



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-950629-068)

In The Matter Of:

ALFRED J. SCHWARTZ, R.Ph.

10388 Dugan Gap Road

North Bend, Ohio 45052

(R.Ph. No. 03-3-09531)

INTRODUCTION

THE MATTER OF ALFRED J. SCHWARTZ CAME TO HEARING ON SEPTEMBER 18, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOSEPH J. MASLAK, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ALFRED J. SCHWARTZ WAS REPRESENTED BY ALLEN SCHWARTZ, AND THE STATE OF OHIO WAS REPRESENTED BY LAWRENCE D. PRATT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Terry A. Beckemeyer, Rite Aid Pharmacies
- (2) Cheryl Rooks, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Alfred J. Schwartz, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated June 29, 1995.
- (2) Exhibit 1A--Hearing Request letter dated July 14, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated July 18, 1995.
- (4) Exhibit 1C--Hearing Schedule letter dated August 4, 1995.
- (5) Exhibit 1D--Pharmacist File Front Sheet of Alfred J. Schwartz showing original date of registration as July 27, 1970.

- (6) Exhibit 1E--Renewal Application for Pharmacist License, No. 03-3-09531, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Alfred J. Schwartz dated June 3, 1995.
- (7) Exhibit 1F--Addendum Notice dated August 25, 1995.
- (8) Exhibit 2--Olympus Microcassette tape recording of interview of Alfred Schwartz by Cheryl Rooks on June 20, 1995.
- (9) Exhibit 3--Drug Audit Accountability Sheet of Rite Aid, Terminal Distributor License No. 02-186800, for Stadol Nasal Spray 10mg dated July 12, 1995.
- (10) Exhibit 4--Prescription No. 534396.
- (11) Exhibit 5--Prescription No. 537727.
- (12) Exhibit 6--Prescription No. 539232.
- (13) Exhibit 7--Prescription No. 540939.
- (14) Exhibit 8--Prescription No. 546196.
- (15) Exhibit 9--Prescription No. 555734.
- (16) Exhibit 10--Prescription No. 557158.
- (17) Exhibit 11--Prescription No. 559844.
- (18) Exhibit 12--Prescription No. 561543.
- (19) Exhibit 13--Prescription No. 562127.
- (20) Exhibit 14--Prescription No. 565217.
- (21) Exhibit 15--Prescription No. 569323.
- (22) Exhibit 16--Prescription No. 569892.
- (23) Exhibit 17--Prescription No. 570693.
- (24) Exhibit 18--Prescription No. 570718.
- (25) Exhibit 19--Prescription No. 570919.
- (26) Exhibit 20--Prescription No. 571157.
- (27) Exhibit 21--Prescription No. 573512.
- (28) Exhibit 22--Prescription No. 579955.
- (29) Exhibit 23--Prescription No. 580785.
- (30) Exhibit 24--Prescription No. 581936.
- (31) Exhibit 25--Prescription No. 583008.
- (32) Exhibit 26--Prescription No. 586105.
- (33) Exhibit 27--Prescription No. 587241.
- (34) Exhibit 28--Prescription No. 587918.
- (35) Exhibit 29--Prescription No. 588028.
- (36) Exhibit 30--Prescription No. 569892.
- (37) Exhibit 31--Prescription No. 570718.
- (38) Exhibit 32--Prescription No. 1234.
- (39) Exhibit 33--Prescription No. 1945.
- (40) Exhibit 34--Prescription No. 3422.
- (41) Exhibit 35--Prescription No. 588028, also labeled as Prescription No. 3604.
- (42) Exhibit 36--Prescription No. 570718, also labeled as Prescription No. 4226.
- (43) Exhibit 37--Prescription No. 586105, also labeled as Prescription No. 5081.
- (44) Exhibit 38--Prescription No. 587918, also labeled as Prescription No. 7612.
- (45) Exhibit 39--Prescription No. 580785, also labeled as Prescription No. 8027.
- (46) Exhibit 40--Prescription No. 586105, also labeled as Prescription No. 10846.
- (47) Exhibit 41--Three-page Rite Aid Pharmacy No. 01256 DUR Report by NDC Detail dated from August 1, 1994, through May 31, 1995; and five-page Rite Aid Pharmacy #1256 Drug Usage Report dated from November 1, 1992, through May 30, 1995.
- (48) Exhibit 42--Prescription Statement of Bradley M. Lemberg, M.D. signed and notarized on July 6, 1995.
- (49) Exhibit 43--Prescription Statement of Gerald Bowen, M.D. signed and notarized on August 2, 1995.

