



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010116-036)

In The Matter Of:

**CHARLENE M. NEWMISTER, R.Ph.**

408 Main Street

Genoa, Ohio 43430

(R.Ph. No. 03-3-20024)

### INTRODUCTION

THE MATTER OF CHARLENE M. NEWMISTER CAME FOR HEARING ON AUGUST 8, 2001, 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.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

CHARLENE M. NEWMISTER WAS REPRESENTED BY JAMES E. BRAZEAU AND JAMES R. KNEPP, II AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Paul Kover, R.Ph., Ohio State Board of Pharmacy
- (2) Sue Mota

Respondent's Witnesses:

- (1) Daniel M. Scott, R.Ph.
- (2) Charlene M. Newmister, R.Ph., Respondent
- (3) Steven Meyer, R.Ph.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1N--Copy of three-page Notice of Opportunity for Hearing letter dated January 16, 2001.
- (2) Exhibit 1N-A--Hearing Request letter dated February 9, 2001.

- (3) Exhibit 1N-B--Copy of Hearing Schedule letter dated February 16, 2001.
- (4) Exhibit 1N-C--Copy of Ohio Pharmacist computer record of Charlene M. Newmister.
- (5) Exhibit 2--Copy of St. Charles Hospital Oncology Outpatient Management Plan and Treatment Summary of Lyle Ganske dated June 15, 2000.
- (6) Exhibit 3--Copy of St. Charles Mercy Hospital Physician's Orders of Lyle Ganske dated June 22, 2000.
- (7) Exhibit 4--Copy of Mercy Home Care IV Therapy Orders of Lyle Ganske dated June 23, 2000.
- (8) Exhibit 5--Copy of Riverside Mercy Home Pharmacy Physician Prescription of Lyle Ganske dated June 26, 2000.
- (9) Exhibit 6--Riverside Mercy Home Pharmacy Delivery Ticket of Lyle Ganske dated June 26, 2000.
- (10) Exhibit 7--Copy of five-page Statement of Daniel M. Scott notarized August 1, 2000.
- (11) Exhibit 8--Copy of Dangerous Drug Distributor Inspection Report of Riverside Mercy Home Service dated September 12, 2000.
- (12) Exhibit 9--Copy of six-page Response to the Inspection Report from Daniel M. Scott dated September 15, 2000.
- (13) Exhibit 10--Copy of Lucas County Coroner's Office Case Summary On The Death of Lyle Ganske dated August 14, 2000, and Certificate of Death of Lyle Ernest Ganske filed August 17, 2000.
- (14) Exhibit 11--Copy of Mercy Home Care Interdisciplinary Communication Form regarding Patient Lyle Ganske; copy of Initial Patient Assessment & Plan of Care for Lyle Ganske signed by Char Newmister, R.Ph. and dated June 28, 2000; and copy of Riverside Home Pharmacy Care Plan, Chemo-Therapeutic Review/Pharmaceutical Care Plan for Lyle Ganske signed by Char Newmister and dated June 28, 2000.
- (15) Exhibit 12--Copy of three-page Riverside Mercy Home Service "Time Line of Events leading to the Dispensing and Administration of Prescription #000003663 to the Patient" dated from June 15, 2000 through July 11, 2000.
- (16) Exhibit 13--Copy of two 4" x 6" photographs of older man, young woman, and boy; one at dining room table and one with a motorcycle, not dated.

Respondent's Exhibits:

- (1) Exhibit A--Letter regarding Dan Scott from Scott E. Shook dated July 20, 2001.
- (2) Exhibit B--Letter regarding Dan Scott from Rev. Linda Smith-Criddle, Ph.D. dated July 23, 2001.
- (3) Exhibit C--Letter regarding Dan Scott from Theresa McCarroll dated July 25, 2001.
- (4) Exhibit D--Letter regarding Dan Scott from Robert Tjan dated July 24, 2001.
- (5) Exhibit E--Copy of two Continuing Pharmaceutical Education Credit Statements of Danier (*sic*) Scott for programs numbered 071-999-00-013-H01 and 071-999-00-017-H01, both dated December 28, 2000.
- (6) Exhibit F--Letter regarding Charlene Newmister from Steven R. Meyer, M.S., R.Ph. dated July 27, 2001.
- (7) Exhibit G--Letter regarding Charlene Newmister from Randell Carter, R.Ph. dated July 26, 2001.
- (8) Exhibit H--Letter regarding Charlene Newmister from Robert Tjan dated July 24, 2001.
- (9) Exhibit I--Letter regarding Charlene Newmister from Tari S. Cecil, R.Ph. dated July 22, 2001.
- (10) Exhibit J--Letter regarding Charlene Newmister from Margaret Mattoon MSN, RN dated July 27, 2001.

- (11) Exhibit K--Copy of two Continuing Pharmaceutical Education Credit Statements of Charlene Newmister for programs numbered 071-999-00-013-H01 and 071-999-00-017-H01, both dated August 2, 2001.
- (12) Exhibit L--Copy of two-page Riverside Mercy Hospital Policy No. 750-223 for Chemotherapy Protocol dated June 27, 2001.
- (13) Exhibit M--Copy of Oncology Flow Sheet form, not dated.
- (14) Exhibit N--Copy of Oncology/Immunology CE Series article titled "Preventing Medication Errors With Antineoplastic Agents, Part 1" (Hospital Pharmacy; Volume 35, May 2000; pages 511 through 525).
- (15) Exhibit O--Copy of Oncology/Immunology CE Series article titled "Preventing Medication Errors With Antineoplastic Agents, Part 2" (Hospital Pharmacy; Volume 35, July 2000; pages 732 through 749).

#### 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 Charlene M. Newmister was originally licensed in the State of Ohio on July, 28, 1993, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Charlene M. Newmister did, on or about June 28, 2000, fail to perform prospective drug utilization review, to wit: when medications had been dispensed to a patient pursuant to prescription number 000003663, even though it was her position to do so, Charlene M. Newmister failed to review the original prescription for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse in accordance with the mandates set forth in Section 4729.01(B) of the Ohio Revised Code and Rule 4729-5-20(C) of the Ohio Administrative Code. Further, when Charlene M. Newmister may have surmised that there was a problem with the quantity dispensed, Charlene M. Newmister asked a technician for an opinion and then simply dropped the issue. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

#### CONCLUSIONS OF LAW

- (1) 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) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

## ACTION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and on the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) on Charlene M. Newmister 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.

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

MOTION CARRIED.

SO ORDERED.