



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010702-080)

In The Matter Of:

DAVID ANGELO PISHOTTI, R.Ph.

8900 Altura Drive N.E.

Warren, Ohio 44484

(R.Ph. No. 03-3-18491)

INTRODUCTION

THE MATTER OF DAVID ANGELO PISHOTTI CAME FOR HEARING ON JANUARY 7, 2002 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; AND DOROTHY TEATER, PUBLIC MEMBER.

DAVID ANGELO PISHOTTI WAS REPRESENTED BY MICHAEL D. ROSSI 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) David Angelo Pishotti, R.Ph., Respondent
- (2) Anita Pampera Perone
- (3) Kent Douglas Potts, R.Ph.
- (4) Joseph Gioiello, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Hearing Request letter from Michael D. Rossi dated June 19, 2001.

- (2) Exhibit 1A--Copy of two-page Hearing Schedule letter dated June 25, 2001.
- (3) Exhibit 1B--Copy of Ohio Pharmacist Computer Record of David Angelo Pishotti.
- (4) Exhibit 1C--Letter from Michael D. Rossi dated December 3, 2001.
- (5) Exhibit 2--Copy of six-page Order of the State Board Of Pharmacy, Docket No. D-991103-029 in the matter of David Angelo Pishotti, R.Ph. dated December 16, 1999.
- (6) Exhibit 3--Copy of six-page Order of the State Board Of Pharmacy, Docket No. D-980210-039 in the matter of David Angelo Pishotti, R.Ph. dated September 9, 1998.
- (7) Exhibit 4--Copy of two-page Youngstown Police Department Ohio Uniform Incident Report, Incident No. 98-8347, of David Pishotti dated February 2, 1998, and Youngstown Police Department Suspect/Arrest Supplement, Incident No. 98-8347, of David Pishotti dated February 3, 1998.
- (8) Exhibit 5--Copy of two-page Tri-State Laboratories, Inc. report of drug screen results for urine sample of David Pishotti, Case No. 980164, dated February 4, 1998.
- (9) Exhibit 6--Copy of five-page Mahoning County Drug Task Force Investigative Report re David Pishotti dated February 3, 1998, and Inventory of Evidence Seized From David Pishotti.
- (10) Exhibit 7--Copy of two-page CVS Voluntary Statement of David Pishotti dated February 9, 1998.
- (11) Exhibit 8--Copy of Mahoning County Drug Task Force Written Statement of Marsha Vlosich dated July 23, 1998.
- (12) Exhibit 9--Copy of CVS/REVCO #4154 Pharmacist's Statement for David Pishotti covering December 1, 1997 to February 3, 1998; Copy of two-page Troutman Drug Co. Record of Prescriptions for Dave Pishotti covering January 1, 1997 to February 25, 1998.
- (13) Exhibit 10--Copy of Youngstown Police Department Waiver Of Rights of David Pishotti dated February 3, 1998; Copy of eight-page transcript of Interview of David Angelo Pishotti conducted February 3, 1998.
- (14) Exhibit 11--Copy of two-page Tri-State Laboratories, Inc. report of drug examination results re David Pishotti dated February 17, 1998.
- (15) Exhibit 12--Copy of Bill of Information, State of Ohio vs. David Angelo Pishotti, Case No. 98-CR-377-A, Trumbull County Common Pleas Court, not dated; Copy of pages 1, 2, 4, and 5 of the Finding On Guilty Plea To Bill Of Information, State of Ohio vs. David Angelo Pishotti, Case No. 98-CR-377-A, Trumbull County Common Pleas Court, not signed or dated.

Respondent's Exhibits:

- (1) Exhibit A--Copy of six-page Order of the State Board Of Pharmacy, Docket No. D-991103-029 in the matter of David Angelo Pishotti, R.Ph. dated December 16, 1999.
- (2) Exhibit B1--Copy of North Park, Inc. contract of David Pishotti dated January 4, 2000.
- (3) Exhibit B2--Copy of two-page PRO Inc. Pharmacist's Recovery Contract of David Pishotti dated March 20, 2000.

