



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960904-011)

In The Matter Of:

**JAMES N. MURPHY, R.Ph.**  
7220 Winding Way  
Cincinnati, Ohio 45236  
(R.Ph. No. 03-3-07899)

### INTRODUCTION

THE MATTER OF JAMES N. MURPHY CAME TO HEARING ON MARCH 6, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES N. MURPHY WAS REPRESENTED BY WARREN J. RITCHIE, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Timothy J. Benedict, Ohio State Board of Pharmacy
- (2) Michael E. Cluxton, Ohio State Board of Pharmacy
- (3) Charles Konkus; Loveland, Ohio
- (4) Cheryl Rooks, formerly with the Ohio State Board of Pharmacy
- (5) Robert H. Amiet, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James N. Murphy, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter of James N. Murphy dated September 4, 1996.

- (2) Exhibit 1A--Notice of Opportunity letter of Kenwood Pharmacy dated September 4, 1996.
- (3) Exhibit 1B--Hearing Request letter dated September 19, 1996.
- (4) Exhibit 1C--Hearing Schedule letter dated September 24, 1996.
- (5) Exhibit 1D--Amendment Notice of James N. Murphy dated October 4, 1996.
- (6) Exhibit 1E--Amendment Notice of Kenwood Pharmacy dated October 4, 1996.
- (7) Exhibit 1F--Renewal Application for Pharmacist License, No. 03-3-07899, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of James N. Murphy dated June 29, 1996.
- (8) Exhibit 1G--Two-page Application for Registration as a Terminal Distributor of Dangerous Drugs of Kenwood Pharmacy dated November 27, 1982; Application for Registration as a Terminal Distributor of Dangerous Drugs of Kenwood Pharmacy dated January 28, 1982, and Supplement Application for Registration as a Terminal Distributor of Dangerous Drugs; and thirteen Renewal Applications for Annual License as a Terminal Distributor of Kenwood Pharmacy for the years of 1984 through 1996.
- (9) Exhibit 2--Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated February 7, 1983.
- (10) Exhibit 3--Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated September 4, 1985.
- (11) Exhibit 4--Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated March 28, 1990, with attached letter from James N. Murphy, not dated, and letter from Jamie Tenbrink Knight dated April 3, 1990.
- (12) Exhibit 4A--Two-page Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated April 2, 1990.
- (13) Exhibit 5--Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated November 30, 1990.
- (14) Exhibit 5A--Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated January 9, 1991; pink sheet copy of Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated January 9, 1991; and four-page policy for Extemporaneous Preparation of Pharmacy Products.
- (15) Exhibit 5B--Copy of three-page Dangerous Drug Distributor Inspection Report of Kenwood Pharmacy dated June 6, 1995.
- (16) Exhibit 5C--Copy of letter from Jim (sic James N. Murphy) dated June 30, 1995; copy of 3PM computer printout; copy of letter from Jane Ertzbischoff dated June 27, 1995; copy of response to pink sheet of Kenwood Pharmacy; copy of "Policy for Pharmacist Record Keeping" of Kenwood Pharmacy, not dated; copy of "Policy for Patient Counseling" of Kenwood Pharmacy, not dated; copy of Kenwood Pharmacy Patient Information Leaflet; copy of Kenwood Pharmacy Prescription Receipt; copy of Kenwood Pharmacy Universal Signature Log; copy of explanation regarding 3PM computer software of Jim (sic James N. Murphy); copy of Policy for Sale of Exempt Narcotics of Kenwood Pharmacy; and copy of Policy for Class II Narcotics of Kenwood Pharmacy.
- (17) Exhibit 6--Sealed Record-Prescription No. N266693.
- (18) Exhibit 7--Sealed Record-Prescription No. N208865.
- (19) Exhibit 8--Sealed Record-Prescription No. N266296.
- (20) Exhibit 9--Sealed Record-Prescription No. N232559.
- (21) Exhibit 10--Sealed Record-Prescription No. N208837.
- (22) Exhibit 11--Sealed Record-Prescription No. N232288.
- (23) Exhibit 12--Sealed Record-Prescription No. N208672.
- (24) Exhibit 13--Sealed Record-Original and Telephone Prescription No. N265993.
- (25) Exhibit 14--Sealed Record-Prescription No. N266037.
- (26) Exhibit 15--Sealed Record-Prescription No. N266030.

