



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-930426-080)

In The Matter Of:

**DAVID M. TURSHON, R.Ph.**

19701 Libby Road

Maple Heights, Ohio 44137

(R.Ph. No. 03-3-09102)

### INTRODUCTION

THE MATTER OF DAVID M. TURSHON CAME TO HEARING ON JUNE 27, 1994, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH R. SABINO, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; TIMOTHY D. MOORE, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID M. TURSHON WAS REPRESENTED BY WAYNE L. KEREK, AND THE STATE OF OHIO WAS REPRESENTED BY GREGG THORNTON, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### (A) Testimony

State's Witnesses:

- (1) Robert L. Hope, Loss Prevention Controller, Revco

Respondent's Witnesses:

- (1) Cynthia A. Downing
- (2) David M. Turshon, Respondent
- (3) Harry Parmalee

#### (B) Exhibits

State's Exhibits:

- (1) Exhibit 1 - Summary Suspension Order/Notice of Opportunity letter dated April 26, 1993.
- (2) Exhibit 1A - Hearing Request letter dated May 15, 1993.
- (3) Exhibit 1B - Hearing Schedule letter dated June 8, 1993.
- (4) Exhibit 1C - Hearing Schedule letter dated August 26, 1993.
- (5) Exhibit 1D - Hearing Schedule letter dated October 7, 1993.

- (6) Exhibit 2 - Order of the Ohio State Board of Pharmacy, Docket No. D-901106-039, in the matter of David M. Turshon, R.Ph. dated March 12, 1991.
- (7) Exhibit 3 - Order of the Ohio State Board of Pharmacy, Docket No. D-910911-045, in the matter of David M. Turshon, R.Ph. dated November 4, 1991.
- (8) Exhibit 4 - Certified copy of Bill of Information in the Cuyahoga County Common Pleas Court, Case No. CR 299967, of David Turshon filed August 4, 1993; certified copy of Indictment in the Court of Common Pleas, Cuyahoga County, Ohio, Case No. CR 299967, of David Turshon filed August 20, 1993; and Certified copy of Journal Entry in the Court Common Pleas, Cuyahoga County, Ohio, Case No. CR 299967, of David Turshon filed September 30, 1993.
- (9) Exhibit 5 - Roche Biomedical Laboratories Urinalysis Drug Screen Results of Dave Turshon dated March 19, 1993.
- (10) Exhibit 6 - Four-page letter from David M. Turshon dated March 30, 1993.
- (11) Exhibit 7 - Copy of Pharmacists Rehabilitation Organization Inc. Client Reporting Sheet of Dave Turshon for the time period of January 1, 1993, to March 31, 1993, dated April 5, 1993; copy of Pharmacists Rehabilitation Organization Inc. Client Monitoring Sheet dated from January 2, 1993, through March 31, 1993; and copies of three pages of AA attendance sheets dated from January 24, 1993, through March 30, 1993.
- (12) Exhibit 8 - Pharmacists Rehabilitation Organization Inc. Client Reporting Sheet of Dave Turshon for the time period of April, 1993, to June, 1993, dated July 6, 1993.
- (13) Exhibit 9 - Pharmacists Rehabilitation Organization Inc. Client Reporting Sheet of Dave Turshon for the time period of Third Quarter, 1993, dated October 6, 1993; and Pharmacists Rehabilitation Organization Client Monitoring Sheet of Dave Turshon dated from July 10, 1993, to September 25, 1993.
- (14) Exhibit 10 - Two-page letter from David M. Turshon dated October 3, 1993.
- (15) Exhibit 11 - Two-page letter from David M. Turshon dated January 8, 1994; and four pages of AA Attendance for Dave Turshon dated from October 6, 1993, to January 7, 1994.
- (16) Exhibit 12 - Pharmacists Rehabilitation Organization Inc. Client Reporting Sheet of Dave Turshon for the time period of October, 1993, to December, 1993, dated January 11, 1994; Pharmacists Rehabilitation Organization Client Monitoring Sheet of Dave Turshon dated from October 2, 1993, to December 31, 1993; and two-page letter from David M. Turshon dated January 8, 1994.
- (17) Exhibit 13 - Roche Biomedical Laboratories Urinalysis Drug Screen Results of Dave Turshon dated February 10, 1994.
- (18) Exhibit 14 - Two-page letter from David M. Turshon dated April 9, 1994; and four pages of AA Attendance for Dave Turshon dated January 8, 1994, to April 7, 1994.
- (19) Exhibit 15 - Pharmacists Rehabilitation Organization Inc. Client Reporting Sheet of Dave Turshon for the time period of January, 1994, to March, 1994, dated April 13, 1994; and Pharmacists Rehabilitation Organization Client Monitoring Sheet of Dave Turshon dated from January 8, 1994, to April 7, 1994.