- (4) Exhibit C--Copy of twenty-one drug screen reports for specimens collected from David A. Pishotti from September 10, 1998 to March 30, 2000; Copy of Page 5 of the Order of the Board to David Angelo Pishotti, R.Ph., not dated; Copy of Giant Eagle Pharmacy #4051 Medical Expenses report for March 10, 2000 of David Pishotti dated April 21, 2000, and St. Joseph Family Medical Center-Howland Urgent Care Center Homegoing Instructions sheet for David Pishotti; Copy of nine drug screen reports for specimens collected from David A. Pishotti from April 14, 1998 to November 26, 2001.
- (5) Exhibit D--Letter from Earl Roman, Jr., CCDCI dated November 27, 2001; copy of letter from Susan D. Bancroft, M.S.Ed., LPCC, LSW, CCDCIII dated April 28, 1999; Copy of North Park, Inc. Consent to Treatment/Consent for Service of David Pishotti signed and dated April 20, 1999.
- (6) Exhibit E--Copy of twenty-eight Support Group Attendance Verification Sheets dated from July 9, 1998 through December 26, 2001.
- (7) Exhibit F--Copy of twelve pages of Treatment Program Notes dated from May 13, 1999 through October 2, 2001; Copy of Transfer Summary of David Pishotti dated October 1, 2001; Copy of Treatment Program Notes dated October 22, 2001.
- (8) Exhibit G--Copy of three-page Online Test History for David Pishotti of Total CE credits dated from February 24, 1999 to June 29, 2000; Copy of four Continuing Pharmacy Education Certificates of David Pishotti dated May 16, 1999, June 25, 1999, May 1, 2000, May 21, 2000, Copy of two-page listing of Total CE credits showing no name dated from October 25, 2000 to March 28, 2001; Copy of two Continuing Pharmacy Education Certificates of David Pishotti dated February, 2001, and April 29, 2001.
- (9) Exhibit H--Letter from Jose L. Alappatt, M.D. dated November 19, 2001.
- (10) Exhibit I--Letter from Charles J. Beck dated November 30, 2001; Letter from Thomas Savage dated December 17, 2001.
- (11) Exhibit J--Copies of eight letters from Carol M. Noble, R.Ph. dated November 24, 2001, Robert J. Dougherty dated November 28, 2001, Jeffrey Czuba dated November 29, 2001, Joseph C. Salmen dated December 10, 2001, Nick S. dated December 10, 2001, David F. Merk dated December 11, 2001, David Baker dated December 16, 2001 and Keith M. Wire, R.Ph. dated December 16, 2001.
- (12) Exhibit K--Copy of Journal Entry, State of Ohio vs David Pishotti, Case No. 98-CR-377, Trumbull County Common Pleas Court dated October 13, 1999.
- (13) Exhibit L--Support Group Attendance Verification Sheet dated from November 18, 2001 to January 6, 2002.
- (14) Exhibit M--Two-page Bad Check Diversion Unit, Las Vegas, Nevada History Report of David Pishotti printed December 17, 2001.
- (15) Exhibit N-- Copy of letter from David Pishotti, R.Ph. dated September 30, 2000.

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 David Angelo Pishotti has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-991103-029, effective December 16, 1999.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-18491, held by David Angelo Pishotti to practice pharmacy in the state of Ohio and places David Angelo Pishotti on probation for five years from the date the identification card is issued, with the following conditions:

- (A) Every six months from the effective date of this Order, for the term of probation, a written report must be provided by a licensed psychiatrist or psychologist showing compliance with the treatment plan for bipolar disorder as designed by that psychiatrist or psychologist.
- (B) David Angelo Pishotti must enter into a 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 every three months.
 - (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) Carisoprodol, meprobamate, phentermine, and alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.
 - (c) Results of all drug and alcohol 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.

- (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.
- (C) David Angelo Pishotti 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 David Angelo Pishotti's progress towards recovery and what David Angelo Pishotti has been doing during the previous three months.
- (D) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that David Angelo Pishotti'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) David Angelo Pishotti may not serve as a responsible pharmacist.
 - (3) David Angelo Pishotti may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) David Angelo Pishotti must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) David Angelo Pishotti must not violate the drug laws of the State of Ohio, any other state, or the federal government.
 - (6) David Angelo Pishotti must abide by the rules of the State Board of Pharmacy.
 - (7) David Angelo Pishotti must comply with the terms of this Order.

