



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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URL: <http://www.pharmacy.ohio.gov>

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1159)

In The Matter Of:

JAMES W. SMETANA, R.Ph.
124 Old Carriage Dr
Englewood, Ohio 45322
(R.Ph. Number 03-3-11602)

INTRODUCTION

The Matter of James W. Smetana came for hearing on August 6, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Kilee S. Yarosh, R.Ph., Absent.

James W. Smetana was not represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. James W. Smetana, R.Ph., Respondent
2. James Amend, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness:

1. James W. Smetana, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [03-08-13]
1A-1E. Procedurals
2. Prescription and Label [Various]
3. Prescription Label [02-14-12]
4. Patient Medication Profile [not dated]
5. CII Perpetual Inventory Record [not dated]
6. CII Perpetual Inventory Record [not dated]
7. Daily Rx Fill Log Report [02-14-12]
8. TDDD Inspection Report [03-22-12]
9. Written Statement of Mark A. Bires [03-22-12]
10. Written Statement of James W. Smetana [03-29-12]

Respondent's Exhibits:

None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that James W. Smetana was originally licensed in the State of Ohio on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) James W. Smetana did, on or about February 14, 2012, misbrand a drug, to wit: when James W. Smetana received a prescription for methadone 5mg, RX #2236462, he dispensed methadone 10mg, which had not been specifically prescribed by the physician. The patient ingested the dispensed medication and was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) James W. Smetana did, on or about February 14, 2012, prior to dispensing RX #2236462, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: James W. Smetana failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Specifically, James W. Smetana dispensed methadone 10mg with directions to take 1 and ½ tablets by mouth every 8 hours as needed for pain to a patient who had received previous prescriptions for methadone 5mg with the same directions. Such dosing would indicate incorrect drug dosage if prospective drug utilization review had been performed. James W. Smetana performed an override function during the pre-verification process, which allowed for this mistake. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy and/or guilty of willfully violating a rule adopted by the Board under Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute 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.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of Five Hundred Dollars (\$500.00) on James W. Smetana and payment in full is due and owing within thirty days of the mailing of this Order. The remittance 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, Room 1702, Columbus, Ohio 43215-6126.

In addition, James W. Smetana must submit to the Board, within thirty days from the effective date of this Board Order, eight hours of continuing pharmacy education (0.8 CEUs) in patient care, which may not be used for license renewal.

Richard Kolezynski moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Richard Kolezynski moved for Conclusions of Law; Margaret Huwer seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Action of the Board; Michael Mone seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

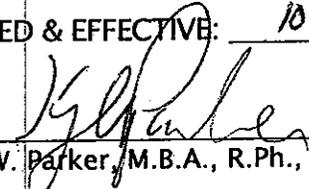
It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of the ORIGINAL Notice of Appeal with the State Board of Pharmacy and a copy with the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: 10-17-13

By: 
Kyle W. Parker, M.B.A., R.Ph., Executive Director

KWP/ljp
Certified Mail / Return Receipt
7004 2510 0006 9805 8698

c: Charissa D. Payer, Assistant Attorney General



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-040203-055)

In The Matter Of:

JAMES W. SMETANA, R.Ph.

9481 Orchard Drive

Russells Point, Ohio 43348

(R.Ph. No. 03-3-11602)

INTRODUCTION

THE MATTER OF JAMES W. SMETANA CAME FOR HEARING ON NOVEMBER 9, 2004, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph.; (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JAMES W. SMETANA WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. James W. Smetana, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from James W. Smetana [01-28-04]
1A-1C. Procedurals
2. State Board of Pharmacy Order in re James W. Smetana, R.Ph. [10-16-03]
 - 2A. State Board of Pharmacy Order in re James W. Smetana, R.Ph. [11-07-01]
 - 2B. State Board of Pharmacy Order in re James W. Smetana, R.Ph. [09-09-99]
3. State Board of Pharmacy Order in re James W. Smetana, R.Ph. [10-30-95]
4. Copy of Controlled Drug Inventory Records for Cocaine Flakes at Children's Medical Center, Dayton [11-08-93 to 07-18-95]

