



# 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-970307-032)

In The Matter Of:

**KENT W. SCHINDLER, R.Ph.**

105 Harvard Avenue  
Mansfield, Ohio 44906  
(R.Ph. No. 03-3-08430)

### INTRODUCTION

THE MATTER OF KENT W. SCHINDLER CAME TO HEARING ON JUNE 17, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KENT W. SCHINDLER 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) Michele Grubaugh, Medicine Shoppe, Mt. Vernon, Ohio
- (2) Peggy Lamb, Medicine Shoppe, Mt. Vernon, Ohio
- (3) Kevin Kinneer, Ohio State Board of Pharmacy
- (4) Paul Kover, R.Ph., Compliance Specialist

Respondent's Witnesses:

- (1) Kent W. Schindler, R.Ph., Respondent
- (2) Ruth Schindler, R.N., Wife of Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated March 7, 1997.
- (2) Exhibit 1A--Hearing Request letter, not dated.

- (3) Exhibit 1B--Hearing Schedule letter dated March 21, 1997.
- (4) Exhibit 1C--Hearing Schedule letter dated May 20, 1997.
- (5) Exhibit 2--Thirty-nine prescriptions numbered as follows: 6818775, 6821618, 4428485, 6823995, 6805610, 4426401, 4426402, 6811421, 6814397, 6799794, 4425499, 4425903, 4426020, 6803920, 4424209, 4424636, 6792678, 4425214, 4423182, 6787238, 4423933, 6789543, 4421758, 4421978, 4421977, 6770896, 4421213 dated November 28, 1995, 6766966, 4421204, 4421213 dated January 5, 1996, 4421759, 4420889, 4420939, 4421013, 4421214, 6748969, 4419457, 4419456, and 4420550.
- (6) Exhibit 3--Two-page handwritten statement of Mary Lou Montenery signed and notarized on March 3, 1997.
- (7) Exhibit 4--Handwritten statement of Michele L. Grubaugh signed and notarized on March 4, 1997.
- (8) Exhibit 5--Handwritten statement of Peggy Lamb signed and notarized on March 3, 1997.
- (9) Exhibit 6--Five-page Walmart Pharmacy Medical Expenses report of Kent Schindler dated from November 1, 1990, to March 3, 1997.
- (10) Exhibit 7--Five-page copy of notes of Kent Schindler received in the Board office on March 4, 1997.
- (11) Exhibit 8--Four-page letter from Felipe N. Fernandez, M.D. dated March 25, 1997.
- (12) Exhibit 9--Copy of pages 2649 through 2653 of the *1996 Physicians' Desk Reference*.
- (13) Exhibit 10--Three-page Revco Prescription Access Link Patient Medical Profile of Kent W. Schindler dated from June 3, 1994, through June 3, 1997.

Respondent's Exhibits:

- (1) Exhibit A--Walmart prescription vial, No. 4426401, dated February 18, 1997, containing 2 unit doses of Alprazolam 2mg and handwritten note of Kent Schindler attached to 9" x 14" white mailing envelope.
- (2) Exhibit B--Walmart Medical Expenses report of Kent Schindler dated from October 28, 1996, to April 11, 1997.
- (3) Exhibit C--Copy of Progress Notes of Kent Schindler dated April 2, 1996, and October 15, 1996.
- (4) Exhibit D--Four-page copy of Summary Suspension Order/Notice of Opportunity for Hearing letter of Kent W. Schindler dated March 7, 1997, and copy of MedCentral Health System Outpatient Test Request Form of Kent Schindler by Felipe N. Fernandez, M.D. dated February 21, 1997.
- (5) Exhibit E--Four-page copy of letter from Felipe N. Fernandez, M.D. dated March 25, 1997.
- (6) Exhibit F--Copy of Time Line of Kent Schindler dated from 1993, to March 21, 1997.