David Angelo Pishotti 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.

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

MOTION CARRIED.

SO ORDERED.



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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-991103-029)

In The Matter Of:

DAVID ANGELO PISHOTTI, R.Ph.

7866 Casherock Drive, N.E.

Warren, Ohio 44484

(R.Ph. No. 03-3-18491)

INTRODUCTION

THE MATTER OF DAVID ANGELO PISHOTTI CAME TO HEARING ON NOVEMBER 8, 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.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID ANGELO PISHOTTI WAS REPRESENTED BY MICHAEL D. ROSSI, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Kent Douglas Potts, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (2) Anita Pirone, M.S. Ed., L.P.C.C., C.C.D.C. III, 2 North Park, Inc.
- (3) David Angelo Pishotti, R.Ph., Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-980210-039, in the matter of David Angelo Pishotti dated September 9, 1998.
- (2) Exhibit 1A--Hearing Request letter dated June 28, 1999, Petition for Hearing dated June 28, 1999, and copy of 2 North Park, Inc. treatment contract of David A. Pishotti dated April 20, 1999.
- (3) Exhibit 1B--Copy of two-page Hearing Schedule letter dated July 6, 1999.
- (4) Exhibit 2--Copy of three-page Youngstown Police Department Ohio Uniform Incident Report, No. 98-8347, of David Pishotti for incident occurring on February 2, 1998.
- (5) Exhibit 3--Copy of two-page Tri-State Laboratories, Inc. urine drug screen report, No. 980164, of David Pishotti dated February 4, 1998.
- (6) Exhibit 4--Copy of six-page Mahoning County Drug Task Force Investigative Report of Officer T. Malone regarding David Pishotti, date of occurrence: February 3, 1998.
- (7) Exhibit 5--Copy of two-page CVS Voluntary Statement of David Pishotti signed and witnessed on February 9, 1998.
- (8) Exhibit 6--Copy of two-page Mahoning County Drug Task Force Written Statement of Marsha Vlosich signed and witnessed on July 23, 1998.
- (9) Exhibit 7--Copy of CVS/Revco #4154 Pharmacist's Statement of David Pishotti dated from December 1, 1997, through February 3, 1998; and two-page copy of Troutman Drug Co. record of prescriptions for Dave Pishotti dated from January 1, 1997, to February 25, 1998.
- (10) Exhibit 8--Copy of Youngstown Police Department Waiver of Rights Form of David Pishotti signed and witnessed on February 3, 1998; and attached copy of eight-page transcribed interview of David Angelo Pishotti, R.Ph. conducted at CVS/Revco #4154 on February 3, 1998.
- (11) Exhibit 9--Copy of two-page Tri-State Laboratories, Inc. report, No. 980196, regarding the David Pishotti case dated February 17, 1998.
- (12) Exhibit 10--Copy of Trumbull County Common Pleas Court Bill of Information, Case No. 98-CR-377-A, of David Angelo Pishotti; copy of five-page Trumbull County Common Pleas Court Finding on Guilty Plea to Bill of Information, State of Ohio vs. David Angelo Pishotti, Case No. 98-CR-377-A; and copy of two-page Trumbull County Common Pleas Court Journal Entry, State of Ohio vs. David Pishotti, Case No. 98-CR-377, dated September 8, 1998.

Respondent's Exhibits:

- (1) Exhibit A-1--Copy of letter from Murphy Lewis dated November 16, 1998, with attached copy of St. Joseph Health Center treatment contract of David A. Pishotti dated September 9, 1998.