- (20) Exhibit 16 - Two-page copy of handwritten statement of David M. Turshon dated March 26, 1993.
- (21) Exhibit 17 - Revco #1338 Loss Prevention Controlled Substance Audit Computation Chart dated April 15, 1993.
- (22) Exhibit 18 - Envelope from David M. Turshon containing three pages of AA meetings attended from January 24, 1993, to March 30, 1993.
- (23) Exhibit 19 - Envelope from David M. Turshon containing eight pages of AA meetings attended from March 31, 1993, to October 4, 1993.

Respondent's Exhibits:

- (1) Exhibit A - Two-page letter from Cynthia Downing dated June 10, 1994.
- (2) Exhibit B1 - Copy of Surrender Checklist of David Turshon dated June 10, 1993.
- (3) Exhibit B2 - Copy of Surrender Checklist of David Turshon dated June 10, 1994.
- (4) Exhibit B3 - Copy of Surrender Checklist - Self Report of David Turshon dated June 10, 1994.
- (5) Exhibit C1 - Copy of Damon Clinical Laboratories Urine Drug Screen Results of David Turshon dated June 16, 1993.
- (6) Exhibit C2 - Copy of Shepherd Hill Hospital Counselor Discharge Summary of David M. Turshon, discharge date June 18, 1993.
- (7) Exhibit C3 - Copy of page one of Shepherd Hill Hospital Integrated Summary of David Turshon, date of Admission April 2, 1993.
- (8) Exhibit C4 - Copy of page two of Shepherd Hill Hospital Integrated Summary of David Turshon dated April 8, 1993.
- (9) Exhibit C5 - Copy of page one of Shepherd Hill Hospital History & Physical Examination Report of David Turshon dated April 3, 1993.
- (10) Exhibit C6 - Copy of page two of Shepherd Hill Hospital History & Physical Examination Report of David Turshon dictated on April 6, 1993.
- (11) Exhibit C7 - Copy of Damon Clinical Laboratories Urine Drug Screen Results of David Turshon dated April 5, 1993.
- (12) Exhibit C8 - Copy of Shepherd Hill Hospital History & Physical Examination Report of David Turshon dictated April 14, 1993.
- (13) Exhibit C9 - Copy of page one of Shepherd Hill Hospital Recovery Plan, discharge date June 18, 1993.
- (14) Exhibit C10 - Copy of page two of Shepherd Hill Hospital Recovery Plan dated by David M. Turshon on June 13, 1993.
- (15) Exhibit D - Letter from Tina Holt dated June 7, 1994.
- (16) Exhibit E - Receipt for court costs from the County of Cuyahoga, Court of Common Pleas dated October 20, 1993; and receipt from Third Federal Savings of David M. Turshon dated October 19, 1993.
- (17) Exhibit F - Receipt for court costs from the County of Cuyahoga, Court of Common Pleas dated December 15, 1993; and receipt from Third Federal Savings of David M. Turshon dated December 7, 1993.
- (18) Exhibit G - Letter from Gabrielle A. Salman dated June 1, 1994.
- (19) Exhibit H1 - Copy of AA meetings attended by David M. Turshon dated from March 31, 1993 to May 15, 1993.
- (20) Exhibit H2 - Copy of AA meetings attended by David M. Turshon dated from May 16, 1993, to June 21, 1993.

- (21) Exhibit H3 - Copy of AA meetings attended by David M. Turshon dated from June 22, 1993, to July 10, 1993.
- (22) Exhibit H4 - Copy of AA meetings attended by David M. Turshon dated from July 11, 1993, to July 29, 1993.
- (23) Exhibit H5 - Copy of AA meetings attended by David M. Turshon dated from July 30, 1993, to August 9, 1993.
- (24) Exhibit H6 - Copy of AA meetings attended by David M. Turshon dated from August 11, 1993, to September 2, 1993.
- (25) Exhibit H7 - Copy of AA meetings attended by David M. Turshon dated from September 2, 1993, to September 21, 1993.
- (26) Exhibit H8 - Copy of AA meetings attended by David M. Turshon dated from September 22, 1993, to October 4, 1993.
- (27) Exhibit H9 - Copy of AA meetings attended by David M. Turshon dated from October 6, 1993, to October 30, 1993.
- (28) Exhibit H10 - Copy of AA meetings attended by David M. Turshon dated October 31, 1993, to November 23, 1993.
- (29) Exhibit H11 - Copy of AA meetings attended by David M. Turshon dated from November 25, 1993, to December 16, 1993.
- (30) Exhibit H12 - Copy of AA meetings attended by David M. Turshon dated from December 17, 1993, to January 7, 1994.
- (31) Exhibit H13 - Copy of AA meetings attended by David M. Turshon dated January 8, 1994, to February 1, 1994.
- (32) Exhibit H14 - Copy of AA meetings attended by David M. Turshon dated from February 2, 1994, to February 19, 1994.
- (33) Exhibit H15 - Copy of AA meetings attended by David M. Turshon dated from February 20, 1994, to March 14, 1994.
- (34) Exhibit H16 - Copy of AA meetings attended by David M. Turshon dated from March 15, 1994, to April 7, 1994.
- (35) Exhibit H17 - AA meetings attended by David M. Turshon dated from April 8, 1994, to April 30, 1994.
- (36) Exhibit H18 - AA meetings attended by David M. Turshon dated from May 1, 1994, to May 26, 1994.
- (37) Exhibit H19 - AA meetings attended by David M. Turshon dated May 28, 1994, to June 17, 1994.
- (38) Exhibit H20 - AA meetings attended by David M. Turshon dated from June 18, 1994, to June 24, 1994.
- (39) Exhibit I - Two-page copy of Pharmacists Rehabilitation Organization, Inc. Impaired Pharmacist's Contract of David Turshon dated August 27, 1991.
- (40) Exhibit J1 - SmithKline Beecham urine drug screen results of David Turshon dated September 9, 1993.
- (41) Exhibit J2 - Roche Biomedical Laboratories urine drug screen results of Dave Turshon dated February 10, 1994.
- (42) Exhibit J3 - Roche Biomedical Laboratories urine drug screen results of Dave Turshon dated May 19, 1994.
- (43) Exhibit J4 - Roche Biomedical Laboratories urine drug screen results of Dave Turshon dated May 26, 1994.
- (44) Exhibit J5 - Roche Biomedical Laboratories urine drug screen results of Dave Turshon dated June 15, 1994.
- (45) Exhibit J6 - Roche Biomedical Laboratories Chain of Custody Request of Dave Turshon dated June 3, 1994.
- (46) Exhibit K1 - Letter from John E. Stair, Jr. dated June 14, 1994.
- (47) Exhibit K2 - Letter from Mr. & Mrs. Gregory Lucas dated June 16, 1994.

