

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-021022-022)

In The Matter Of:

JAMES SCOTT PATTON, R.Ph.

2802-D Sherwood Road

Bexley, Ohio 43209

(R.Ph. No. 03-3-22165)

INTRODUCTION

THE MATTER OF JAMES SCOTT PATTON CAME FOR HEARING ON MARCH 3, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: DIANE C. ADELMAN, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, 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 SCOTT PATTON 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. Nick Andrew Kallis, R.Ph.
2. Valerie Menzo
3. James Scott Patton, R.Ph., Respondent
4. Michael Quigley

State's Exhibits

1. Reinstatement Hearing Request letter from James Scott Patton [not dated]
1A-1B. Procedurals
2. Copy of State Board of Pharmacy Order in re James Scott Patton, R.Ph. [07-17-00]
3. Copy of Notarized Statement of James Scott Patton [07-02-99]
4. Constitutional Rights Waiver Form of James Scott Patton [07-01-99]
5. Accountability Statement for Adderall 10 mg at Kroger Co. N-341 [07-02-99]
6. Accountability Statement for Adderall 20 mg at Kroger Co. N-341 [07-02-99]
7. Accountability Statement for Dexedrine 5 mg at Kroger Co. N-341 [07-02-99]
8. Accountability Statement for Dexedrine 10 mg at Kroger Co. N-341 [07-02-99]
9. Accountability Statement for Dexedrine 15 mg at Kroger Co. N-341 [07-02-99]
10. Accountability Statement for Methylphenidate 10 mg at Kroger Co. N-341 [07-02-99]
11. Accountability Statement for Methylphenidate 20 mg at Kroger Co. N-341 [07-02-99]
12. Accountability Statement for Methylphenidate 20 mg (ER) at Kroger Co. N-341 [07-02-99]

13. Accountability Statement for OxyContin 10 mg at Kroger Co. N-341 [07-02-99]
14. Accountability Statement for OxyContin 20 mg at Kroger Co. N-341 [07-02-99]
15. Accountability Statement for OxyContin 40 mg at Kroger Co. N-341 [07-02-99]
16. Accountability Statement for OxyContin 80 mg at Kroger Co. N-341 [07-02-99]
17. Accountability Statement for Oxycodone/APAP 325 at Kroger Co. N-341 [07-02-99]
18. Accountability Statement for Percocet at Kroger Co. N-341 [07-02-99]
19. Accountability Statement for Ritalin SR 20 mg at Kroger Co. N-341 [07-02-99]
20. Accountability Statement for Roxicodone 5 mg at Kroger Co. N-341 [07-02-99]
21. Accountability Statement for APAP/Codeine #4 at Kroger Co. N-341 [07-02-99]
22. Accountability Statement for Anexsia 7.5/650 at Kroger Co. N-341 [07-02-99]
23. Accountability Statement for Cylert 37.5 mg at Kroger Co. N-341 [07-02-99]
24. Accountability Statement for Cylert 37.5 mg (Chewable) at Kroger Co. N-341 [07-02-99]
25. Accountability Statement for Cylert 75 mg at Kroger Co. N-341 [07-02-99]
26. Accountability Statement for Hydrocodone/APAP 7.5/500 at Kroger Co. N-341 [07-02-99]
27. Accountability Statement for Hydrocodone/APAP 10/500 at Kroger Co. N-341 [07-02-99]
28. Accountability Statement for Hydrocodone/APAP 10/650 at Kroger Co. N-341 [07-02-99]
29. Accountability Statement for Lorcet 10/650 at Kroger Co. N-341 [07-02-99]
30. Accountability Statement for Lortab 7.5/500 at Kroger Co. N-341 [07-02-99]
31. Accountability Statement for Lortab 10/500 at Kroger Co. N-341 [07-02-99]
32. Accountability Statement for Norco 10/325 at Kroger Co. N-341 [07-02-99]
33. Accountability Statement for Tussionex Suspension at Kroger Co. N-341 [07-02-99]
34. Accountability Statement for Tylenol #4 at Kroger Co. N-341 [07-02-99]
35. Accountability Statement for Vicodin ES at Kroger Co. N-341 [07-02-99]
41. Rx #2216779 [04-25-99]
43. Perpetual Inventory Record for OxyContin 40 mg [07-13-98 to 04-22-99]
44. Rx #2216985 [05-14-99]
46. Rx #2216988 [05-14-99]
47. Rx #2217036 [05-18-99]
49. Perpetual Inventory Record for OxyContin 10 mg [05-18-99 to 06-25-99]
50. Rx #2217098 [05-22-99]
52. Perpetual Inventory Record for Percocet [05-22-99 to 06-22-99]
53. Rx #2217119 [05-24-99]
55. Perpetual Inventory Record for Endocet (oxycodone/APAP) [05-20-99 to 05-27-99]
56. Rx #2217235 [06-02-99]
58. Perpetual Inventory Record for Endocet (oxycodone/APAP) [05-22-99 to 06-04-99]
59. Rx #2217248 [05-28-99]
60. Rx #2217260 [06-04-99]
62. Perpetual Inventory Record for Endocet (oxycodone/APAP) [06-04-99 to 06-09-99]
63. Rx #2217331 [06-10-99]
65. Rx #2217355 [06-11-99]
66. Perpetual Inventory Record for OxyContin 40 mg. [05-18 to 07-03]
67. Bill of Information, State of Ohio vs. James S. Patton, Case No. 00CR-06-3467, Franklin County Common Pleas Court [06-08-00]
68. Entry of Guilty Plea [06-08-00]
69. Entry for Treatment in Lieu of Conviction [06-08-00]