5. Copy of Pharmacy Service Manufacturing Control Records for T Topical Solution [03-04-95 to 06-23-95]
6. Prepackaged Pharmaceutical Item Control Records for TAC Topical Solution [06-23-92 to 07-18-95]
7. Toxicology Associates, Inc. Laboratory Reports for Substance Identification and Quantification [07-05-95 to 07-17-95]
8. Summary Chart of Controlled Drug Inventory Logs, Manufacturing Records, and Prepackaged Pharmacy Item Control Records [07-18-94 to 07-18-95]
9. Children's Medical Center Pharmacy Department Policy and Procedure for Manufacturing TAC Topical Solution [revised 5/94]
10. Indictment, State of Ohio vs. James W. Smetana, Case No. 95-CR-3065, Montgomery County Common Plea Court [01-02-96]
11. Decision and Entry, Treatment in Lieu of Conviction [02-29-96]
12. Termination Entry [03-01-99]
13. Indictment, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court [11-10-97]
14. Entry of Waivers and Plea(s) on Indictment, Entry and Order [02-17-98]
15. Order of Probation [02-26-99]
16. Termination Entry - Community Control [04-06-98]
- 16A. Termination of Probation (Incomplete) [05-30-02]
17. Copy of Notarized Statement of Sheryl Vickers [10-06-99]
18. List of Credit Card Charges by James Smetana [04-96 to 06-97]
19. Copy of Notarized Statement of Sheryl Vickers [08-21-01]
20. In re: James W. Smetana, Case No. 99-32150, United States Bankruptcy Court, Southern District of Ohio, Western Division at Dayton [08-05-99]
21. Copy of letter from David W. Baker [10-15-97]
22. Restitution and Cost Documentation, Montgomery County Common Pleas Court [11-12-99 to 09-17-04]

Respondent's Exhibits

- A. Hearing Schedule letter [02-04-04]; Reinstatement Hearing Request letter from James W. Smetana [01-28-04]
- B. Recovery Progress letters from D. Scott Coffman, MEd., LICDC [10-16-03 and 10-04-04]
- C. Certificate of Appreciation [08-21-04]; Support Group Attendance Records [09-08-03 to 09-30-04]
- CII. Support Group Attendance Records [10-01-04 to 11-06-04]
- D. Continuing Pharmaceutical Education Credits and Certificates [09-12-03 to 10-11-04]
- E. Drug Screen Reports [11-13-03 to 09-16-04]
- EII. Drug Screen Report [10-22-04]
- F. Letters of Support [10-02-04 to 10-15-04]
- FI. Letters of Support [10-20-04 to 10-31-04]
- G. Court Cost and Restitution Payment Documentation, Montgomery County Common Pleas Court [09-16-04]
- GII. Court Cost and Restitution Payment Receipt No. 156016, Montgomery County Common Pleas Court [10-28-04]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that James W. Smetana has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-990422-044, effective September 9, 1999.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-11602, held by James W. Smetana to practice pharmacy in Ohio and places James W. Smetana on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) James W. Smetana must enter into a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:

- (1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
- (2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.
- (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
- (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) James W. Smetana must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
- (2) A written description of James W. Smetana's progress towards recovery and what James W. Smetana has been doing during the previous three months.

(C) James W. Smetana must submit to the Board, within ninety days from the effective date of this Order, a payment plan for restitution that is acceptable to the Board. James W. Smetana must abide by this payment plan.

(D) James W. Smetana must notify the Montgomery County Child Support Enforcement Agency (CSEA) of the reinstatement of his pharmacist license, and shall keep the CSEA informed of his actual place of employment at all times. A copy of each notification must be sent to the Board office as proof of compliance.

(E) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that James W. Smetana's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) James W. Smetana may not serve as a responsible pharmacist.
- (3) James W. Smetana may not destroy, assist in, or witness the destruction of controlled substances.
- (4) James W. Smetana must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) James W. Smetana must not violate the drug laws of Ohio, any other state, or the federal government.
- (6) James W. Smetana must abide by the rules of the State Board of Pharmacy.
- (7) James W. Smetana must comply with the terms of this Order.