FINDINGS OF FACT

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

- (1) Records of the Board indicate that Kent W. Schindler is a pharmacist registered by the Board to practice pharmacy in the state of Ohio. On March 7, 1997, the Board summarily suspended Kent W. Schindler's license in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code

- (2) Kent W. Schindler is impaired physically or mentally to such a degree as to render him unfit to practice pharmacy; to wit:
- (a) Kent W. Schindler admittedly loses his memory in stressful situations, to wit: on or about February 19, 1997, when hired as a relief pharmacist, Kent W. Schindler got lost when commuting to an area with which he had once been familiar, arriving one-half hour late to work; Kent W. Schindler brought seven cups of coffee to work for three employees who had told him they did not drink coffee; and, on February 27, 1997, Kent W. Schindler indicated to Board agents that his physician told him that due to his ingestion of Benzodiazepines (e.g., Xanax and Limbitrol) the frontal lobes of his brain shut down, causing memory loss and hand tremors.
  - (b) Kent W. Schindler is being prescribed Xanax in the amount of 9mg per day and one dosage unit of Limbitrol 10/25 at bedtime which, due to the effect on his memory and hand tremors as described by his physician, is a dangerous dosage level of Benzodiazepines with which to carry on normal daily activity or practice pharmacy. The use of these drugs in such quantities has resulted in Kent W. Schindler's inability to practice pharmacy.
  - (c) When practicing pharmacy on or about February 19, 1997, Kent W. Schindler had slurred speech, he appeared confused, and he could not maintain complete thought processes; Kent W. Schindler had to leave the pharmacy to smoke during times he deemed stressful; Kent W. Schindler was observed placing labels over labels when dispensing, some being upside-down; Kent W. Schindler was observed mislabeling prescriptions and repeatedly dispensed the same prescription; and Kent W. Schindler was observed to be confused and unable to identify the generic equivalents for brand-name drugs.
  - (d) When practicing pharmacy on or about February 19, 1997, Kent W. Schindler was observed by pharmacy personnel ignoring ringing phones.
  - (e) On or about February 19, 1997, Kent W. Schindler cut his finger, yet instead of bandaging it he put on a latex glove when practicing pharmacy. When Kent W. Schindler cut the glove, he taped it.
  - (f) Kent W. Schindler was observed by Board agents on or about February 27, 1997, as having uncontrollable tremors in one hand, and he gave several different explanations for it, but he failed to maintain a complete thought process throughout, unable to stay focused on a line of questioning. Further, Kent W. Schindler gave three answers regarding the directions for use of his own Xanax prescription while viewing the prescription vial label.

Such conduct indicates that Kent W. Schindler is incompetent to practice pharmacy within the meaning of Sections 3719.121(B) and 4729.16(A)(3) of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

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

- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being impaired mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued March 7, 1997.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Kent W. Schindler:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-08430, held by Kent W. Schindler indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Kent W. Schindler may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) The Board will consider any petition filed by Kent W. Schindler for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if Kent W. Schindler provides proof to the Board that he is capable of practicing pharmacy. As part of this proof, Kent W. Schindler must obtain two independent, full psychiatric and/or psychological evaluations, by licensed psychiatrists and/or psychologists unfamiliar to Mr. Schindler's history, that include a recommended treatment plan. Both evaluations must state that Mr. Schindler is of sound mental capability, sound memory, and able to manage stress on a day-to-day basis. Further, the evaluations must state the professional's opinion regarding whether or not Kent W. Schindler could function safely and efficiently as a pharmacist.

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

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

MOTION CARRIED.

SO ORDERED.



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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950203-035)

In The Matter Of:

**KENT W. SCHINDLER, R.Ph.**

105 Harvard Avenue  
Mansfield, Ohio 44906  
(R.Ph. No. 03-3-08430)

### INTRODUCTION

THE MATTER OF KENT W. SCHINDLER CAME TO HEARING ON APRIL 25, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: RUTH A. PLANT, R.Ph. (presiding); PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

KENT W. SCHINDLER WAS REPRESENTED BY CHARLES T. ROBINSON, AND THE STATE OF OHIO WAS REPRESENTED BY ROBERT J. McCLAREN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Kent W. Schindler, Respondent
- (2) Eric Robson, Loss Prevention, Rite Aid
- (3) Detective Robert Mortimer, D. A. R. T.

Respondent's Witnesses:

- (1) Kent W. Schindler, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated February 3, 1995.
- (2) Exhibit 1A--Hearing Request letter dated February 14, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated February 17, 1995.