- (27) Exhibit 16--Sealed Record-Prescription No. N265987.
- (28) Exhibit 17--Sealed Record-Prescription No. N265973.
- (29) Exhibit 18--Sealed Record-Prescription No. N266540.
- (30) Exhibit 19--Sealed Record-Kenwood Pharmacy computer printout of Prescription and Refill Register dated from May 1, 1995, through June 5, 1995.
- (31) Exhibit 20--Sealed Record-Copy of four pages from the Record of Sales of Exempt Narcotic Preparations booklet of Kenwood Pharmacy dated from April 9, 1993, through May 12, 1994.
- (32) Exhibit 20A--Sealed Record-Copy of one page from the Record of Sales of Exempt Narcotic Preparations booklet of Kenwood Pharmacy dated from December 22, 1992, through February 5, 1993.
- (33) Exhibit 21--Prescription (Medicaid and Third Party Insurance) Claim Log of Kenwood Pharmacy dated June 1 and 5, 1995.
- (34) Exhibit 22--Sealed Record-Prescription No. N715007.
- (35) Exhibit 23--Sealed Record-Prescription No. N716075.
- (36) Exhibit 24--Sealed Record-Prescription No. N718649.
- (37) Exhibit 25--Sealed Record-Prescription No. N721754.
- (38) Exhibit 26--Sealed Record-Prescription No. N727454.
- (39) Exhibit 27--Sealed Record-Prescription No. N733369.
- (40) Exhibit 28--Sealed Record-Prescription No. 737646.
- (41) Exhibit 29--Sealed Record-Prescription No. N741329.
- (42) Exhibit 30--Sealed Record-Prescription No. N743216.
- (43) Exhibit 31--Sealed Record-Prescription No. N724536.
- (44) Exhibit 32--Sealed Record-Prescription No. N740332.
- (45) Exhibit 33--Sealed Record-Prescription No. C266167.
- (46) Exhibit 34--Sealed Record-Prescription No. 250797.
- (47) Exhibit 35--Sealed Record-Prescription No. 250800.
- (48) Exhibit 36--Sealed Record-Prescription No. 250799.
- (49) Exhibit 37--Introduction to Ohio's Schedules of Controlled Substances dated July 21, 1994; and attached twenty-one-page Ohio's Schedules of Controlled Substances.
- (50) Exhibit 38--Sealed Record-Prescription No. N637424.
- (51) Exhibit 39--Sealed Record-Prescription No. N645675.
- (52) Exhibit 40--Sealed Record-Prescription No. C740837.
- (53) Exhibit 41--Sealed Record-Prescription No. C741784.
- (54) Exhibit 42--Sealed Record-Prescription No. C745216.
- (55) Exhibit 43--Sealed Record-Prescription No. C746117.
- (56) Exhibit 44--Sealed Record-Prescription No. 748466.
- (57) Exhibit 45--Sealed Record-Prescription No. 749915.
- (58) Exhibit 46--Sealed Record-Prescription No. C755000.
- (59) Exhibit 47--Sealed Record-Prescription No. C756180.
- (60) Exhibit 48--Sealed Record-Prescription No. C763480.
- (61) Exhibit 48A--Sealed Record-Kenwood Pharmacy Record of Prescriptions for James P. Miller dated from May 1, 1990, to April 24, 1991; and two-page Kenwood Pharmacy Record of Prescriptions for James P. Miller dated from January 1, 1987, to April 2, 1990.
- (62) Exhibit 49--Sealed Record-Prescription No. C770330.
- (63) Exhibit 50--Sealed Record-Prescription No. C775632.
- (64) Exhibit 51--Sealed Record-Prescription No. C784556.
- (65) Exhibit 52--Sealed Record-Prescription No. C787009.
- (66) Exhibit 53--Sealed Record-Prescription No. C791243.
- (67) Exhibit 54--Sealed Record-Prescription No. C797095.
- (68) Exhibit 55--Sealed Record-Prescription No. C798990.