(F) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

James W. Smetana 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.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: DECEMBER 9, 2004

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-030228-002)

In The Matter Of:

JAMES W. SMETANA, R.Ph.

9481 Orchard Drive #23

Russells Point, Ohio 43348

(R.Ph. No. 03-3-11602)

INTRODUCTION

THE MATTER OF JAMES W. SMETANA CAME FOR HEARING ON SEPTEMBER 8, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JAMES W. SMETANA WAS REPRESENTED BY KEVIN P. BYERS AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

None

Respondent's Witnesses

1. James W. Smetana, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from James W. Smetana [02-19-03]
1A-1D. Procedurals
2. Copy of State Board of Pharmacy Order in re James W. Smetana, R.Ph. [11-07-01]
- 2A. Copy of State Board of Pharmacy Order in re James W. Smetana, R.Ph. [10-30-95]
3. Copy of State Board of Pharmacy Order in re James W. Smetana, R.Ph. [09-09-99]
4. Copy of Controlled Drug Inventory Records for Cocaine Flakes at Children's Medical Center, Dayton [11-08-93 to 07-18-95]
5. Copy of Pharmacy Service Manufacturing Control Records for TAC Topical Solution [03-04-95 to 06-23-95]
6. Prepackaged Pharmaceutical Item Control Records for TAC Topical Solution [06-23-92 to 07-18-95]
7. Toxicology Associates, Inc. Reports for Substance Identification and Quantification [07-05-95 to 07-17-95]
8. Summary Chart of Controlled Drug Inventory Logs, Manufacturing Records, and Prepackaged Pharmacy item Control Records [07-18-94 to 07-18-95]
9. Children's Medical Center Pharmacy Department Policy and Procedure for Manufacturing TAC Topical Solution [revised 5/94]
10. Indictment, State of Ohio vs. James W. Smetana, Case No. 95-CR-3065, Montgomery County Common Plea Court [01-02-96]
11. Decision and Entry, Treatment in Lieu of Conviction [02-29-96]
12. Termination Entry [03-01-99]

13. Indictment, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court [11-10-97]
14. Entry of Waivers and Plea(s) on Indictment, Entry and Order [02-17-98]
15. Order of Probation [02-26-99]
16. Termination Entry - Community Control [04-06-98]
17. Copy of Notarized Statement of Sheryl Vickers [10-06-99]
18. List of Credit Card Charges by James Smetana [04-96 to 06-97]
19. Copy of Notarized Statement of Sheryl Vickers [08-21-01]
20. In re: James W. Smetana, Case No. 99-32150, United States Bankruptcy Court, Southern District of Ohio, Western Division at Dayton [08-05-99]
21. Copy of letter from David W. Baker [10-15-97]

RESPONDENT'S EXHIBITS

- A. Support Group Attendance Records [09-12-01 TO 09-05-03]
- B. Urine Drug Screen Reports [09-17-01 to 08-21-03]
- C. Letters from D. Scott Coffman MSEd, CCDC III-E [07-24-03]; Robert D. Bolte CCDC III E [07-28-03]; Tammie L. Bendixen-Dusoe LSAC [06-30-02]
- D. Continuing Pharmaceutical Education Credits and Certificates [01-05-01 to 07-02-03]
- E. Termination of Probation Entry (Incomplete), State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court [05-30-02]; Two Adult Probation Department Restitution Payment Receipts [07-16-03 and 08-05-03]
- F. Four Letters of Support [07-14-03 to 08-15-03]
- G. Contract Reinstatement letter from D. Scott Coffman BA, CCDC III-E and James W. Smetana [07-11-02]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that James W. Smetana has not complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-990422-044, effective September 9, 1999, nor has he demonstrated satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby denies the reinstatement petition of James W. Smetana. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James W. Smetana may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during suspension. Further, after one year from the effective date of this Order, the Board will consider any petition filed by James W. Smetana for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if James W. Smetana provides documentation of continuous compliance with the Board's September 9, 1999 Order and demonstrates satisfactory proof that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER MAILED & EFFECTIVE: OCTOBER 16, 2003

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010222-060)

In The Matter Of:

JAMES W. SMETANA, R.Ph.