Respondent's Exhibits

- A. Copy of State Board of Pharmacy Order in re James Scott Patton, R.Ph. [07-17-00]; PRO Pharmacist's Recovery Contract for James Scott Patton [09-25-00]; Shepherd Hill Hospital Recovery Plan for James Scott Patton [04-12-00]
- B. Calendar pages from April 2000 to March 2003
- C. Support Group Attendance Records [04-14-00 to 03-02-03]; Copy of nine Certificates of Appreciation [06-15-01 to 10-23-02]
- D. Drug Screen Reports [05-21-00 to 02-10-03]; Compass Vision, Inc. Licensee Summary Report for James Patton [01-01-02 to 01-20-03]; Letter from Michael D. Quigley, R.Ph. [02-20-03]
- E. Continuing Pharmaceutical Education Certificates [08-10-98 to 01-18-03]
- F. Entry For Treatment In Lieu Of Conviction, State of Ohio vs. James Scott Patton, Case No. 00CR-06-3467, Franklin County Common Pleas Court [06-08-00]; Adult Probation Department Conditions of Supervision for James Scott Patton [not dated]; five Receipts for Payments To The Franklin County Common Pleas Adult Probation Department [09-05-00 to 01-02-01]; Completion of Treatment In Lieu Of Conviction, State of Ohio vs. James Scott Patton, Case No. 00CR-3467, Franklin County Common Pleas Court [11-29-02]
- G. Letter from Scott Patton [11-07-02]; Letter from Bill Sheridan [11-20-02]; and copy of letter and restitution check no.1369 to Kroger Co. from Scott Patton [02-06-03]
- H. Letter from JR Abrahamsen, NCAC I, CCDC III-E [02-22-03]; Eleven Letters or Support [01-14-99 to 02-19-03]

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 Scott Patton has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-990714-001, effective July 17, 2000.

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. 03-0-22165, held by James Scott Patton to practice pharmacy in Ohio and places James Scott Patton on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) James Scott Patton 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 before his pharmacist identification card is issued. 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) Ritalin 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 that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.

(d) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.