- (50) Exhibit 44--Prescription Statement of Chad Dunkle, M.D. signed and notarized on July 19, 1995.
- (51) Exhibit 45--Prescription Statement of Gregory Savage, M.D. signed and notarized on July 19, 1995.
- (52) Exhibit 46--Prescription Statement of Phillip Carr, M.D. signed and notarized on July 19, 1995.
- (53) Exhibit 47--Prescription Statement of Paula Weisenberger, M.D. signed and notarized on July 19, 1995.
- (54) Exhibit 48--Prescription Statement of Robert F. Arrom, M.D. regarding patient Lori Naegele signed and notarized on July 18, 1995.
- (55) Exhibit 49--Prescription Statement of Robert F. Arrom, M.D. regarding patient Joyce Babb signed and notarized on July 18, 1995.
- (56) Exhibit 50--Prescription Statement of Robert F. Arrom, M.D. regarding patient Patricia Macdiarmid signed and notarized on July 18, 1995.
- (57) Exhibit 51--Prescription Statement of Robert F. Arrom, M.D. regarding patient Amy Abbott signed and notarized on July 18, 1995.
- (58) Exhibit 52--Prescription Statement of Robert F. Arrom, M.D. regarding patient Holly Kirkwood signed and notarized on July 18, 1995.
- (59) Exhibit 53--Rite Aid Pharmacy #1256, Pharmacist's Statement regarding patient Alfred J. Schwartz dated from January 1, 1992, through July 3, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Letter from Howard L. Bernie, M.D. dated July 18, 1995.
- (2) Exhibit B--Letter to Terry from Alfred J. Schwartz, not dated.
- (3) Exhibit C--Dateline N.B.C., VHS videocassette tape recording titled "Headaches" dated July 21, 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 indicate that Alfred J. Schwartz was originally licensed to practice pharmacy in the state of Ohio on July 27, 1970, and on June 29, 1995, his license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) Alfred J. Schwartz is abusing dangerous drugs while engaged in the practice of pharmacy, to wit: Alfred J. Schwartz has admitted to a Board of Pharmacy agent that he is addicted to Stadol, a dangerous drug; Alfred J. Schwartz has stolen Stadol from the pharmacy in which he worked and abused it for the immediately preceding two and one-half years; and Alfred J. Schwartz has dispensed controlled substances while impaired under the influence of Stadol.
- (3) Alfred J. Schwartz did, from on or about November 1, 1992, through May 31, 1995, with the purpose to deprive, knowingly obtain a dangerous drug beyond the scope or consent of the owner, Rite Aid Pharmacy #1256, to wit: Alfred J. Schwartz stole 370 bottles of Stadol Nasal Spray, 80.79% of the total drug stock, from Rite Aid Pharmacy #1256. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Alfred J. Schwartz did, from on or about November 5, 1992, through May 27, 1995, make false or forged prescriptions for dangerous drugs, to wit: Alfred J. Schwartz created the following prescriptions and refills for Stadol Nasal Spray, a total of 154 dispensings, without authorization from a practitioner:

<u>Rx No.</u>	<u>Date</u>	<u>Rx Type</u>	<u># of Bottles</u>	<u>Rx Cross Reference</u>
534396	11/5/92	new	1	-
537727	12/22/92	new	1	-
539232	1/15/93	new	1	-
539232	2/6/93	refill	1	-
540939	2/8/93	new	1	-
540939	2/16/93	refill	1	-
540939	3/2/93	refill	1	-
540939	3/20/93	refill	1	-
546196	4/17/93	new	1	-
546196	6/3/93	refill	1	-
546196	7/7/93	refill	1	-
546196	8/7/93	refill	1	-
555734	9/4/93	new	1	-
546196	9/20/93	refill	1	-
557158	9/23/93	new	1	-
555734	9/28/93	refill	1	-
557158	10/13/93	refill	1	-
546196	10/21/93	refill	1	-
559844	10/27/93	new	1	-
560062	10/30/93	new	1	-