244 Lowry Drive

West Milton, Ohio 45383

(R.Ph. No. 03-3-11602)

INTRODUCTION

THE MATTER OF JAMES W. SMETANA CAME FOR HEARING ON SEPTEMBER 11, 2001 AND WAS CONTINUED ON OCTOBER 2, 2001, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JAMES W. SMETANA WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

(1) James W. Smetana, R.Ph, Respondent

(2) Dr. Gary Pierce, D.D.S.

(3) Ronald Smetana, R.Ph.

(B) Exhibits

State's Exhibits:

(1) Exhibit 1--Faxed Hearing Request letter from James W. Smetana dated February 21, 2001.

(2) Exhibit 1A--Copy of two-page Hearing Schedule letter dated February 22, 2001.

(3) Exhibit 1B--Copy of Ohio Pharmacist Computer Record of James W. Smetana.

(4) Exhibit 1C--Copy of Hearing Schedule letter dated August 23, 2001.

(5) Exhibit 1D--Copy of Hearing Schedule letter dated September 12, 2001.

(6) Exhibit 1E--Faxed Request for Continuation letter from James W. Smetana dated September 21, 2001.

(7) Exhibit 1F--Copy of Denied Request for Continuance letter dated September 25, 2001.

(8) Exhibit 2--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-950802-009 in the matter of James W. Smetana, R.Ph. dated October 30, 1995.

(9) Exhibit 3--Copy of three-page Order of the State Board of Pharmacy, Docket No. D-990422-044 in the matter of James W. Smetana, R.Ph. dated September 9, 1999.

(10) Exhibit 4--Two Children's Medical Center, Dayton, Ohio Controlled Drug Inventory Sheets, Control No. 0716 and Control No. 0728.

- (11) Exhibit 5--Seven Pharmacy Service Manufacturing Control Sheets numbered as follows: Control No. 030494 dated March 4, 1995; Control No. 030794 dated March 7, 1995; Control No. 040195 dated April 1, 1995; Control No. 052395 dated May 23, 1995; Control No. 060595 dated June 5, 1995; Control No. 061495 dated June 14, 1995; and Control No. 062395 dated June 23, 1995.
- (12) Exhibit 6--Five Prepackaged Pharmaceutical Item Control Record forms with dates from June 23, 1992 to July 18, 1995.
- (13) Exhibit 7--Copy of ten Toxicology Associates Inc. Laboratory Reports for the following: Lot No. 98 collected July 5, 1995; Lot No. 98 collected July 10, 1995; Lot No. 99 collected July 10, 1995; and Lots numbered 74, 84, 90, 91, 92, 93, and 94 dated July 17, 1995.
- (14) Exhibit 8--Review of Manufacturing Cards, Inventory Records and Prepack Records report covering July 18, 1994 through July 18, 1995.
- (15) Exhibit 9--Faxed The Children's Medical Center Pharmacy Department's Policy & Procedure for manufacturing Tac Topical Solution dated May 1994.
- (16) Exhibit 10--Copy of three-page Indictment, State of Ohio vs. James W. Smetana, Case No. 95-CR-3065, Montgomery County Common Pleas Court, date illegible; copy of Summons issued to James W. Smetana dated January 3, 1996.
- (17) Exhibit 11--Copy of two-page Decision and Entry Treatment in Lieu of Conviction, State of Ohio vs. James W. Smetana, Case No. 95-CR-3065, Montgomery County Common Pleas Court, dated February 29, 1996.
- (18) Exhibit 12--Copy of Termination Entry, State of Ohio vs. James W. Smetana, Case No. 95-CR-3065, Montgomery County Common Pleas Court, dated March 1, 1999.
- (19) Exhibit 13--Copy of three-page Indictment, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court, date illegible.
- (20) Exhibit 14--Two-page copy of Entry of Waivers and Plea on Indictment/ Entry and Order, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court, dated February 17, 1998.
- (21) Exhibit 15--Copy of Order of Probation, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court, dated February 26, 1999.
- (22) Exhibit 16--Copy of two-page Termination Entry - Community Control, State of Ohio vs. James W. Smetana, Case No. 97-CR-1596, Montgomery County Common Pleas Court, dated April 6, 1998.
- (23) Exhibit 17--Copy of Statement of Sheryl Vickers notarized on October 6, 1999.
- (24) Exhibit 18-- Copy of Dr. Dennis E. McClure three-page report of Jim Smetana's Personal Expenses Charged on Company Credit Cards covering April, 1996 to June, 1997.
- (25) Exhibit 19--Copy of Statement of Sheryl Vickers notarized on August 21, 2001.
- (26) Exhibit 20--Copy of five-page Order Confirming Chapter 13 Plan and Order Allowing Attorney Fee for Debtor's Counsel, in re James W. Smetana, Case No. 99-32150, United States Bankruptcy Court, Southern District of Ohio, Western Division at Dayton, filed August 5, 1999.
- (27) Exhibit 21--Copy of letter from David W. Baker dated October 15, 1997.

