, 1991.
- (18) Exhibit 4--Four-page Dangerous Drug Distributor Inspection Report of Westwood Pharmacy, Terminal Distributor License No. 02-518800, dated April 3, 1991.
- (19) Exhibit 5--Four-page response to Dangerous Drug Distributor Inspection Report of Westwood Pharmacy, Terminal Distributor License No. 02-518800, dated April 17, 1991.
- (20) Exhibit 7--Three-page DEA Form 41, Registrants Inventory of Drugs Surrendered of Westwood Pharmacy, Terminal Distributor License No. 02-518800, dated April 3, 1991.
- (21) Exhibit 9--Ten-page Ohio State Board of Pharmacy Report of Investigation regarding Westwood Pharmacy, Case No. 91-1237, dated April 8, 1991.
- (22) Exhibit 10--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Oxycodone/APAP 325mg dated April 3, 1991.
- (23) Exhibit 11--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Oxycodone/ASA 325mg dated April 3, 1991.
- (24) Exhibit 12--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Seconal 100mg dated April 3, 1991.
- (25) Exhibit 13--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Tylox dated April 3, 1991.
- (26) Exhibit 14--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Preludin 75mg dated April 3, 1991.
- (27) Exhibit 15--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Dilaudid 4mg dated April 3, 1991.
- (28) Exhibit 16--Accountability Statement of Westwood Pharmacy, Terminal Distributor License No. 02-518800, for Methylphenidate 10mg dated April 3, 1991.
- (29) Exhibit 17--Eleven controlled substance telephone prescriptions lacking patient name, address, date, and physician information, pre-written as follows: 100 units of Xanax .5mg having 5 refills; 120 units of Tranxene 3.75mg having 5 refills; 40 units of Lomotil having 2 refills; 30 units of Tylenol #3 having 1 refill; 60 units of Darvocet N-100 having 4 refills; 60 units of Vicodin ES; 100 units of Valium 5mg having 5 refills; two prescriptions for 38 units of Valium 10mg having 5 refills; and two prescriptions for 100 units of Valium 10mg having 5 refills; and two dangerous drug telephone prescriptions lacking patient name, address, date, and physician information, pre-written as follows: 50 units of Tuss Ornade having 5 refills; and 100 units of Norgesic having 5 refills.
- (30) Exhibit 18--Ninety-nine dangerous drug telephone prescriptions lacking patient name, address, date, and physician information, pre-written for various strengths, quantities, and refills of the following drugs: Axid, Asendin, Augmentin, Buspar, Carnitor, Ceclor, Cipro, Cleocin, Diamox, Dilatrate, Elavil, Feldene, Flexeril, Hismanol, Isoptin, K-Tab, Lasix, Materna, Mevacor, Mucomyst, Naprosyn, Procardia; Proventil, Prozac, Psorcon, Reglan, Rufen, Seldane, Suprax, Tagamet, Tolectin, Vasotec, Vibratab, Voltaren, Zovirax.

- (31) Exhibit 19--One pre-printed schedule II prescription, not numbered, written for 20 units of Tylox dated September 11, 1989; and eleven pre-printed schedule II prescriptions numbered as follows: 468653, 468735, 468738, 471494, 471495, 474619, 479144, 494404, 494405, 498___ (illegible), and 504869.
- (32) Exhibit 20--Twelve prescriptions numbered as follows: 460353, 460867, 461305, 462403, 462771, 463850, 464367, 464966, 465512, 466534, 467058, and 467946.
- (33) Exhibit 21--Twenty "Emergency" schedule II telephone prescriptions numbered as follows: 474046, 480977, 481874, 482283, 483018, 483912, 484134, 485176, 485487, 486040, 486869, 487665, 488271, 488503, 48__74 (illegible), 493534, 495915, 497755, 505783, and 511978.
- (34) Exhibit 22--Certified Copy of seven-page Judgment Including Sentence under the Sentencing Reform Act in the United States District Court for the Southern District of Ohio, Western Division, Case No. CR-1-94-79-01, of Mark Lang, dated January 27, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Two-page letter from Mark Steven Lang dated October 14, 1995.