- (69) Exhibit 56--Sealed Record-Prescription No. C800140.
- (70) Exhibit 57--Sealed Record-Prescription No. C802230.
- (71) Exhibit 58--Sealed Record-Prescription No. C804098.
- (72) Exhibit 59--Sealed Record-Prescription No. C742981.
- (73) Exhibit 59A--Sealed Record--Two-page Kenwood Pharmacy Record of Prescriptions for Sue Miller dated from January 1, 1987, to April 2, 1990; and Kenwood Pharmacy Record of Prescriptions for Sue Miller dated from May 1, 1990, to April 24, 1991.
- (74) Exhibit 60--Sealed Record-Prescription No. C747152.
- (75) Exhibit 61--Sealed Record-Prescription No. C751418.
- (76) Exhibit 62--Sealed Record-Prescription No. C758427.
- (77) Exhibit 63--Sealed Record-Prescription No. C765314.
- (78) Exhibit 64--Sealed Record-Prescription No. C772830.
- (79) Exhibit 65--Sealed Record-Prescription No. C778324.
- (80) Exhibit 66--Sealed Record-Prescription No. C785562.
- (81) Exhibit 67--Sealed Record-Prescription No. C792515.
- (82) Exhibit 68--Sealed Record-Prescription No. C795789.
- (83) Exhibit 69--Sealed Record-Prescription No. C796879.
- (84) Exhibit 70--Sealed Record-Prescription No. C798022.
- (85) Exhibit 71--Sealed Record-Prescription No. C801494.
- (86) Exhibit 72--Sealed Record-Prescription No. N770646.
- (87) Exhibit 72A--Sealed Record--Two-page Kenwood Pharmacy Record of Prescriptions for Florette Doepker dated from May 1, 1990, to April 24, 1991.
- (88) Exhibit 73--Sealed Record-Prescription No. N773538.
- (89) Exhibit 74--Sealed Record-Prescription No. N774921.
- (90) Exhibit 75--Sealed Record-Prescription No. N777325.
- (91) Exhibit 76--Sealed Record-Prescription No. N780040.
- (92) Exhibit 77--Sealed Record-Prescription No. N782599.
- (93) Exhibit 78--Sealed Record-Prescription No. N786181.
- (94) Exhibit 79--Sealed Record-Prescription No. N788796.
- (95) Exhibit 80--Sealed Record-Prescription No. N791510.
- (96) Exhibit 81--Sealed Record-Prescription No. C797849.
- (97) Exhibit 82--Sealed Record-Prescription No. C799059.
- (98) Exhibit 83--Sealed Record-Prescription No. C800930.
- (99) Exhibit 84--Sealed Record-Prescription No. C804188.
- (100) Exhibit 85--Sealed Record-Prescription No. C791551.
- (101) Exhibit 86--Sealed Record-Prescription No. N710897.
- (102) Exhibit 87--Sealed Record-Prescription No. N729842.
- (103) Exhibit 88--Handwritten statement of Janlyn Pugh signed and notarized on June 27, 1990.
- (104) Exhibit 89--Handwritten statement of Charles R. Konkus signed and notarized on June 21, 1990.
- (105) Exhibit 90--Handwritten statement of Todd McFarland signed and notarized on June 27, 1990.
- (106) Exhibit 95--Copy of page 1608 of the 1988 Physicians' Desk Reference.
- (107) Exhibit 96--Copy of pages 513 and 514 of the 1988 Physicians' Desk Reference.
- (108) Exhibit 97--Copy of pages 1605 and 1606 of the 1988 Physicians' Desk Reference.
- (109) Exhibit 98--Copy of pages 842 and 843 of the 1988 Physicians' Desk Reference.
- (110) Exhibit 99--Copy of pages 2124 and 2125 of the 1988 Physicians' Desk Reference.
- (111) Exhibit 100--Copy of page 1176 of the 1988 Physicians' Desk Reference.
- (112) Exhibit 101--Copy of page 1126 of the 1988 Physicians' Desk Reference.
- (113) Exhibit 102--Copy of pages 725 and 726 of the 1988 Physicians' Desk Reference.
- (114) Exhibit 103--Copy of six-page *Ohio State Board of Pharmacy News* dated February, 1987.

