



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980521-061)

In The Matter Of:

MARY ELIZABETH STARR, R.Ph.

4848 Pleasant Woods Court

Gahanna, Ohio 43230

(R.Ph. No. 03-2-19409)

INTRODUCTION

THE MATTER OF MARY ELIZABETH STARR CAME TO HEARING ON MARCH 8, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

MARY ELIZABETH STARR WAS REPRESENTED BY DANIEL D. CONNOR, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

- (1) Phyllis Grauer, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (2) Charles Broussard, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Michael Starr, Husband of Respondent
- (4) Mary E. Starr, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of five-page Settlement Agreement with the State Board of Pharmacy, in the matter of Mary Elizabeth Starr, Docket No. D-970909-004, effective March 9, 1998.
- (2) Exhibit 1A--Copy of Hearing Request letter dated May 18, 1998.

- (3) Exhibit 1B--Copy of two-page Hearing Schedule letter dated May 21, 1998.
- (4) Exhibit 1C--Copy of page 147 of the Ohio State Board of Pharmacy Record of the Proceedings, dated November 2, 1998.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated November 4, 1998.

Respondent's Exhibits:

- (1) Exhibit 1--Copy of two-page letter from Daniel D. Connor dated October 29, 1998.
- (2) Exhibit 2--Copy of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Mary E. Starr dated August 30, 1997.
- (3) Exhibit 3--Copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Mary E. Starr dated October 20, 1998.
- (4) Exhibit 4--Two-page letter from Kimberley K. Schirmer dated October 21, 1998.
- (5) Exhibit 5--Copy of Substance Abuse Services Notice of Completion regarding Mary E. Starr by S. Bryce Johnson, not dated.
- (6) Exhibit 6--Copy of 102 pages of Parkside Recovery Services Treatment Records of Mary E. Starr dated from August 21, 1997, through January 23, 1998.
- (7) Exhibit 7--Copy of 71 pages of Parkside Recovery Services Treatment Records of Mary E. Starr dated from January 23, 1998, through October 2, 1998.
- (8) Exhibit 8--Copy of letter from Cheryl A. Jackson dated October 27, 1998.
- (9) Exhibit 9--Copy of 22 pages consisting of 19 urine drug screen reports of Mary E. Starr dated from August 22, 1997, through October 3, 1998.
- (10) Exhibit 10--Copy of 87 pages of AA/NA meeting attendance verification of Mary E. Starr dated from August 16, 1997, through October 13, 1998.
- (11) Exhibit 11--Copy of University of Utah College of Pharmacy Certificate of Participation in course number 068-999-98-003-L01 of Betsy E. Starr dated August 17, 1998, and copy of certificate from the University of Utah of Betsy Starr dated June 19, 1998.
- (12) Exhibit 12--Copies of the following: two-page letter from Nick A. Kallis dated January 27, 1998; letter from Michael E. Starr, not dated; two-page letter from Mrs. John Hoyng dated January 12, 1998; and letter from Angie Fox, not dated.
- (13) Exhibit 13--Copies of letters as follows: Nick A. Kallis dated October 10, 1998; David W. Baker dated October 20, 1998; Phyllis Grauer dated October 27, 1999; Charles Broussard dated October 1998; Wayne L. Miller dated October 20, 1998; Arch J. Weber dated October 19, 1998; two-page letter from Vicky W. dated October 1998; Brian E. Roby dated October 19, 1998; Michael E. Starr, not dated; two-page letter from Mrs. John Hoyng dated October 14, 1998; Angela Fox dated October 3, 1998; Liz Kelly dated September 9, 1998; and Addie Dobbet dated October 12, 1998.
- (14) Exhibit 14B--Binder containing subsections as follows: Section 1: Copy of urine drug screen report of Patient 283503023 dated November 24, 1998. Section 2: Copy of urine drug screen report of Mary E. Starr dated February 1, 1999. Section 3: Copy of urine drug screen report of Patient 283503023 dated February 5, 1999. Section 4: Copy of two-page urine drug screen report of Elizabeth Starr dated February 25, 1999. Section 5: Copy of seven continuing pharmacy education certificates of participation of Mary E. Starr as follows: 422-000-98-008-H01 dated February 2, 1999; 422-000-98-021-H01 dated February 11, 1999; 327-000-96-001-H04 dated February 14, 1997; 401-000-96-010-H01 dated January 4, 1997; 401-000-96-013-H04 dated January 4, 1997; 401-000-96-005-H01 dated January 4, 1997; and 67940195009 dated January 4, 1997. Section 6: Copy of 35 pages of AA/NA meeting attendance verifications of Mary E. Starr dated from October 18, 1998, through February 20, 1999. Attachments also included as follows: Facsimile cover sheet to Mr. Dan Connors (*sic* Connor) from Kim Schirmer dated March 5,