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 of Pharmacy indicate that Mark Steven Lang was originally licensed in the state of Ohio on August 6, 1986, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that during relevant time periods stated herein, to wit: September 17, 1987, through August 21, 1991, Mark Steven Lang was the Responsible Pharmacist at Westwood Pharmacy in Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.
- (2) Mark Steven Lang was, on or about October 7, 1994, found guilty pursuant to a plea of one count of Wire Fraud in violation of Section 1343 of the United States Code in the United States District Court, Southern District of Ohio, Western Division, a class D felony.
- (3) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, permit persons other than a registered pharmacist to possess keys to a pharmacy which was not secured by a physical barricade when personal supervision of the dangerous drug stock was not provided, to wit: Mark Steven Lang allowed Jean Russ, not a registered pharmacist, to possess a key to the pharmacy. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code and Section 4729.27 of the Ohio Revised Code.
- (4) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates immediately preceding, hold or offer for sale drugs which were adulterated and/or misbranded, to wit: Mark Steven Lang possessed for sale, interspersed throughout the stock shelves of Westwood Pharmacy, 409 containers of outdated

dangerous drugs, 59 containers of outdated controlled substances, and 17 containers or bags of dangerous drugs which were either not labeled or did not have the required lot numbers, expiration dates, or manufacturers' names. Such conduct is in violation of Section 3715.52(A) of the Ohio Revised Code.

- (5) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 4,713 unit doses of Oxycodone with APAP 325mg (32.4% of the stock); 732 unit doses of Oxycodone with ASA 325mg (20.6% of the stock); and 183 unit doses of Seconal 100mg (17% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (6) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 88 unit doses of Tylox (2.5% of the stock); 58 unit doses of Preludin 75mg (58% of the stock); and 57 unit doses of Dilaudid 4mg (14.3% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (7) Mark Steven Lang as the Responsible Pharmacist did, from December 30, 1987, through April 3, 1991, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold 90 unit doses of Methylphenidate 10mg (3.8% of the stock) without prescription and not for legitimate medical purpose. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (8) Mark Steven Lang as the Responsible Pharmacist did, from February 27, 1991, through April 3, 1991, fail to take a physical inventory of Westwood Pharmacy's schedule III controlled substance anabolic steroids after the Ohio Legislature enacted law which scheduled anabolic steroids as schedule III and after having been instructed by compliance bulletin issued by this Board to do so. Such conduct is in violation of Section 3719.07(G) of the Ohio Revised Code.
- (9) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, intentionally make and/or knowingly possess false or forged uncompleted pre-printed prescription blanks used for writing prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following eleven prescriptions written for controlled substances, grouped together with a rubber band, which Mark Steven Lang admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:

Two prescriptions for Valium 10mg (100 u.d.) w/five refills.
Two prescriptions for Valium 10mg (38 u.d.) w/five refills.
One prescription for Valium 5mg (100 u.d.) w/five refills.
One prescription for Darvocet N-100 (60 u.d.) w/four refills.
One prescription for Lomotil (40 u.d.) w/two refills.
One prescription for Tylenol #3 (30 u.d.) w/one refill.
One prescription for Vicodin ES (60 u.d.) w/no refills.
One prescription for Xanax 0.5mg (100 u.d.) w/five refills.
One prescription for Tranxene 3.75mg (120 u.d.) w/five refills.

Such conduct is in violation of Section 2925.23(B)(2) of the Ohio Revised Code.