Respondent's Exhibits:

- (1) Exhibit R1A--Copy of James N. Murphy Profile dated March 6, 1997.
- (2) Exhibit R1B--Copy of two pictures showing outside storefront of Kenwood Pharmacy.
- (3) Exhibit R1C--Copy of picture showing outside storefront of Kenwood Pharmacy.
- (4) Exhibit R1D--Copy of picture showing road sign of Kenwood Pharmacy.
- (5) Exhibit R1E--Copy of picture showing the inner pharmacy counter of Kenwood Pharmacy.
- (6) Exhibit R1F--Copy of picture showing inside of Kenwood Pharmacy store.
- (7) Exhibit R1G--Copy of picture showing the outer pharmacy counter of Kenwood Pharmacy.
- (8) Exhibit R1H--Copy of picture showing pharmacy counter of Kenwood Pharmacy and, specifically, a plaque from the National Association of Retail Druggists.
- (9) Exhibit R1I--Copy of plaque of James N. Murphy for Preceptor of the Year given by the University of Cincinnati, College of Pharmacy, Class of 1989.
- (10) Exhibit R1J--Copy of ten-page "Ohio State Board of Pharmacy Summary of Requirements" titled *The Legal Practice of Pharmacy*, date unknown; copy of "Ohio State Board of Pharmacy Compliance Bulletin 96-003" regarding Redux™ (dexfenfluramine), dated June 17, 1996; and copy of three-page "Ohio State Board of Pharmacy Summary of Laws and Rules" titled *Drugs Prescribed by Optometrists* dated May 15, 1996.
- (11) Exhibit R1K--Copy of four-page *Ohio State Board of Pharmacy News* dated August, 1991.
- (12) Exhibit R1L--Copy of four-page *Ohio State Board of Pharmacy News* dated August, 1984.
- (13) Exhibit R1M--Copy of four-page *Ohio State Board of Pharmacy News* dated November, 1984.
- (14) Exhibit R1Q--Copy of letter from Nancy Kirkman, not dated.
- (15) Exhibit R3A--Copy of Kenwood Pharmacy "Policy for Patient Counseling", not dated.
- (16) Exhibit R3B--Copy of Kenwood Pharmacy Patient Information Leaflet for Prescription No. 270231.
- (17) Exhibit R3C--Copy of Kenwood Pharmacy Prescription Receipt.
- (18) Exhibit R3D--Copy of sign stating "attention, all pharmacy personnel, counseling the patient . . . .", not dated.
- (19) Exhibit R3E--Copy of sign stating "attention, Our pharmacists will be happy to speak to you . . . .", not dated.
- (20) Exhibit R3F--Copy of Kenwood Pharmacy Universal Signature Log.
- (21) Exhibit R3G--Three copies of Certificate of Continuing Pharmaceutical Education Participation of James N. Murphy numbered 702-000-95-030-H03 dated September 28, 1996; and copy of cover of program booklet titled "Legal Considerations in Contemporary Pharmacy Practice - OBRA '90".
- (22) Exhibit R4A--Copy of "Ohio State Board of Pharmacy Compliance Bulletin No. 93-002" regarding Compounding of Prescriptions/Manufacturing.
- (23) Exhibit R4B--Copy of four-page *Ohio State Board of Pharmacy News* dated November, 1993.
- (24) Exhibit R4C--Copy of DEA Form 222, No. 861033501, of Mark E. Grosinger, D.O. dated June 19, 1987.
- (25) Exhibit R4D--Copy of DEA Form 222, No. 861033502, of Mark E. Grosinger, D.O. dated September 22, 1987.
- (26) Exhibit R4E--Copy of DEA Form 222, No. 871995463, of George R. Lanz, D.D.S. dated July 19, 1988.

- (27) Exhibit R4F--Copy of DEA Form 222, No. 871995462, of George R. Lanz, D.D.S. dated November 23, 1987.
- (28) Exhibit R5C--Copy of six-page *Ohio State Board of Pharmacy News* dated February, 1995.
- (29) Exhibit R6A--Copy of prescriptions numbered 247894 and 247895.
- (30) Exhibit R6B--Copy of prescriptions numbered 247899 and 247898.
- (31) Exhibit R6C--Copy of prescriptions numbered 247896 and 247900.
- (32) Exhibit R6D--Copy of Ohio Valley Residential Services Medication Review of Linda Counts dated December 12, 1994.
- (33) Exhibit R 8; 9; 10; 11C--Affidavit of Frank Clement, M.D. signed and notarized on March 3, 1997.
- (34) Exhibit R 8; 9; 10; 11D--Copy of four-page *Ohio State Board of Pharmacy News* dated February, 1992.
- (35) Exhibit R12; 13A--Affidavit of H. E. Rissover, M. D. signed and notarized on February 28, 1997; with copies of state's exhibits 72 through 84 attached.