RESPONDENT'S EXHIBITS:

- (1) Exhibit A1--Copy of letter from James W. Smetana dated November 17, 1999; copy of Turning Point Initial Treatment Agreement of James W. Smetana dated October 12, 1999; copy of twenty-six pages of Miami Valley Hospital Turning Point Client Service Records of James Smetana dated August 20, 1999 to July 17, 2001.

- (2) Exhibit A2--Copy of two-page letter from Mary Spain, MS, LSW, LPC dated August 30, 1995.
- (3) Exhibit A3--Copy of letter from Jeffrey C. Owen, M.S. dated May 17, 1997; Copy of Turning Point Level III Treatment Contract of James Smetana dated November 2, 1995; Copy of two-page Turning Point Treatment Plan and Objectives form dated November 2, 1995; Copy of Master Problem List for James Smetana with entries dated June 15, 1995 and July 6, 1995; Copy of twenty-eight pages of Miami Valley Hospital progress notes re James Smetana dated from June 15, 1995 to June 19, 1997.
- (4) Exhibit A4--Ten letters from the following: D. Scott Coffman BA, CCDC III-E dated August 21, 2001; Dettleff Olson, D.O. dated August 21, 2001; Rachelle K. Woods dated September 4, 2001; Eric Longenecker dated September 5, 2001; Terry Craycraft dated September 4, 2001; Gary W. Pierce, D.D.S. dated August 23, 2001; John D. McCarthy dated July 8, 1999; Lori D. Stickler dated July 14, 1999; Robert J. Dougherty, R.Ph. dated July 20, 1999; Robert D. Bolte, CCDC III-E dated September 8, 2001.
- (5) Exhibit A5--Twenty-five Verification of A.A. Attendance records dated from July 26, 1999 to August 31, 2001.
- (6) Exhibit A6--Copy of eight drug screen reports for specimens collected from Jim Smetana on November 12, 1999, March 15, 2000, May 17, 2000, August 30, 2000, December 21, 2000, February 21, 2001, June 14, 2001, and July 31, 2001; and one Chain-of-Custody form of James W. Smetana, date illegible.
- (7) Exhibit A7--Two-page summary of Continuing Education Programs and Hours; forty-nine pages of Continuing Pharmacy Education Certificates dated from November 19, 1996 to July 17, 2001.
- (8) Exhibit A8--Copy of "Agreed Order That Modified Plan Be Confirmed As Modified At Bar And Modifying Debtor's May 22, 2001 Modified Plan", In Re James W. Smetana, Case No. 99-32150, United States Bankruptcy Court, Southern District of Ohio, Western Division at Dayton, filed June 26, 2001; Copy of "Chapter 13 Trustee's Objection To Confirmation Request For Denial Of Confirmation And Notice Of Hearing", In Re James W. Smetana, Case No. 99-32150, United States Bankruptcy Court, Southern District of Ohio, Western Division at Dayton, dated June 15, 2001; copy of Statement by Jeffrey M. Kellner, Chapter 13 Trustee, not dated; copy of four pages of paychecks and paycheck stubs of James Smetana dated from May 2, 2001 to August 23, 2001.
- (9) Exhibit A9--Letter from James Smetana dated November 17, 1999; copy of Turning Point Initial Treatment Agreement for James W. Smetana dated October 12, 1999; fax cover page from Turning Point Miami Valley Hospital to Jim Smetana, not dated.
- (10) Exhibit A10--Verification of A.A. Attendance record dated from September 2, 2001 to September 10, 2001.
- (11) Exhibit A11--Copy of letter to Dawn Hahn from Jim Smetana dated July 31, 2001.
- (12) Exhibit A12--Copy of letter to Dawn Hahn from Jim Smetana dated September 17, 2001.
- (13) Exhibit A13-- Copy of Lab One drug screen report for specimen collected from Jim Smetana on September 17, 2001.
- (14) Exhibit A14--Copy of Verification of A.A. Attendance record dated from September 12, 2001 to October 1, 2001.