- (4) Exhibit 1C--Pharmacist File Front Sheet of Kent William Schindler showing original date of registration as August 16, 1965; and Renewal Application for Pharmacist License, No. 03-3-08430, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Kent W. Schindler dated June 30, 1994.
- (5) Exhibit 1D--Notification of Change of Responsible Person form of Rite Aid Discount Pharmacy #1282, Terminal Distributor License No. 02-187800, received October 2, 1989; Renewal Application for Annual License, Terminal Distributor of Dangerous Drugs for January 1, 1990, to December 31, 1990, of Rite Aid Discount Pharmacy #1282, dated November 23, 1989; Renewal Application for DDD License for a Terminal Distributor of Dangerous Drugs License from January 1, 1991, to December 31, 1991, of Rite Aid Discount Pharmacy #1282, dated October 22, 1990; Renewal Application for DDD License for a Terminal Distributor of Dangerous Drugs License from January 1, 1992, to December 31, 1992, of Rite Aid Discount Pharmacy #1282, dated November 20, 1991; and Change of Employment form of Kent W. Schindler dated July 30, 1992.
- (6) Exhibit 2--Copy of Investigation Results, Form No. 1009, of Rite Aid #1282 dated July 29, 1992; and copy of Internal Theft Incident Report regarding Kent W. Schindler dated July 29, 1992.
- (7) Exhibit 3--Copy of handwritten statement of Kent W. Schindler dated July 29, 1992.
- (8) Exhibit 4--Five-page copy of transcription of interview of Kent Schindler on October 23, 1992.
- (9) Exhibit 5--Accountability Statement of Rite Aid #1282, Terminal Distributor License No. 02-187800, for Paregoric dated September 10, 1992.
- (10) Exhibit 6--Accountability Statement of Rite Aid #1282, Terminal Distributor License No. 02-187800, for Tussionex Suspension dated September 28, 1992.
- (11) Exhibit 7--Accountability Statement of Rite Aid #1282, Terminal Distributor License No. 02-187800, for Ritalin 10mg dated September 10, 1992.
- (12) Exhibit 8--Prescription number 337016.
- (13) Exhibit 9--Prescription number 343841.
- (14) Exhibit 10--Prescription number 339925 and prescription number 337016.
- (15) Exhibit 12--Copy of Shelby Police Department voluntary statement of Kathy Keeney dated August 5, 1992.
- (16) Exhibit 13--Handwritten statement of William Jeffrey signed and notarized on November 30, 1992.
- (17) Exhibit 14--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription number 339925 dated October 29, 1991.
- (18) Exhibit 15--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription number 339925 dated October 5, 1991.
- (19) Exhibit 16--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription numbers 341074 and 339925 dated November 15, 1991.
- (20) Exhibit 17--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription numbers 343824, 343825, and 343841 dated December 27, 1991.
- (21) Exhibit 18--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription numbers 344480, 343824, 343825, and 343841 dated January 21, 1992.
- (22) Exhibit 19--Rite Aid Pharmacy Third Party Imprint and Signature Form for prescription number 343841 dated February 22, 1992, and prescription numbers 345207 and 344481 dated February 23, 1992.
- (23) Exhibit 20--Certified Bill of Information in the Richland County Common Pleas Court, Case No. 92CR623H of Kent W. Schindler dated November 18, 1992.
- (24) Exhibit 21--Certified Recognizance of Accused in the Richland County Common Pleas Court, Case No. 92-CR-623H, of Kent W. Schindler dated November 19, 1992.

- (25) Exhibit 22--Certified Waiver, Plea & Entry in the Richland County Common Pleas Court, Case No. 92-CR-623, of Kent Schindler dated November 19, 1992.
- (26) Exhibit 23--Certified Waiver of Indictment in the Richland County Common Pleas Court, Case No. 92CR623H, of Kent W. Schindler dated November 19, 1992.
- (27) Exhibit 24--Certified Waiver of One Day Service in the Richland County Common Pleas Court, Case No. 92CR623H, of Kent W. Schindler dated November 19, 1992.
- (28) Exhibit 25--Certified Warrant to Arrest on Bill of Information in the Richland County Common Pleas Court, Case No. 92 CR 623 H, of Kent W. Schindler dated November 20, 1992.
- (29) Exhibit 26--Certified Diversion Judgment Entry in the Richland County Common Pleas Court, Case No. 92CR623(H), of Kent W. Schindler dated January 7, 1993.