- (2) Exhibit A-2--Copy of St. Joseph Health Center Authorization to Release Information to Agency dated April 23, 1999.
- (3) Exhibit A-3--Copy of 2 North Park, Inc. treatment contract of David A. Pishotti dated April 20, 1999.
- (4) Exhibit B--Eleven-page copy of Support Group Attendance Verification Sheets of David Pishotti dated from July 9, 1998, through October 24, 1999.
- (5) Exhibit C--Copy of ten urine drug screen reports of David A. Pishotti dated as follows: September 15, 1998; October 13, 1998; October 20, 1998; December 8, 1998; December 25, 1998; January 27, 1999; February 9, 1999; February 8, 1999; page one of two-page report dated March 9, 1999; and two-page report dated April 7, 1999.
- (6) Exhibit C Supplement--Copy of six two-page urine drug screen reports of David A. Pishotti dated as follows: April 7, 1999; May 31, 1999; July 2, 1999; August 12, 1999; September 17, 1999, and October 21, 1999; and copy of one three-page urine drug screen report dated July 22, 1999.
- (7) Exhibit D-1--Copy of letter from Murphy Lewis dated March 18, 1999.
- (8) Exhibit D-2--Copy of page one of two-page urine drug screen report of David A. Pishotti showing a collection date of April 1, 1999 with handwritten notation of David Pishotti; copy of letter from Michael D. Rossi dated April 19, 1999; and copy of letter from Michael D. Rossi dated May 13, 1999.
- (9) Exhibit D-3--Copy of letter from Murphy Lewis dated April 6, 1999, with handwritten notation of David Pishotti.
- (10) Exhibit D-4--Copy of letter from Murphy Lewis dated April 19, 1999, with handwritten notation of David Pishotti.
- (11) Exhibit E--Copy of Trumbull County Common Pleas Court Journal Entry, State of Ohio vs. David Pishotti, Case No. 98-CR-377, dated October 13, 1999.
- (12) Exhibit F--Copy of page 1 and 2 of four-page Power-Pak Communications Online Test History for David Pishotti dated from February 24, 1998, through September 29, 1999.
- (13) Exhibit G-1--Letter from Jose L. Alappatt dated October 28, 1999.
- (14) Exhibit G-2--Letter from Candida G. Franklin dated October 26, 1999.
- (15) Exhibit G-3--Letter from Robert J. Garrity, not dated.
- (16) Exhibit G-4--Letter from Emil Dontenville dated October 30, 1999.
- (17) Exhibit G-5--Letter from Nick Su dated November 1, 1999.
- (18) Exhibit G-6--Letter from Tom Savage, not dated.
- (19) Exhibit G-7--Letter from David F. Merk dated October 25, 1999.
- (20) Exhibit H-1--Copy of three pages of a five-page fax as follows: cover-page dated August 18, 1997; copy of letter from S. C. Bombeck dated August 18, 1997; and copy of letter from David Pishotti, not dated.
- (21) Exhibit H-2--Copy of two-page fax as follows: cover-page dated September 24, 1997; and letter from S. C. Bombeck dated September 24, 1997.
- (22) Exhibit H-3--Copy of letter from Daniel Ahlstrom dated September 24, 1997; and copy of Clark County District Attorney's Office Bad

- Check Collection Unit agreement of David Pishotti, not signed nor dated.
- (23) Exhibit H-4--Copy of two-page fax as follows: cover-page dated February 26, 1998; and copy of letter from David Pishotti, not dated.
- (24) Exhibit H-5--Copy of two-page Voluntary Petition in the United States Bankruptcy Court, Northern District of Ohio, of David A Pishotti and Monica A. Pishotti, Case No. 98-42478 dated August 25, 1998 with attachments as follows: "Summary of Schedules" sheet; six-page Schedule F-"Creditors Holding Unsecured Nonpriority Claims"; Schedule I-"Current Income of Individual Debtor(s)"; Schedule J-"Current Expenditures of Individual Debtor(s)"; "Declaration Concerning Debtor's Schedules" signed and dated August 5, 1998; six-page "Statement of Financial Affairs" signed and dated August 5, 1998; and seven-page fax from Joanne Jacobson dated October 18, 1999, consisting of the Cover Sheet, copy of Arrest Warrant in the Justice Court, Las Vegas Township, Clark County Nevada, The State of Nevada vs. David Pishotti, Case No. 98F10388X dated August 6, 1998, with attached business card of Agent George Pavlich, Ohio State Board of Pharmacy, and copy of five-page Criminal Complaint in the Justice Court, Las Vegas Township, Clark County Nevada, The State of Nevada vs. David Pishotti, Case No. 98F10388X, not signed, dated July 30, 1998.
- (25) Exhibit I--Copy of Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of David Pishotti signed and dated July 7, 1998.