<u>Rx No.</u>	<u>Date</u>	<u>Rx Type</u>	<u># of Bottles</u>	<u>Rx Cross Reference</u>
559844	11/4/93	refill	1	-
559844	11/13/93	refill	1	-
561543	11/19/93	new	1	-
561543	11/27/93	refill	1	-
562127	11/29/93	new	1	-
561543	12/7/93	refill	1	-
562127	12/17/93	refill	1	-
561543	12/27/93	refill	1	-
562127	12/31/93	refill	1	-
565217	1/5/94	new	2	-
557158	1/10/94	refill	1	-
562127	2/2/94	refill	1	-
565217	2/21/94	refill	1	-
569323	3/2/94	new	1	-
565217	3/7/94	refill	1	-
569892	3/10/94	new	1	-
569323	3/15/94	refill	1	-
569892	3/16/94	refill	1	-
570693	3/19/94	new	1	-
570718	3/20/94	new	1	-
565217	3/21/94	refill	1	-
570919	3/22/94	new	1	-
571157	3/25/94	new	1	-
569323	3/29/94	refill	1	-

573512	4/26/94	new	2	-
569892	4/30/94	refill	2	-
565217	5/16/94	refill	1	-
569323	5/28/94	refill	1	-
573512	5/29/94	refill	1	-
569892	6/3/94	refill	1	-
571157	6/7/94	refill	1	-
573512	6/17/94	refill	1	-
570693	6/21/94	refill	1	-
570718	6/22/94	refill	1	-
578097	6/24/94	new	1	-
578146	6/25/94	new	1	-
573512	6/30/94	refill	2	-
570919	7/5/94	refill	1	-
570693	7/6/94	refill	1	-
570919	7/14/94	refill	1	-
579955	7/20/94	new	1	-
571157	7/23/94	refill	1	-
570693	7/28/94	refill	1	-
580785	8/2/94	new	1	-
579955	8/12/94	refill	1	-
581936	8/16/94	new	1	-
580785	8/17/94	refill	1	-
569892	8/20/94	refill	1	-
579955	8/22/94	refill	1	-
581936	8/31/94	refill	1	-
583008	8/31/94	new	1	-
583509	9/6/94	new	1	-
583509	9/17/94	refill	1	-
583509	9/27/94	refill	1	-

<u>Rx No.</u>	<u>Date</u>	<u>Rx Type</u>	<u># of Bottles</u>	<u>Rx Cross Reference</u>
570718	10/7/94	refill	1	-
586105	10/7/94	new	1	-
580785	10/11/94	refill	1	-
581936	10/12/94	refill	1	-
586105	10/16/94	refill	1	-
587241	10/20/94	new	1	-
587918	10/30/94	new	1	-
588028	10/31/94	new	1	-
587241	11/17/94	refill	1	-
587918	11/18/94	refill	1	-
587918	11/26/94	refill	1	-
744	12/10/94	refill	1	569892
932	12/12/94	refill	1	570718
1234	12/15/94	new	1	-
1945	12/21/94	new	2	-
1945	12/24/94	refill	2	-
3422	1/4/95	new	2	-
3604	1/8/95	refill	2	588028
4226	1/13/95	refill	2	570718
3604	1/21/95	refill	2	588028
5081	1/23/95	refill	1	586105

3422	1/26/95	refill	2	-
3604	1/27/95	refill	1	588028
3422	2/4/95	refill	1	-
7612	2/14/95	refill	1	587918
4226	2/15/95	refill	2	570718
8027	2/18/95	refill	1	580785
3604	2/19/95	refill	1	588028
8044	2/19/95	new	1	-
3422	2/20/95	refill	1	-
8027	2/24/95	refill	1	580785
5081	3/5/95	refill	1	586105
7612	3/5/95	refill	1	587918
8027	3/6/95	refill	1	580785
9567	3/6/95	new	1	-
7612	3/9/95	refill	1	587918
5081	3/10/95	refill	1	586105
7612	3/14/95	refill	1	587918
9567	3/15/95	refill	1	-
10846	3/19/95	refill	1	586105
10994	3/20/95	new	1	-
8027	3/24/95	refill	1	580785
8044	3/24/95	refill	1	-
9567	3/28/95	refill	1	-
8044	3/29/95	refill	1	-
10994	3/29/95	refill	1	-
744	4/1/95	refill	1	569892
10846	4/1/95	refill	1	586105
9567	4/15/95	refill	1	-
10994	4/16/95	refill	1	-
8044	4/17/95	refill	1	-
10846	4/21/95	refill	1	586105
4226	4/25/95	refill	2	570718
8027	4/27/95	refill	1	580785