Respondent's Exhibits:

- (1) Exhibit A --Copy of status report of Kent Schindler by Carol Cole and Jill Gillespie dated April 24, 1995.
- (2) Exhibit B--Copy of Motion in the Richland County Common Pleas Court, Case No. 92-CR-623 H of Kent W. Schindler dated March 8, 1994.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Kent W. Schindler was originally licensed in the state of Ohio on August 16, 1965, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Further, from on or about October, 1989, through July 28, 1992, Kent W. Schindler was the Responsible Pharmacist at Rite Aid #1282, 17 S. Gamble Street, Shelby, Ohio 44875, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (2) Kent W. Schindler as the Responsible Pharmacist did, between January 1991, and July 30, 1992, with the purpose to deprive the owner, Rite Aid #1282, knowingly obtain or exert control over Rite Aid's drug stock beyond the express or implied consent of Rite Aid, to wit: Kent W. Schindler or another pharmacist under his control stole 33.7 pints of Paregoric, a schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Kent W. Schindler did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions for controlled substances, to wit: Kent W. Schindler forged the following prescriptions for the controlled substance Paregoric and kept them on file at Rite Aid #1282 to cover for his thefts of drugs:

<u>Date</u>	<u>Rx No</u>	<u>Type Rx</u>	<u>Quantity</u>
05-14-91	335359	Rx not located	240ml
06-29-91	337016	original telephone	60ml
07-04-91	337016	refill	60ml
07-30-91	337016	refill	60ml
08-23-91	337016	refill	60ml
09-03-91	337016	refill	60ml
09-19-91	337016	refill	60ml

09-22-91	339925	original telephone	120ml
10-05-91	339925	refill	120ml
10-29-91	339925	refill	120ml
11-15-91	339925	refill	120ml
12-27-91	343841	original telephone	120ml
01-21-92	343841	refill	120ml
02-22-92	343841	refill	120ml
03-11-92	346791	original telephone	120ml
04-14-92	346791	refill	120ml

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (4) Kent W. Schindler is abusing drugs or impaired mentally to such a degree as to render him unfit to practice pharmacy, to wit: Kent W. Schindler has admitted to stealing Paregoric from his employer, forging prescriptions to cover for the drug thefts, consuming the drug that was not prescribed by a practitioner and while working as a pharmacist.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Kent W. Schindler:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-08430, held by Kent W. Schindler indefinitely and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Kent W. Schindler may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Kent W. Schindler's license will be reinstated only when the following conditions have been met:

(1) Kent W. Schindler must enter into a new contract, from the effective date of this Order, with a certified Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment program acceptable to the Board, for a period of not less than five years. The contract must provide that:

(a) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must include reporting of specific gravity;

(b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare;

(c) the intervener shall provide copies of all urine screens to the Board of Pharmacy in a timely fashion; and

(d) the program shall immediately report to the Board of Pharmacy any violations of the contract.

(2) Kent W. Schindler must submit a copy of the signed contract to the Board prior to reinstatement.

(C) Kent W. Schindler's license will be reinstated and placed on probation for five years after submission of the new contract with the following terms:

(1) Kent W. Schindler 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:

(a) The written report and documentation provided by the treatment program pursuant to the contract, and

(b) a written description of his progress towards recovery and what he has been doing during the previous three months.

(2) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Kent W. Schindler's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns while on probation.

(3) Kent W. Schindler may not serve as a responsible pharmacist while on probation.

(4) Kent W. Schindler may not destroy, or may not assist in or witness the destruction of controlled substances while on probation.

(5) Kent W. Schindler must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.

(6) Kent W. Schindler must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(7) Kent W. Schindler must abide by the rules of the Ohio State Board of Pharmacy.

(8) Kent W. Schindler must comply with the terms of this Order.

Kent W. Schindler 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.

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

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

MOTION CARRIED.

SO ORDERED.