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 the following to be fact:

- (1) David Angelo Pishotti has not complied with the terms as set forth in the Order of the State Board of Pharmacy, Docket No. D-980210-039, dated September 9, 1998.

ACTION OF THE BOARD

On the basis of the Finding of Fact set forth above, the State Board of Pharmacy takes the following actions in the matter of David Angelo Pishotti:

- (A) The State Board of Pharmacy hereby denies the reinstatement petition of David Angelo Pishotti. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, David Angelo Pishotti may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during suspension.
- (B) January 1, 2002, or thereafter, the Board will consider any petition filed by David Angelo Pishotti for a hearing, pursuant to Ohio

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) David Angelo Pishotti must enter into a new 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) Carisoprodol, meprobamate, phentermine, and alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (iii) 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) Regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required.
 - (c) The program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (2) David Angelo Pishotti must provide, at the reinstatement petition hearing, documentation of the following:
 - (a) Compliance with the contract required in paragraph (B)(1) above (e.g.-copies of all urine screen reports, proof of giving the urine sample within twelve hours of notification, copies of

meeting attendance records, copies of treatment program reports, etc.);

- (b) Compliance with the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code (if applicable);
 - (c) Compliance with the terms of this Order.
- (3) If reinstatement is not accomplished within three years of the effective date of this Order, David Angelo Pishotti must show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-980210-039)

In The Matter Of:

DAVID ANGELO PISHOTTI, R.Ph.

8426 Old Farm Trail N.E.

Warren, Ohio 44484

(R.Ph. No. 03-3-18491)

INTRODUCTION

THE MATTER OF DAVID ANGELO PISHOTTI CAME TO HEARING ON AUGUST 3, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JOSEPH J. MASLAK, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

DAVID ANGELO PISHOTTI WAS REPRESENTED BY MICHAEL D. ROSSI, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Carl Frost, formerly with Ohio State Board of Pharmacy
- (2) Patrolman Michael A. Lambert, Youngstown Police Department

Respondent's Witnesses:

- (1) David Angelo Pishotti, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of four-page Summary Suspension Order/Notice of Opportunity for Hearing letter dated February 10, 1998.

- (2) Exhibit 1A--Hearing Request letter dated March 16, 1998.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated March 20, 1998.
- (4) Exhibit 1C--Continuance Request letter dated March 31, 1998.
- (5) Exhibit 1D--Copy of Hearing Schedule letter dated April 8, 1998.
- (6) Exhibit 1E--Copy of Pharmacist File Front Sheet of David Angelo Pishotti showing original date of registration as October 1, 1990, and two-page copy of Renewal Application for Pharmacist License, No. 03-3-18491, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, dated August 1, 1997.
- (7) Exhibit 2--Copy of three-page Youngstown Police Department Ohio Uniform Incident Report, No. 98-8347, of David Pishotti for incident occurring on February 2, 1998.
- (8) Exhibit 3--Copy of two-page Tri-State Laboratories, Inc. urine drug screen report, No. 980164, of David Pishotti dated February 4, 1998.
- (9) Exhibit 4--Copy of six-page report of Officer T. Malone, Mahoning County Drug Task Force Investigative Report regarding David Pishotti, date of occurrence: February 3, 1998.
- (10) Exhibit 5--Copy of two-page CVS Voluntary Statement of David Pishotti signed and witnessed on February 9, 1998.
- (11) Exhibit 6--Mahoning County Drug Task Force Written Statement of Marsha Vlosich signed and witnessed on July 23, 1998.
- (12) Exhibit 7--Copy of CVS/Revco #4154 Pharmacist's Statement of David Pishotti dated from December 1, 1997, through February 3, 1998; and copy of two-page Troutman Drug Co. record of prescriptions for Dave Pishotti dated from January 1, 1997, to February 25, 1998.
- (13) Exhibit 8--Copy of Youngstown Police Department Waiver of Rights Form of David Pishotti signed and witnessed on February 3, 1998; and attached copy of eight-page transcribed interview of David Angelo Pishotti, R.Ph. conducted at CVS/Revco #4154 on February 3, 1998.
- (14) Exhibit 9--Copy of two-page Tri-State Laboratories, Inc. report, No. 980196, regarding the David Pishotti case dated February 17, 1998.
- (15) Exhibit 10--Copy of Trumbull County Common Pleas Court Bill of Information, Case No. 98-CR-377-A, of David Angelo Pishotti; and copy of five-page Trumbull County Common Pleas Court Finding on Guilty Plea to Bill of Information, State of Ohio vs. David Angelo Pishotti, Case No. 98-CR-377-A.