#### 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 James N. Murphy was originally licensed in the state of Ohio on March 18, 1963, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Records further reflect that James N. Murphy is, and has been during the relevant time periods stated herein, the Responsible Pharmacist at Kenwood Pharmacy, 7677 Montgomery Road, Cincinnati, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) James N. Murphy as the Responsible Pharmacist did, on or about June 6, 1995, and dates immediately preceding, fail to keep accurate records of dangerous drugs and controlled substances received and dispensed by the pharmacy, to wit: Kenwood Pharmacy and its pharmacists committed the following recordkeeping violations:
  - (a) After having been specifically admonished by Board agents for such conduct on February 7, 1983, September 4, 1985, and March 28, 1990, James N. Murphy and/or someone under his control failed to manually initial the following prescriptions: N266693, N208865, N266296, N232559, N208837, N232288, and N208672.
  - (b) After having been specifically admonished by Board agents for such conduct on September 4, 1985, and November 30, 1990, James N. Murphy and/or someone under his control failed to keep proper records from April 12, 1993, through May 12, 1995, of sales of schedule V exempt narcotic preparations in accordance with Section 1306.32 of the Code of Federal Regulations.

Such conduct is in violation of Rule 4729-5-17 of the Ohio Administrative Code (as was in effect prior to January 17, 1997).

- (3) James N. Murphy as the Responsible Pharmacist did, on or about June 6, 1995, and dates immediately preceding, fail to perform patient counseling, to wit: when dispensing medications to patients pursuant to prescriptions, James N. Murphy and/or

someone under his control failed to offer patient counseling and failed to properly document the refusal of offers to counsel. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

- (4) James N. Murphy as the Responsible Pharmacist did, on or about December 31, 1984, knowingly sell a controlled substance in an amount greater than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: James N. Murphy and/or a pharmacist under his control sold 100 units of Quaalude 300mg, a schedule I controlled substance, pursuant to prescription number N645675. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code (as was in effect prior to July 1, 1996).
- (5) James N. Murphy as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: James N. Murphy and/or a pharmacist under his control dispensed drugs pursuant to the following prescriptions, and maintained them in the files of the pharmacy, which were not written for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date Written</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Quantity</u>
C740837	06/15/88	06/15/88	Didrex 50mg	100
C741784	06/15/88	06/29/88	Didrex 50mg	100
C745216	08/16/88	08/16/88	Didrex 50mg	100
C746117	08/16/88	08/30/88	Didrex 50mg	100
748466	09/30/88	09/30/88	Bontril PDM 35mg	100
749915	09/30/88	10/18/88	Bontril PDM 35mg	100
C755000	12/19/88	12/19/88	Didrex 50mg	100
C756180	12/19/88	01/03/89	Didrex 50mg	100
C763480	04/04/89	04/04/89	Didrex 50mg	100
C763480	refill	04/18/89	Didrex 50mg	100
C763480	refill	05/17/89	Didrex 50mg	100
C770330	07/03/89	07/03/89	Didrex 50mg	100
C770330	refill	07/24/89	Didrex 50mg	100
C770330	refill	08/16/89	Didrex 50mg	100
C775632	09/11/89	09/11/89	Didrex 50mg	100
C775632	refill	10/02/89	Didrex 50mg	100
C775632	refill	10/23/89	Didrex 50mg	100
C775632	refill	11/13/89	Didrex 50mg	100
C784556	unknown	12/27/89	Didrex 50mg	42
C787009	01/03/90	01/23/90	Didrex 50mg	42
C787009	refill	02/14/90	Didrex 50mg	42
C787009	refill	03/01/90	Didrex 50mg	42
C791243	03/12/90	03/12/90	Didrex 50mg	100
C797095	05/19/90	05/19/90	Didrex 50mg	42
C798990	06/09/90	06/09/90	Didrex 50mg	42
C800140	06/23/90	06/23/90	Didrex 50mg	42
C802230	07/20/90	07/20/90	Didrex 50mg	42
C804098	08/13/90	08/13/90	Didrex 50mg	42