<u>Rx No.</u>	<u>Date</u>	<u>Rx Type</u>	<u># of Bottles</u>	<u>Rx Cross Reference</u>
14673	5/1/95	new	2	-
14689	5/1/95	new	1	-
9567	5/5/95	refill	1	-
10994	5/5/95	refill	1	-
14673	5/9/95	refill	1	-
15818	5/13/95	new	1	-
15831	5/14/95	new	1	-
14673	5/15/95	refill	1	-
10994	5/18/95	refill	1	-
14673	5/24/95	refill	2	-
9567	5/27/95	refill	1	-

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

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) 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 (2) of the Findings of Fact constitutes being guilty of abusing drugs 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 (4) 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 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 June 29, 1995.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Alfred J. Schwartz:

- (A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-09531, held by Alfred J. Schwartz 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, Alfred J. Schwartz 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.
 - (1) Six months after the effective date of this Order, Alfred J. Schwartz's license to practice pharmacy in Ohio will be reinstated provided the following conditions have been met:
 - (a) Alfred J. Schwartz must provide a written report from each of his treating physicians regarding any condition requiring medication, all drugs prescribed, the prescribed dosage, and the prescribed duration.
 - (b) Alfred J. Schwartz must enter into an agreement with his primary physician for a period of six years which requires:
 - (i) random, **observed** urine screens shall be conducted at least every three months. The urine drug screens must include testing for Stadol and reporting of specific gravity;
 - (ii) the physician shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and

(iii) the physician shall immediately report to the Ohio Board of Pharmacy any positive screen results, violations of the agreement, and/or lack of cooperation.

Alfred J. Schwartz must submit a copy of the signed agreement to the Board.

- (c) Alfred J. Schwartz must enter into an agreement with Rite Aid Pharmacy #1256 for restitution, including a payment schedule, and upon agreement and signature by both parties, submit a copy to the Board.
- (2) Upon reinstatement of Alfred J. Schwartz's license to practice pharmacy in Ohio, his identification card will be placed on probation for five years with the following stipulations and conditions:
- (a) Alfred J. Schwartz shall promptly advise the Board in writing of any change of treating physician(s).
 - (b) Alfred J. Schwartz must provide documentation from each of his treating physicians when there is a change in any condition requiring prescribed medication, drugs prescribed, prescribed dosage, and/or prescribed duration.
 - (c) Alfred J. Schwartz must abide by the agreement with Rite Aid and any violation must be reported to the Board immediately.
 - (d) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that Alfred J. Schwartz's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (e) Alfred J. Schwartz may not serve as a responsible pharmacist.
 - (f) Alfred J. Schwartz may not destroy, or may not assist in or witness the destruction of controlled substances.
 - (g) Alfred J. Schwartz must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (h) Alfred J. Schwartz must abide by the rules of the Ohio State Board of Pharmacy.
 - (i) Alfred J. Schwartz must comply with the terms of this Order.

Alfred J. Schwartz 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.

(B) 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 imposes a monetary penalty of five thousand dollars (\$5,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with

the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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.

MOTION CARRIED.

SO ORDERED.



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

SUMMARY SUSPENSION

June 29, 1995

ALFRED J. SCHWARTZ, R.Ph.
10388 Dugan Gap Road
North Bend, Ohio 45052

Re: Ohio Registered Pharmacist
Number 03-3-0953 1

Dear Pharmacist:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the state of Ohio.

In accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice and/or your method of distributing controlled substances presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

(1) You are addicted to or abusing dangerous drugs while engaged in the practice of pharmacy, to wit: you have admitted to a Board of Pharmacy agent that you are addicted to Stadol, a dangerous drug, you have stolen Stadol from the pharmacy in which you worked and abused it for the immediately preceding two and one-half years; and you have dispensed controlled substances while impaired under the influence of Stadol.

(2) You did, from on or about January 1, 1994, through June 2, 1995, with the purpose to deprive, knowingly obtain a dangerous drug beyond the scope or consent of the owner, Rite Aid Pharmacy #1256, to wit: you stole 149 bottles of Stadol Nasal Spray from Rite Aid Pharmacy #1256. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) You did on or about April 17, 1993, make a false or forged prescription for a dangerous drug, to wit: you created prescription number 546196 for 3 bottles of Stadol 10mg/10ml Nasal Spray, having two refills, when such prescription was not authorized by a practitioner. Such conduct is in violation of Section 4729.61 (C) of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) The license or registration of a ... pharmacist, ... may be suspended without a prior hearing by the board under which he has been licensed or registered if the board determines that there is clear and convincing evidence that continuation of his professional practice or his method of distributing controlled substances presents a danger of immediate and serious harm to others.