Respondent's Exhibits:

- (1) Exhibit A--Three-page Judgment Entry in the Youngstown Municipal Court, Case No. 98 TR 300, State of Ohio vs. David Pishotti, dated March 16, 1998.
- (2) Exhibit B--Five St. Joseph Health Center Continuing Care Treatment Progress Reports of David Pishotti dated as follows: May 4, 1998; May 11, 1998; May 18, 1998; May 25, 1998; and June 3, 1998; and three copies of St. Joseph Health Center Continuing Care Treatment Progress Reports of David Pishotti dated as follows: June 9, 1998; June 15, 1998; and June 23, 1998.
- (3) Exhibit C--Copies of eleven urine alcohol and/or drug screen reports dated as follows: February 28, 1998; February 27, 1998; March 6, 1998; March 17, 1998; March 20, 1998; April 15, 1998; May 19, 1998; May 30, 1998; June 23, 1998; July 14, 1998; and July 18, 1998.

- (4) Exhibit D--Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of David Pishotti dated July 7, 1998.
- (5) Exhibit E--Copy of letter from Murphy Lewis dated July 21, 1998; letter from Karlene Rood dated July 25, 1998; and letter from Murphy Lewis dated July 27, 1998.
- (6) Exhibit F--Support Group Attendance Verification Sheet of David P. dated from July 9, 1998, through July 30, 1998.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that David Angelo Pishotti was originally licensed in the state of Ohio on October 1, 1990, pursuant to examination, and on February 10, 1998, his license was summarily suspended in accordance with Section 3719.121(B) of the Ohio Revised Code.
- (2) David Angelo Pishotti is addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: on or about February 2, 1998, David Angelo Pishotti was arrested by the Youngstown Police Department for operating a motor vehicle while under the influence of alcohol and/or drugs; David Angelo Pishotti was located in a southbound vehicle in the northbound lane of Interstate 680, with both driver's side tires missing and the rims severely damaged. After David Angelo Pishotti consented to giving a urine sample, the laboratory test indicated the presence of the following: benzodiazepines: off the scale; opiates: off the scale; amphetamines: 1.5 of 3.0. Additionally, David Angelo Pishotti possessed several unit doses of various controlled substances and dangerous drugs. David Angelo Pishotti had been practicing pharmacy immediately prior to being arrested: the store where he practiced closed at 9:30 p.m.; David Angelo Pishotti was arrested at 10:39 p.m. David Angelo Pishotti has been observed to have fallen asleep while practicing pharmacy. David Angelo Pishotti has admitted to having a drug problem for the past 3 years, stealing and then consuming 4 unit doses of Hydrocodone 7.5mg with APAP 750mg and 4 unit doses of Carisoprodol every four hours since December 1, 1997.
- (3) David Angelo Pishotti did, on or about February 2, 1998, knowingly obtain, possess, or use controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Angelo Pishotti possessed without a prescription the following drugs:

<u>Drug</u>	<u>Quantity</u>
Hydrocodone 7.5mg/APAP 750mg	26
Diazepam 10mg	5
unidentified pink tablet	½
Orphenadrine 100mg	25

Carisoprodol	25
Zithromax 600mg	2
Phentermine 37.5mg	4
unidentified broken pink tablet	1

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (4) David Angelo Pishotti did, from May 1, 1997, through February 3, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/Revco Discount Drug Center #4154, beyond the express or implied consent of the owner and/or by deception, to wit: David Angelo Pishotti stole the following controlled substances from his employer:

<u>Drug</u>	<u>Quantity</u>
Diazepam 10mg	
Hydrocodone 7.5mg/APAP 750mg	800
Phentermine 37.5mg	
Carisoprodol	800

Such conduct is in violation of Section 2913.02 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 (3) and (4) of the Findings of Fact constitute 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 (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 paragraph (2) 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 paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued February 10, 1998.