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that James W. Smetana has not complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-990422-044, effective September 9, 1999, nor

has he demonstrated satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

ACTION OF THE BOARD

On the basis of the Findings of Fact set forth above, the State Board of Pharmacy hereby denies the reinstatement petition of James W. Smetana. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James W. Smetana may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during suspension. Further, at the Board's August 2003 meeting or thereafter, the Board will consider any petition presented by James W. Smetana, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if James W. Smetana provides documentation of continuous compliance with the Board's September 9, 1999 Order and demonstrates satisfactory proof that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

BY ORDER OF THE STATE BOARD OF PHARMACY

ORDER EFFECTIVE NOVEMBER 7, 2001

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-990422-044)

In The Matter Of:

JAMES W. SMETANA, R.Ph.

244 Lowry Drive

West Milton, Ohio 45383

(R.Ph. No. 03-3-11602)

INTRODUCTION

THE MATTER OF JAMES W. SMETANA CAME TO HEARING ON AUGUST 4, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph., ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; AND SUZANNE L. NEUBER, R.Ph.

JAMES W. SMETANA WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

(1) None

Respondent's Witnesses:

(1) James W. Smetana, Respondent

(B) Exhibits

State's Exhibits:

(1) None

Respondent's Exhibits:

(1) None

FINDING OF FACT

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

(1) James W. Smetana has not complied with the Order of the Board, Docket No. D-950802-009, dated October 30, 1995.

ACTION OF THE BOARD

(A) The State Board of Pharmacy hereby denies the reinstatement petition of James W. Smetana. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, James W.

Smetana may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs while suspended.

(B) The Board will consider any petition filed by James W. Smetana for a hearing, pursuant to Revised Code Chapter 119., upon the question of reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(1) James W. Smetana must enter into a contract, after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide:

(a) Random, **observed** urine drug screens shall be conducted at least every three months.

(i) The urine sample must be given within twelve hours of notification. The urine screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(ii) Results of all urine screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract and probation.

(b) The intervener/sponsor shall provide copies of all urine screen reports to the Ohio Board of Pharmacy in a timely fashion.

(c) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.

(d) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.

(2) James W. Smetana must provide at the time of petitioning the Board for reinstatement, as was required in the Board's October 30, 1995 Order, written documentation from his treatment provider regarding a minimum of two years compliance with the program pursuant to the new contract.

BY ORDER OF THE STATE BOARD OF PHARMACY
ORDER EFFECTIVE SEPTEMBER 9, 1999

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-950802-009)

In The Matter Of:

JAMES W. SMETANA, R.Ph.

927 Henley Court

Vandalia, Ohio 45377

(R.Ph. No. 03-3-11602)

INTRODUCTION

THE MATTER OF JAMES W. SMETANA CAME TO HEARING ON SEPTEMBER 22, 1995, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES W. SMETANA WAS REPRESENTED BY DANIEL D. CONNOR, AND THE STATE OF OHIO WAS REPRESENTED BY LAWRENCE D. PRATT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Elaine Jones, Director of Pharmacy, Children's Medical Center, Dayton
- (2) William McMillen, Compliance Specialist, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Fred Karaffa, Medical Director, Shepherd Hill Hospital
- (2) Nick Kallis, President, Pharmacists Rehabilitation Organization, Inc.
- (3) James W. Smetana, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity letter dated August 2, 1995.
- (2) Exhibit 1A--Two-page Hearing Request letter dated August 8, 1995.
- (3) Exhibit 1B--Hearing Schedule letter dated August 17, 1995.
- (4) Exhibit 1C--Pharmacist File Front Sheet of James W. Smetana showing original date of registration as August 4, 1976.
- (5) Exhibit 1D--Renewal Application for Pharmacist License, No. 03-3-11602, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of James W. Smetana dated August 12, 1994.
- (6) Exhibit 1E--Notice of Representation letter dated August 25, 1995.
- (7) Exhibit 1F--Hearing Schedule letter dated September 19, 1995.
- (8) Exhibit 2--Two-page copy of Pharmacists Rehabilitation Organization, Inc, Pharmacist's Recovery Contract of James W. Smetana dated June 14, 1995; and three-page copy of Verification of AA Attendance of Jim S. dated from June 17, 1995, through July 30, 1995.