WHEREFORE, PURSUANT TO SECTION 3719.121(B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing is held by the Board under Chapter 119. of the Revised Code, during which time you may not engage in the practice of pharmacy. If you request a hearing within 30 days of the time of the mailing of this notice, such will be afforded. You may appear at such hearing in person, by or with your attorney, or you may present your position, arguments, or contentions in writing; and at this hearing, you may present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The state board of pharmacy, after notice and hearing in accordance with sections 119.01 to 119.13 of the Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not more than five hundred dollars, if the board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) 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;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, rest home, or nursing home.

Division (B) of Section 4729.16 of the Revised Code provides in pertinent part 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.

BY ORDER OF THE STATE BOARD OF PHARMACY

Franklin Zwickham, R.Ph., M.S.

Executive Director



OHIO STATE BOARD OF PHARMACY

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

-Equal Opportunity Employer and Service Provider-

ADDENDUM NOTICE

August 25, 1995

Alfred J. Schwartz, R.Ph.
10388 Dugan Gap Road
North Bend, Ohio 45052

Re: Ohio Registered Pharmacist Number 03-3-09531

Dear Pharmacist:

YOU ARE HEREBY NOTIFIED that paragraphs (2) and (3) of the Summary Suspension Order! Notice of Opportunity letter dated June 29, 1 995, are hereby amended to read as follows:

(2) You did, from on or about November 1, 1992, through May 31, 1995, with the purpose to deprive, knowingly obtain a dangerous drug beyond the scope or consent of the owner, Rite Aid Pharmacy #1 256, to wit: you stole 370 bottles of Stadol Nasal Spray, 80.79% of the total drug stock, from Rite Aid Pharmacy #1 256. Such conduct is in violation of Section 291 3.02 of the Ohio Revised Code.

(3) You did, from on or about November 5, 1 992, through May 27, 1 995, make false or forged prescriptions for dangerous drugs, to wit: you created the following prescriptions and refills for Stadol Nasal Spray, a total of 1 54 dispensings, without authorization from a practitioner:

Rx Number	Date	Rx Type	# of Bottles	Rx Cross Reference
534396	11/5/92	new	1	
537727	12/22/92	new	1	
539232	1/15/93	new	1	
539232	2/6/93	refill	1	
540939	2/8/93	new	1	
540939	2/16/93	refill	1	
540939	3/2/93	refill	1	
540939	3/20/93	refill	1	
546196	4/17/93	new	1	
546196	6/3/93	refil	1	
546196	7/7/93	refill	1	
546196	8/7/93	refill	1	
555734	9/4/93	new	1	
546196	9/20/93	refill	1	
5571 58	9/23/93	new	1	
555734	9/28/93	refill	1	

557158	10/13/93	refill	1	
546196	10/21/93	refill	1	
559844	10/27/93	new	1	
560062	10/30/93	new	1	
559844	11/4/93	refill	1	
559844	11/13/93	refill	1	
561543	11/19/93	new	1	
561543	11/27/93	refill	1	
562127	11/29/93	new	1	
561543	12/7/93	refill	1	
562127	12/17/93	refill	1	
561543	12/27/93	refill	1	
562127	12/31/93	refill	1	
565217	1/5/94	new	2	
557158	1/10/94	refill	1	
562127	2/21/94	refill		
565217	2/2/94	refill	1	
569323	3/2/94	new	1	
565217	3/7/94	refill	1	
569892	3/10/94	new		
569323	3/15/94	refill		
1569892	3/16/94	refill		
570693	3/19/94	new		
57078	3/20/94	new		
56527	3/21/94	refill		
570919	3/22/94	new		
571157	3/25/94	new	,	
569323	3/29/94	refill		
573512	4/26/94	new	2	
569892	4/30/94	refill	2	
565217	5/16/94	refill	1	
569323	5/28/94	refill	1	
573512	5/29/94	refill	1	
569892	6/3/94	refill	1	
571157	6/7/94	refill	1	
573512	6/17/94	refill	1	
570693	6/21/94	refill	1	
570718	6/22/94	refill	1	
578097	6/24/94	new	1	
578146	6/25/94	new	1	
573512	6/30/94	refill	2	
570919	7/5/94	refill	1	
570693	7/6/94	refill	1	
570919	7/14/94	refill	1	
579955	7/20/94	new	1	
571157	7/23/94	refill	1	
570693	7/28/94	refill	1	
580785	8/2/94	new	1	
579955	8/12/94	refill	1	
581936	8/16/94	new	1	
580785	8/17/94	refill	1	