- (48) Exhibit K3 - Letter from Dawn M. Hicks dated June 9, 1994.
- (49) Exhibit K4 - Letter from Dale E. Brainard dated June 13, 1994.
- (50) Exhibit K5 - Letter from John P. Keefe dated June 1, 1994.
- (51) Exhibit K6 - Letter from Thomas Semancik dated June 15, 1994.
- (52) Exhibit K7 - Letter from Linda Holte dated June 14, 1994.
- (53) Exhibit K8 - Copy of letter from Robert L. Kerek dated June 20, 1994.
- (54) Exhibit K9 - Letter from Melissa Turshon dated June 10, 1994.
- (55) Exhibit K10 - Letter from Lorraine M. Wiley dated June 20, 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 indicate that David M. Turshon is a pharmacist registered with the Board and that his pharmacist identification card to practice pharmacy in the state of Ohio was summarily suspended on April 26, 1993.
- (2) David M. Turshon was suspended from the practice of pharmacy in Ohio on March 12, 1991, due to his addiction to alcohol and/or drugs. The requirements for reinstatement were as follows:
  - (a) David M. Turshon was to be evaluated by a licensed psychologist to determine whether or not treatment for his addiction problem was necessary.
  - (b) Due to recommended treatment, David M. Turshon was to provide evidence of entering into a rehabilitation program for a period of five years with the following stipulations:
    - (i) random, observed urine screens were to be conducted at least every three months,
    - (ii) regular attendance at an AA/NA or a similar support group meeting was required during outpatient and/or during aftercare,
    - (iii) the program was to immediately report to the Board of Pharmacy any violations of the contract.
  - (c) David M. Turshon was to submit a copy of the contract to the Board as soon as it was agreed to by the program.
  - (d) David M. Turshon was to submit quarterly progress reports to the Board that included:
    - (i) the written report and documentation provided by the treatment program pursuant to the contract,
    - (ii) a written description of his progress towards recovery and what he had been doing during the previous three months.

- (3) On September 25, 1991, David M. Turshon appeared before the Board for reinstatement of his license, and fulfilling those requirements, the Board reinstated his license to practice pharmacy in Ohio on November 4, 1991.
- (4) On March 12, 1993, David M. Turshon submitted a urine sample for drug screening. Positive results for Benzodiazepines were detected in Mr. Turshon's urine. David M. Turshon is still addicted to or abusing liquor and/or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (5) David M. Turshon is not in compliance with the Pharmacists Rehabilitation Organization, Inc. Impaired Pharmacist Contract dated August 27, 1991, which was revised on December 23, 1991.
- (6) David M. Turshon did, on or about September 30, 1993, in the Court of Common Pleas, Cuyahoga County, plead guilty to Theft, in violation of Section 2913.02 of the Ohio Revised Code, a felony of the fourth degree.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (6) 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 (4) and (5) 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 (2), (4), and (5) 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.
- (4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (4) and (6) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued April 26, 1993.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of David M. Turshon:

- (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 identification

card, No. 03-3-09102, held by David M. Turshon, 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 identification card, No. 03-3-09102, held by David M. Turshon, 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 identification card, No. 03-3-09102, held by David M. Turshon, effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the identification card, No. 03-3-09102, held by David M. Turshon, effective as of the date of the mailing of this Order.

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 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.