- (9) Exhibit 3--Two-page copy of Shepherd Hill Hospital Recovery Plan of James W. Smetana dated April 21, 1995.
- (10) Exhibit 4--Two-page Controlled Drug Inventory of Children's Medical Center, Dayton, Ohio for Cocaine Flakes dated from October 26, 1993, through July 18, 1995.
- (11) Exhibit 5--Seven Pharmacy Service Manufacturing Control sheets for TAC solution made by James Smetana on the following dates: March 4, 1995; March 7, 1995; April 1, 1995; May 23, 1995; June 5, 1995; June 14, 1995; and June 23, 1995.
- (12) Exhibit 6--Five-page Prepackaged Pharmaceutical Item Control Record for TAC solution dated from June 23, 1992, through July 18, 1995.
- (13) Exhibit 7--Copies of ten Toxicology Associates Inc. reports for substance identification and quantification of TAC solution as follows: Lot No. 98 dated July 7, 1995; Lot No. 98 dated July 12, 1995; Lot No. 99 dated July 12, 1995; Lot No. 74 dated July 17, 1995; Lot No. 84 dated July 17, 1995; Lot No. 90 dated July 17, 1995; Lot No. 91 dated July 17, 1995; Lot No. 92 dated July 17, 1995; Lot No. 93 dated July 17, 1995; and Lot No. 94 dated July 17, 1995.
- (14) Exhibit 8--Chart of controlled drug inventory logs, manufacturing records, and prepackaged pharmacy item control records.
- (15) Exhibit 9--Copy of Children's Medical Center Pharmacy Department Policy and Procedure or manufacturing TAC Topical Solution formulated 4/92 and revised 5/94.

Respondent's Exhibits:

- (1) Exhibit A1--Three-page copy of Memorandum to Ohio State Board of Pharmacy submitted by Daniel D. Connor.
- (2) Exhibit A2-- Two-page copy of Pharmacists Rehabilitation Organization, Inc., Pharmacist's Recovery Contract of James W. Smetana dated June 14, 1995.
- (3) Exhibit A3--Copies of fourteen urine drug screen reports of Jim Smetana dated as follows: June 28, 1995; July 1, 1995; July 7, 1995; July 8, 1995; July 14, 1995; July 19, 1995; July 26, 1995; July 28, 1995; August 7, 1995; August 10, 1995; August 21, 1995; August 23, 1995; August 30, 1995; and September 7, 1995.
- (4) Exhibit A4--Seven-page copy of Verification of AA Attendance of Jim S. dated from June 17, 1995, through September 14, 1995.
- (5) Exhibit A5--Nine-page copy of Children's Medical Center Annual Appraisal for James Smetana dated June 11, 1995.
- (6) Exhibit A6--Copy of one page of Shepherd Hill Hospital Recovery Plan of James W. Smetana dated April 21, 1995.
- (7) Exhibit A7--Copy of letter from Samuel D. Kuehn dated September 14, 1995, and copy of letter from Robert L. Little dated September 6, 1995.
- (8) Exhibit A8--Copy of two-page letter from Mary Spain dated August 30, 1995; copy of letter from Julia Lucente dated September 5, 1995; copy of letter from Tracy S. Ervin dated September 20, 1995; copy of letter from David Baker dated September 14, 1995; copy of letter from James H. McCreary dated September 19, 1995; copy of letter from Stephen J. Cahill dated September 15, 1995; and copy of letter from John F. Delaney not dated.
- (9) Exhibit B--Five-page copy of Shepherd Hill Hospital Psychiatric Evaluation of James Smetana on April 8, 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 James W. Smetana was originally licensed to practice pharmacy in the state of Ohio on August 4, 1976, and his license was summarily suspended on August 2, 1995, in accordance with Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.