569892	8/20/94	refill	1	
579955	8/22/94	refill	1	
581936	8/31/94	refill	1	
583008	8/31/94	new	1	
583509	9/6/94	new	1	
583509	9/17/94	refill	1	
583509	9/27/94	refill	1	
570718	10/7/94	refill	1	
586105	10/7/94	new	1	
580785	10/11/94	refill	1	
581936	10/12/94	refill	1	
586105	10/16/94	refill	1	
587241	10/20/94	new	1	
587918	10/30/94	new	1	
588028	10/31/94	new	1	
587241	11/17/94	refill	1	
587918	11/18/94	refill	1	
587918	11/26/94	refill	1	
744	12/10/94	refill	1	569892
932	12/12/94	refill	1	570718
1234	12/15/94	new	1	
1945	12/21/94	new	2	
1945	12/24/94	refill	2	
3422	1/4/95	new	2	
3604	1/8/95	refill	2	588028
4226	1/13/95	refill	2	570718
3604	1/21/95	refill	2	588028
5081	1/23/95	refill	1	586105
3422	1/26/95	refill	2	
3604	1/27/95	refill	1	588028
3422	2/4/95	refill	1	
7612	2/14/95	refill	1	587918
4226	2/15/95	refill	2	570718
8027	2/18/95	refill	1	580785
3604	2/19/95	refill	1	588028
8044	2/19/95	new	1	
3422	2/20/95	refill	1	
8027	2/24/95	refill	1	580785
5081	3/5/95	refill	1	586105
7612	3/5/95	refill	1	587918
8027	3/6/95	refill	1	580785
9567	3/6/95	new	1	
7612	3/9/95	refill	1	587918
5081	3/10/95	refill	1	586105
7612	3/14/95	refill	1	587918
9567	3/15/95	refill	1	
10846	3/19/95	refill	1	586105
10994	3/20/95	new	1	
8027	3/24/95	refill	1	580785
8044	3/24/95	refill	1	
9567	3/28/95	refill	1	

8044	3/29/95	refill	1	
10994	3/29/95	refill	1	
744	4/1/95	refill	1	569892
10846	4/1/95	refill	1	586105
9567	4/15/95	refill	1	
10994	4/16/95	refill	1	
8044	4/17/95	refill	1	
10846	4/21/95	refill	1	586105
4226	4/25/95	refill	2	570718
8027	4/27/95	refill	1	580785
14673	5/1/95	new	2	
14689	5/1/95	new	1	
9567	5/5/95	refill	1	
10994	5/5/95	refill	1	
14673	5/9/95	refill	1	
15818	5/13/95	new	1	
15831	5/14/95	new	1	
14673	5/1 5/95	refill	1	
10994	5/18/95	refill	1	
14673	5/24/95	refill	2	
9567	5/27/95	refill	1	

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

YOU ARE HEREBY ADVISED that under Division (A) of Section 4729.1 6 of the Ohio Revised Code:

The State Board of Pharmacy, after notice and hearing in accordance with Sections 11 9.01 to 119.1 3 of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card under this chapter, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Ohio Revised Code for a similar offense, or in the case of a violation of a section of the Ohio Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 371 5.52 to 371 5.72 or Chapter 2925., 371 9., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;

(7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or

(8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, rest home, or nursing home.

IN ACCORDANCE WITH THE SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY letter dated June 29, 1 995, and pursuant to your adjudication hearing scheduled for Monday, September 1 8, 1 995, you may appear at such hearing in person, by or with your attorney, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

If you wish to request a continuance in this matter, such request should be sent by certified mail, return receipt requested, to the offices of the Ohio State Board of Pharmacy, 77 South High Street, 1 7th Floor, Columbus, Ohio 43266-0320. However, you must submit such request prior to fourteen days from the date of the scheduled hearing on scheduled Monday, September 1 8, 1 995. The request will be presented to the Board for consideration and you will be notified as soon as practical regarding the request. If you have any questions regarding this matter, feel free to contact the Board office.

BY ORDER OF THE STATE BOARD OF PHARMACY

Franklin ZWickham, R.Ph., M.S.
Executive Director