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

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-18491, held by David Angelo Pishotti 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, David Angelo Pishotti may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) One year from the effective date of this Order, or thereafter, the Board will consider any petition filed by David Angelo Pishotti 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:
 - (1) David Angelo Pishotti must enter into a new contract 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 from the effective date of this Order 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. The urine sample must be given within twelve hours of notification. Alcohol, Soma (carisoprodol), and phentermine must be added to the standard urine drug screen, and must include testing for creatinine or specific gravity of the sample as the dilutional standard;
 - (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group; and
 - (c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.

Results of urine screens must be negative. Any confirmed 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) David Angelo Pishotti must provide, at the time of petitioning the Board for reinstatement, evidence of his evaluation of chemical dependency status and recommendation for treatment by an ODADAS professional; written documentation from his treatment provider regarding compliance with the program pursuant to the contract; and copies of all urine drug screen reports.

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-

TEL: 614/466-4143

E-MAIL: exec@bop.state.oh.us

FAX: 614/752-4836

TTY/TDD: Use the Ohio Relay Service: 1-800/750-0750

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

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

February 10, 1998

David Angelo Pishotti, R.Ph.

8426 Old Farm Trail N.E.
Warren, Ohio 44484

Re: Ohio Registered Pharmacist
Number 03-3-18491

Dear Pharmacist:

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) Records of the Board of Pharmacy indicate that you were originally licensed in the state of Ohio on October 1, 1990, pursuant to examination and are currently licensed to practice pharmacy in the state of Ohio.
- (2) 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: on or about February 2, 1998, you were arrested by the Youngstown Police Department for operating a motor vehicle while under the influence of alcohol and/or drugs; you were located in a southbound vehicle in the northbound lane of Interstate 680, with both driver's side tires missing and the rims severely damaged; and you were disoriented and unaware of your surroundings. After you consented to giving a urine sample, the laboratory test indicated the presence of the following: benzodiazepines: off the scale; opiates: off the scale; amphetamines: 1.5 of 3.0. Additionally, you possessed several unit doses of various controlled substances and dangerous drugs. You had been practicing pharmacy immediately prior to being arrested: the store where you practiced closed at 9:30 p.m.; you were arrested at 10:39 p.m. Further, you are often late to work, up to three hours on occasion. You have been observed to have fallen asleep while practicing pharmacy. You have admitted to having a drug problem for the past 3 years, stealing and then consuming 4 unit doses of Hydrocodone 7.5mg with APAP 750mg and 4 unit doses of Carisoprodol every four hours since December 1, 1997.

- (3) You did, on or about February 2, 1998, knowingly obtain, possess, or use controlled substances when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: you possessed without a prescription the following drugs:

<u>Drug</u>	<u>Quantity</u>
Hydrocodone 7.5mg/APAP 750mg	26
Diazepam 10mg	5
unidentified pink tablet	½
Orphenadrine 100mg	25
Carisoprodol	25
Zithromax 600mg	2
Phentermine 37.5mg	4
unidentified broken pink tablet	1

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (4) You did, from May 1, 1997, through February 3, 1998, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/Revco Discount Drug Center #4154, beyond the express or implied consent of the owner and/or by deception, to wit: you stole the following controlled substances from your employer:

<u>Drug</u>	<u>Quantity</u>
Adipex-P 37.5mg	10
Diazepam 10mg	230
Hydrocodone 7.5mg/APAP 750mg	800
Phentermine 37.5mg	19
Valium 2mg	40
Valium 5mg	80
Valium 10mg	35
Carisoprodol	800

Such conduct is in violation of Section 2913.02 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 a final adjudication order becomes effective, during which time you may not engage in the practice of pharmacy.

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 Chapter 119. 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 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, residential care facility, or nursing home.

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 HEREBY ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the State Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

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.

(D-980210-039)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE FEBRUARY 10, 1998