(2) James W. Smetana is addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: James W. Smetana has admitted to an agent of the Board that he is addicted to cocaine; James W. Smetana has been in drug treatment for his addiction; James W. Smetana has abused cocaine while practicing pharmacy; James W. Smetana has been terminated from his place of employment for theft of cocaine; James W. Smetana has diluted TAC solution used for patients in order to steal the cocaine; and though temporarily attending AA meetings and having ceased consumption of alcohol and cocaine on September 1, 1994, in February of 1995 James W. Smetana relapsed and continued to abuse cocaine.

(3) James W. Smetana did, during 1994 and 1995, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Children's Hospital in Dayton, beyond the express or implied consent of the owner, to wit: on numerous occasions while mixing TAC solution, James W. Smetana stole cocaine from his employer and thereby diluted the medication. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) James W. Smetana did, during 1994 and 1995, knowingly make false statements in records required by Chapter 3719. of the Revised Code, to wit: when preparing TAC solution, James W. Smetana falsified the records of the cocaine used and the labels placed on the vials prepared in order to cover his theft of the cocaine. Such conduct is in violation of Section 2925.23(A) 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 gross immorality 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 (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.

(3) 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 addicted to or abusing 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 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 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued August 2, 1995. Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of James W. Smetana:

(A) On the basis of the Findings of Fact and paragraphs (1) through (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-11602, held by James W. Smetana 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, James W. Smetana 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) In June 1998 or thereafter, the Board will consider any petition filed by James W. Smetana 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 the following conditions have been met:

(a) James W. Smetana 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 and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

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

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

(iii) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.

(b) James W. Smetana must provide, at the time of petitioning the Board for reinstatement, written documentation from his treatment provider regarding compliance with the program pursuant to the contract including all urine drug screens reports.

(B) 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 imposes a monetary penalty of two thousand five hundred dollars (\$2,500.00) 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 ORDER OF THE STATE BOARD OF PHARMACY
ORDER EFFECTIVE OCTOBER 30, 1995

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

August 2, 1995

James W. Smetana, R.Ph.
927 Henley Court
Vandalia, Ohio 45377

Re: Ohio Registered Pharmacist Number 03-
3-11602

Dear Mr. Smetana:

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(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, 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 as follows:

(1) You are addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render you unfit to practice pharmacy, to wit: you have admitted to an agent of the Board that you are addicted to cocaine; you have been in drug treatment for your addiction; you have abused cocaine while practicing pharmacy; you have been terminated from your place of employment for theft of cocaine; you have diluted TAC solution used for patients in order to steal the cocaine; and though temporarily attending AA meetings and having ceased consumption of alcohol and cocaine on September 1, 1994, in February of 1995 you relapsed and continued to abuse cocaine.

(2) You did, during 1994 and 1995, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Children's Hospital in Dayton, beyond the express or implied consent of the owner, to wit: on numerous occasions while mixing TAC solution, you stole cocaine from your employer and thereby diluted the medication. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(3) You did, during 1994 and 1995, knowingly make false statements in records required by Chapter 3719. of the Revised Code, to wit: when preparing TAC solution, you falsified the records of the cocaine used and the labels placed on the vials prepared in order to cover your theft of the cocaine. Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.

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

(A) Except as otherwise provided in section 4723.28 or 4731.22 of the Revised Code, any practitioner, nurse, pharmacist, manufacturer, or wholesaler, who is or becomes addicted to the use of controlled substances, shall have his license or registration suspended by the board under which he has been licensed or registered until the practitioner, nurse, pharmacist, manufacturer, or wholesaler offers satisfactory proof to the board that he is no longer addicted to the use of controlled substances.

(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 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 Ohio 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 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 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 Ohio 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 Ohio 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

SUMMARY SUSPENSION EFFECTIVE AUGUST 2, 1995