



# OHIO STATE BOARD OF PHARMACY

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

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TEL: 614/466-4143

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960322-051)

In The Matter Of:

**BRYAN C. FLOURNOY, R.Ph.**  
3029 Powhattan Parkway (Lower)  
Toledo, Ohio 43606  
(R.Ph. No. 03-3-18737)

### INTRODUCTION

THE MATTER OF BRYAN C. FLOURNOY CAME TO HEARING ON SEPTEMBER 19, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

BRYAN C. FLOURNOY WAS NOT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Dale Fritz, Ohio State Board of Pharmacy
- (2) Bryan C. Flournoy, Respondent

Respondent's Witnesses:

- (1) Marcella Jimmerson Flournoy

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated March 22, 1996.
- (2) Exhibit 1A--Hearing Request letter dated April 15, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated April 22, 1996.

- (4) Exhibit 1C--Pharmacist File Front Sheet of Bryan C. Flournoy showing original date of registration as February 15, 1991; and Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, of Bryan C. Flournoy dated June 24, 1995.
- (5) Exhibit 1D--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1991, to September 15, 1992, of Bryan C. Flournoy dated August 12, 1991.
- (6) Exhibit 1E--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1992, to September 15, 1993, of Bryan C. Flournoy dated August 9, 1992.
- (7) Exhibit 1F--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1993, to September 15, 1994, of Bryan C. Flournoy dated August 10, 1993.
- (8) Exhibit 1G--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1994, to September 15, 1995, of Bryan C. Flournoy dated July 22, 1994.
- (9) Exhibit 1H--Renewal Application for Pharmacist License, No. 03-3-18737, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Bryan C. Flournoy dated August 15, 1996 and attachments as follows: letter from Bryan C. Flournoy, not dated, and copy of the Notice of Opportunity letter of Bryan C. Flournoy dated March 22, 1996.
- (10) Exhibit 2E--(Sealed) Exempt Narcotic Register of Hutton's Pharmacy dated from April 21, 1992, to November 3, 1992.
- (11) Exhibit 2G--(Sealed) Exempt Narcotic Register of Hutton's Pharmacy dated from July 7, 1993, to March 2, 1994.
- (12) Exhibit 3--(Sealed) Patient Key.
- (13) Exhibit 4--Handwritten notes on yellow letter-size paper dated March 15, 1993, (sic 1994).
- (14) Exhibit 5--Copies of five pages of Hutton's Pharmacy Exempt Narcotic Register dated May 28, 1992; May 29, 1992; May 30, 1992; August 25, 1993; and August 26, 1992 (sic 1993).

Respondent's Exhibits:

- (1) None

#### 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 Bryan C. Flournoy was originally licensed in the state of Ohio on February 15, 1991, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Bryan C. Flournoy did, on or about the following dates, sell, under the exemptions of Section 3719.15 of the Ohio Revised Code, to the same person (on each occasion) preparations included within Section 3719.15, when he knew or by reasonable diligence could have ascertained that the sale provided the recipient with more than one such preparation within a forty-eight consecutive hour period:

<u>Date</u>	<u>Drug</u>	<u>Patient Identifier</u>
5/30/92	Novahistine	5
5/30/92	Terpin Hydrate with Codeine	62
5/30/92	Tussar-2	77
8/26/93	Novahistine	106

Such conduct is in violation of Section 3719.16 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 3719. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Bryan C. Flournoy:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby places the pharmacist identification card, No. 03-3-18737, of Bryan C. Flournoy on probation for three years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
  - (1) Bryan C. Flournoy must take and successfully complete the law examination offered by the Board prior to June 1, 1997. If Bryan C. Flournoy has not successfully completed the examination prior to June 1, 1997, his license will be suspended until this condition has been achieved.

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

- (2) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Bryan C. Flournoy's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
- (3) Bryan C. Flournoy may not serve as a responsible pharmacist.
- (4) Bryan C. Flournoy must not violate the drug laws of the state of Ohio, any other state, or the federal government.

- (5) Bryan C. Flournoy must abide by the rules of the Ohio State Board of Pharmacy.
- (6) Bryan C. Flournoy must comply with the terms of this Order.

The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

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

MOTION CARRIED.

SO ORDERED.