1999; copy of letter from Kimberly K. Schirmer dated March 5, 1999; copy of letter from Kimberly K. Schirmer dated March 5, 1999, with handwritten notation to Dan, not dated; and copies of three urine drug screen reports of Mary E. Starr dated January 1, 1999, February 26, 1999, and March 2, 1999.

FINDING OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the State Board of Pharmacy finds the following to be fact:

- (1) Mary Elizabeth Starr has complied with the terms set forth in the Settlement Agreement with the State Board of Pharmacy, Docket No. D-970909-004, effective March 9, 1998.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of Mary Elizabeth Starr to practice pharmacy in the state of Ohio and places her on probation for five years from the date her identification card is issued, with the following conditions:

- (A) Mary Elizabeth Starr must enter into a new contract, after the effective date of this Order, with a treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
 - (1) Random, **observed** urine drug screens shall be conducted at least every three months.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Alcohol must be added to the standard urine drug screen. Testing for alcohol must be conducted within forty-eight hours from the time the sample is given. A breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.
 - (2) The intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion.
 - (3) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.

- (4) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Mary Elizabeth Starr must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of her progress towards recovery and what she has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Mary Elizabeth Starr's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) Mary Elizabeth Starr may not serve as a responsible pharmacist.
 - (3) Mary Elizabeth Starr may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Mary Elizabeth Starr must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Mary Elizabeth Starr must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Mary Elizabeth Starr must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) Mary Elizabeth Starr must comply with the terms of this Order.

Mary Elizabeth Starr is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.



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SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-970909-004)

In The Matter Of:

MARY ELIZABETH STARR, R.Ph.

4848 Pleasant Woods Court

Gahanna, Ohio 43230

(R.Ph. No. 03-2-19409)

This Settlement Agreement is entered into by and between Mary Elizabeth Starr and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Mary Elizabeth Starr enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Mary Elizabeth Starr is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Mary Elizabeth Starr's license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Mary Elizabeth Starr neither admits nor denies the allegations stated in the Notice; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board indicate that Mary Elizabeth Starr was originally licensed to practice pharmacy in the state of Ohio on July 30, 1992. However, on or about September 9, 1997, the Board determined that there was clear and convincing evidence that the continuation of Mary Elizabeth Starr's professional practice and/or her method of distributing controlled substances presented a danger of immediate and serious harm to others and her license

was suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.

- (2) Mary Elizabeth Starr is addicted to or abusing controlled substances to such a degree as to render her unfit to practice pharmacy within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code, to wit: Mary Elizabeth Starr admitted ingesting Promethazine with Codeine Syrup while practicing pharmacy; Mary Elizabeth Starr admittedly stole drugs for her own personal abuse without prescriptions from practitioners; and, Mary Elizabeth Starr admitted being “psychologically addicted”.
- (3) Mary Elizabeth Starr did, on August 13, 1997, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Big Bear Pharmacy #225, 3811 South High Street, Columbus, Ohio, beyond the express or implied consent of the owner and/or by deception, to wit: Mary Elizabeth Starr stole 383ml of Promethazine with Codeine Syrup for personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Mary Elizabeth Starr did, from October, 1996, through August 13, 1997, knowingly obtain or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mary Elizabeth Starr admitted to an agent of the Ohio Board of Pharmacy that she began self-medication for the treatment of panic, anxiety and severe hypertension; that Mary Elizabeth Starr ingested 33ml of Promethazine with Codeine Syrup on August 13, 1997; and that Mary Elizabeth Starr has ingested additional quantities of Promethazine with Codeine Syrup on other dates without a prescription. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (5) Mary Elizabeth Starr did, on or about August 13, 1997, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Mary Elizabeth Starr was found to have in her possession the following controlled substances:

<u>Drug</u>	<u>Quantity</u>
Klonopin 2mg	10 tablets
Xanax 1mg	1 tablet
Fioricet with Codeine #3	1 capsule
Promethazine w/Codeine Syrup	350 ml

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (6) Mary Elizabeth Starr did, from April 10, 1996, through August 12, 1997, knowingly obtain or exert control over dangerous drugs, the property of Big Bear Pharmacy #225, 3811 S. High St., Columbus, Ohio, beyond the express or implied consent of the owner and/or by deception, to wit: Mary Elizabeth Starr stole 31,915ml of Promethazine with Codeine Syrup for personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Administrative Code.
- (7) Mary Elizabeth Starr did, from April 10, 1996, through August 12, 1997, knowingly obtain or exert control over dangerous drugs, the property of Big Bear Pharmacy #225, 3811 S. High Street, Columbus, Ohio, beyond the

express or implied consent of the owner and/or by deception, to wit: Mary Elizabeth Starr stole 767 unit doses of Xanax 1mg for personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (8) Mary Elizabeth Starr did, from April 10, 1996, through August 12, 1997, knowingly obtain or exert control over dangerous drugs, the property of Big Bear Pharmacy #225, 3811 S. High Street, Columbus, Ohio, beyond the express or implied consent of the owner and/or by deception, to wit: Mary Elizabeth Starr stole 170 unit doses of Klonopin 2mg for personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) Mary Elizabeth Starr did, from April 10, 1996, through August 12, 1997, knowingly obtain or exert control over dangerous drugs, the property of Big Bear Pharmacy #225, 3811 S. High St., Columbus, Ohio, beyond the express or implied consent of the owner and/or by deception, to wit: Mary Elizabeth Starr stole 9 unit doses of Fioricet with Codeine #3 for personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Mary Elizabeth Starr knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) The removal of the Summary Suspension Order issued September 9, 1997, pursuant to Section 3719.121(B) of the Ohio Revised Code.
- (B) The indefinite suspension of her pharmacist identification card, No. 03-2-19409.
 - (1) Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Mary Elizabeth Starr 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.
 - (2) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return her identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.
- (C) On September 9, 1998, or thereafter, the Board will consider any petition filed by Mary Elizabeth Starr for a hearing, pursuant to Chapter 119. of the Ohio Revised Code, 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) Mary Elizabeth Starr must successfully complete her rehabilitation program through Parkside Hospital.
 - (2) Mary Elizabeth Starr must continue and abide by her contract with Pharmacist's Rehabilitation Organization, or enter into a new contract with a limited treatment provider acceptable to the Board for a period of not less than five years from the effective date of this Agreement and, upon signing, submit a copy of the contract to the Board office. The contract must provide:

- (a) random, observed urine drug screens shall be conducted at least every three months. The urine sample must be given within twelve hours of notification. The urine drug screen must report testing for alcohol and must also report testing for creatinine or specific gravity of the sample as the dilutional standard;
 - (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; and
 - (c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.
- (3) Mary Elizabeth Starr upon petitioning the Board for reinstatement, must provide evidence of at least one year of documented sobriety including:
- (a) the results of an examination of her chemical dependency status including a proposed treatment plan;
 - (b) testimonials from support group personnel as well as friends and/or family;
 - (c) all contract(s) with treatment providers and written documentation from the treatment provider(s) regarding compliance with the program(s);
 - (d) copies of all urine screen reports; and
 - (e) all records of treatment and attendance slips of AA, NA, or similar meetings.

Mary Elizabeth Starr acknowledges that she has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Mary Elizabeth Starr waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Mary Elizabeth Starr waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Mary Elizabeth Starr agrees that should the Board reject this Agreement and if this case proceeds to hearing, she will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

/s/ Mary E. Starr
Mary Elizabeth Starr, Respondent

/d/ 3/3/98
Date of Signature

/s/ Daniel D Connor
Daniel D. Connor, Attorney for Respondent

/d/ 3-3-98
Date of Signature

/s/ Amonte B. Littlejohn
Amonte B. Littlejohn, President, Ohio State Board of Pharmacy

/d/ 3/9/98
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 3/9/98
Date of Signature