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (6) James N. Murphy as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: James N. Murphy and/or pharmacists under his control dispensed drugs pursuant to the following prescriptions, and maintained them in the files of the pharmacy, which were not written for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date Written</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Quantity</u>
C742981	07/15/88	07/15/88	Didrex 50mg	100
C742981	refill	08/01/88	Didrex 50mg	100
C747152	09/13/88	09/13/88	Tenuate Dospan 75mg	35
C751418	11/04/88	11/04/88	Phentermine 30mg	30
C751418	refill	11/18/88	Phentermine 30mg	30
C751418	refill	12/05/88	Phentermine 30mg	30
C751418	refill	01/16/89	Phentermine 30mg	30
C758427	01/30/89	01/30/89	Didrex 50mg	100
C758427	refill	02/13/89	Didrex 50mg	100
C758427	refill	03/01/89	Didrex 50mg	100
C758427	refill	03/20/89	Didrex 50mg	100
C765314	04/28/89	04/28/89	Didrex 50mg	42
C765314	refill	05/12/89	Didrex 50mg	42
C765314	refill	06/01/89	Didrex 50mg	42
C765314	refill	06/12/89	Didrex 50mg	42
C765314	refill	06/24/89	Didrex 50mg	42
C765314	refill	07/18/89	Didrex 50mg	42
C772830	08/04/89	08/05/89	Didrex 50mg	100
C772830	refill	08/28/89	Didrex 50mg	100
C772830	refill	09/21/89	Didrex 50mg	100
C778324	10/13/89	10/13/89	Didrex 50mg	100
C778324	refill	11/04/89	Didrex 50mg	100
C778324	refill	11/25/89	Didrex 50mg	100
C778324	refill	12/18/89	Didrex 50mg	100
C785562	01/03/90	01/08/90	Didrex 50mg	100
C785562	refill	02/02/90	Didrex 50mg	100
C785562	refill	02/22/90	Didrex 50mg	100
C792515	03/27/90	03/27/90	Didrex 50mg	100
C795789	05/02/90	05/04/90	Didrex 50mg	42
C796879	05/16/90	05/16/90	Didrex 50mg	42
C798022	05/30/90	05/30/90	Didrex 50mg	42
C801494	07/11/90	07/11/90	Didrex 50mg	42

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (7) James N. Murphy as the Responsible Pharmacist did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: James N. Murphy and/or a pharmacist under his control dispensed drugs pursuant to the following prescriptions, and maintained them in the files of the pharmacy, which were not written for a legitimate medical purpose:

<u>Rx No.</u>	<u>Date Written</u>	<u>Dispensed</u>	<u>Drug</u>	<u>Quantity</u>
N770646	06/27/89	07/07/89	Desoxyn 5mg	100
N773538	08/15/89	08/15/89	Desoxyn 5mg	50
N774921	08/21/89	09/01/89	Desoxyn 5mg	100
N777325	09/18/89	10/02/89	Desoxyn 5mg	100

N780040	10/16/89	11/06/89	Desoxyn 5mg	100
N782599	11/13/89	12/05/89	Desoxyn 5mg	100
N786181	01/08/90	01/15/90	Desoxyn 5mg	100
N788796	02/06/90	02/12/90	Desoxyn 5mg	100
N791510	03/15/90	03/15/90	Biphetamine 12.5mg	30
C797849	05/08/90	05/29/90	Didrex 50mg	42
C799059	06/05/90	06/11/90	Didrex 50mg	42
C800930	07/03/90	07/03/90	Didrex 50mg	42
C804188	08/14/90	08/14/90	Didrex 50mg	42

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

#### CONCLUSION OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) through (7) 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.

#### ACTION OF THE BOARD

Pursuant to Section 4729.25 of the Ohio Revised Code, the State Board of Pharmacy hereby directs the Executive Director to issue a written warning to James N. Murphy.

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

MOTION CARRIED.

SO ORDERED.