- (10) Mark Steven Lang as the Responsible Pharmacist did, on or about April 3, 1991, and dates prior thereto, make false or forged prescriptions, to wit: Mark Steven Lang created and subsequently possessed the following 101 prescriptions written for dangerous drugs, grouped together with a rubber band, which he admitted to Board agents that he created for future assignment of prescription numbers and billing to third party carriers to obtain reimbursement for claims that had been rejected from prior billings:

One prescription for Tuss Ornade (50 u.d.) w/five refills.
One prescription for Norgesic (100 u.d.) w/five refills.
Two prescriptions for Ceclor 250mg (28u.d.) w/no refills.
One prescription for Ceclor 250mg (32 u.d.) w/no refills.
Three prescriptions for Flexeril 100mg (100 u.d.) w/five refills.
One prescription for Flexeril 100mg (60 u.d.) w/two refills.
One prescription for Flexeril 100mg (48 u.d.) w/five refills.
Five prescriptions for Prozac 20mg (48 u.d.) w/five refills.
Thirteen prescriptions for Prozac 20mg (68 u.d.) w/five refills.
One prescription for Prozac 20mg (68 u.d.) w/six refills.
One prescription for Vasotec 10mg (100 u.d.) w/five refills.
One prescription for Vasotec 10mg (60 u.d.) w/five refills.
One prescription for Vasotec 20mg (60 u.d.) w/five refills.
Two prescriptions for Ioptin SR 240mg (30 u.d.) w/five refills.
Two prescriptions for Diamox 250mg (100 u.d.) w/five refills.
Two prescriptions for Materna 1+60 (100 u.d.) w/five refills.
Four prescriptions for Buspar 10mg (100 u.d.) w/five refills.
One prescription for Buspar 10mg (68 u.d.) w/five refills.
Two prescriptions for Elavil 50mg (60 u.d.) w/five refills.
Two prescriptions for Axid CP (30 u.d.) w/five refills.
Two prescriptions for Zovirax 200mg (100 u.d.) w/six refills.
One prescription for Rufen 600mg (100 u.d.) w/five refills.
Seven prescriptions for Feldene 20mg (30 u.d.) w/five refills.
One prescription for Proventil 8mg (60 u.d.) w/five refills.
Five prescriptions for Mevacor 20mg (60 u.d.) w/five refills.
Two prescriptions for Proventil Inhalers w/five refills.
Two prescriptions for Procardia 20mg (100 u.d.) w/five refills.
One prescription for Reglan 10mg (100 u.d.) w/five refills.
One prescription for Augmentin 250mg (30 u.d.) w/no refills.
One prescription for Augmentin 500mg (30 u.d.) w/one refill.

- Two prescriptions for Tagamet 300mg (125 u.d.) w/five refills.
- One prescription for Tagamet 300mg (125 u.d.) w/six refills.
- One prescription for Tagamet 300mg (60 u.d.) w/five refills.
- Two prescriptions for Tagamet 400mg (125 u.d.) w/five refills.
- Two prescriptions for Tolectin DS (100 u.d.) w/five refills.
- Two prescriptions for Voltaren 75mg (120 u.d.) w/five refills.
- One prescription for Voltaren 75mg (100 u.d.) w/five refills.
- One prescription for Suprax 400mg (15 u.d.) w/no refills.
- Two prescriptions for Dilatrate SR (100 u.d.) w/five refills.
- Two prescriptions for Ceclor 500mg (28 u.d.) w/no refills.
- Two prescriptions for Carnitor (90 u.d.) w/five refills.
- One prescription for Carnitor (90 u.d.) w/six refills.
- One prescription for Cipro 500mg (20 u.d.) w/no refills.
- One prescription for Naprosyn 500mg (60 u.d.) w/five refills.
- One prescription for Psorcon (60 u.d.) w/four refills.
- One prescription for Seldane 60mg (60 u.d.) w/six refills.
- One prescription for Seldane 60mg (60 u.d.) w/five refills.
- One prescription for Lasix 40mg (60 u.d.) w/five refills.
- One prescription for Hismanal 10mg (34 u.d.) w/six refills.
- One prescription for K-Tab 10mg (60 u.d.) w/five refills.
- One prescription for Cleocin-T (60 u.d.) w/five refills.
- One prescription for Asendin 100mg (60 u.d.) w/five refills.
- One prescription for Vibratab 100mg (30 u.d.) w/three refills.
- One prescription for Mucomyst 30ml vial w/five refills.

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

- (11) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang possessed in the files of Westwood Pharmacy the following pre-printed prescriptions which were possessed and filled in violation of Section 1306.05 of the Code of Federal Regulations:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
468653	Nembutal 100mg	1	02/13/88
468738	Tylox	15	02/17/88
468735	Tylox	20	02/17/88
471494	Nembutal 100mg	1	05/06/88
471495	Mepergan Fortis	1	05/06/88
474619	Demerol 50mg	18	07/12/88
479144	Tylox	15	09/28/88
494405	Mepergan Fortis	1	07/24/89
494404	Nembutal 100mg	1	07/24/89
None	Tylox	20	09/11/89
498???	Tylox	20	10/20/89
504869	Demerol 50mg	18	04/03/90

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (12) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, knowingly sell a controlled substance in an amount exceeding three times the bulk amount, but in an amount less than one hundred times that amount, when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mark Steven Lang or persons under his control sold the following drugs pursuant to prescriptions written for a schedule II controlled substance for weight control when such had been prohibited and was not for a legitimate medical purpose:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
460353	Preludin 75mg	14	06/15/87
460867	Preludin 75mg	14	06/30/87
461305	Preludin 75mg	14	07/14/87
462403	Preludin 75mg	14	08/18/87
462771	Preludin 75mg	14	08/31/87
463850	Preludin 75mg	14	10/02/87
464367	Preludin 75mg	14	10/16/87
464966	Preludin 75mg	14	11/02/87
465512	Preludin 75mg	14	11/17/87
466534	Preludin 75mg	14	12/17/87
467058	Preludin 75mg	14	12/31/87
467946	Preludin 75mg	14	01/26/88

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.

- (13) Mark Steven Lang as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Mark Steven Lang created and possessed in the files of Westwood Pharmacy the following telephone prescriptions which were dispensed in violation of Sections 3719.05 of the Ohio Revised Code and 1306.11 of the Code of Federal Regulations, dispensed in quantities greater than that necessary to adequately treat the patient during an emergency period, and dispensed without having the phrase "Authorization for Emergency Dispensing" indicated thereon:

<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>	<u>Dispensing Date</u>
474046	Dilaudid 4mg	100	06/29/88
480977	Percocet	60	10/28/88
481874	Percocet	100	11/14/88
482283	Percocet	60	11/21/88
483018	Percocet	100	12/02/88
483912	Percocet	60	12/17/88
484134	Oxycodone/APAP 325	100	12/20/88
485176	Oxycodone/APAP 325	100	01/09/89
485487	Oxycodone/APAP 325	60	01/13/89
486040	Oxycodone/APAP 325	100	01/23/89
486869	Oxycodone/APAP 325	100	02/07/89
487665	Oxycodone/APAP 325	100	02/23/89
488271	Oxycodone/APAP 325	100	03/08/89

488503	Demerol 50mg	50	03/13/89
48??74	Percocet	100	03/25/89
493534	Percocet	100	07/03/89
495915	Dilaudid 4mg	50	08/30/89
497755	Ritalin 10mg	100	10/06/89
505783	Percocet	100	05/01/90
511978	Percocet	100	02/26/91

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) 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 a felony 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 (13) 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 paragraphs (3) through (12) 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 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.

ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Mark Steven Lang:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-16472, held by Mark Steven Lang effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-2-16472, held by Mark Steven Lang effective as of the date of the mailing of this Order.
- (C) 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. 03-2-16472, held by Mark Steven Lang 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 (Aye-5/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE DECEMBER 8, 1995