(2) The intervener/sponsor shall provide copies of all drug and alcohol 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 Scott Patton 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 Scott Patton's progress towards recovery and what he has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) James Scott Patton must complete restitution to Kroger Co. N-341 and Riverside Hospital, and provide written documentation to the Board before the end of his probation period.

(2) The State Board of Pharmacy hereby declares that James Scott Patton'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.

- (3) James Scott Patton may not serve as a responsible pharmacist.
- (4) James Scott Patton may not destroy, assist in, or witness the destruction of controlled substances.
- (5) James Scott Patton must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
- (6) James Scott Patton must not violate the drug laws of Ohio, any other state, or the federal government.
- (7) James Scott Patton must abide by the rules of the State Board of Pharmacy.
- (8) James Scott Patton must comply with the terms of this Order.

(D) 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.

If James Scott Patton's pharmacist identification card to practice pharmacy in Ohio is not issued within three years from the effective date of this Order, James Scott Patton must also take and pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination accepted by the Board.

James Scott Patton 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 (Aye-8/Nay-0).
MOTION CARRIED.
SO ORDERED.

ORDER EFFECTIVE APRIL 9, 2003

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-990714-001)

In The Matter Of:

JAMES SCOTT PATTON, R.Ph.
3541 Sunset Drive
Columbus, Ohio 43221
(R.Ph. No. 03-3-22165)

INTRODUCTION

THE MATTER OF JAMES SCOTT PATTON CAME FOR HEARING ON JUNE 13, 2000, 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.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JAMES SCOTT PATTON WAS REPRESENTED BY R. WILLIAM MEEKS, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) James Scott Patton, Respondent
- (2) David Baker, R.Ph., Pharmacists Rehabilitation Organization, Inc.
- (3) Wayne Miller, R.Ph., Pharmacists Rehabilitation Organization, Inc.

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of three-page Summary Suspension Order/Notice of Opportunity For Hearing letter dated July 14, 1999.
- (2) Exhibit 1A--Copy of four-page Addendum Notice dated September 3, 1999.
- (3) Exhibit 1B--Hearing Request letter dated July 28, 1999.
- (4) Exhibit 1C--Copy of Hearing Schedule letter dated August 5, 1999.
- (5) Exhibit 1D--Copy of Continuance Request letter dated October 1, 1999.
- (6) Exhibit 1E--Copy of Hearing Schedule letter dated October 5, 1999.
- (7) Exhibit 1F--Continuance Request letter from R. William Meeks dated December 10, 1999; and attached two-page Settlement Proposal letter from R. William Meeks dated December 10, 1999.

- (8) Exhibit 1G--Copy of Hearing Schedule letter dated December 15, 1999.
- (9) Exhibit 1H--Letter from David W. Baker dated March 3, 2000.
- (10) Exhibit 1I--Copy of Hearing Schedule letter dated March 29, 2000.
- (11) Exhibit 1J--Pharmacist File Front Sheet of James Scott Patton showing original date of registration as February 27, 1997; and copy of Renewal Application for Pharmacist License No. 03-3-22165 for a license to practice pharmacy in Ohio from September 15, 1998, to September 15, 1999, of James Scott Patton dated August 10, 1998.
- (12) Exhibit 3--Copy of four-page Grove City Division of Police Witness Statement of James Scott Patton, Incident No. 992363, dated July 2, 1999.
- (13) Exhibit 4--Copy of Constitutional Rights form of James Scott Patton dated July 1, 1999.
- (14) Exhibit 5--Accountability Statement of Kroger Co. N-341 for Adderall 10mg dated July 2, 1999.
- (15) Exhibit 6--Accountability Statement of Kroger Co. N-341 for Adderall 20mg dated July 2, 1999.
- (16) Exhibit 7--Accountability Statement of Kroger Co. N-341 for Dexedrine 5mg tablets dated July 2, 1999.
- (17) Exhibit 8--Accountability Statement of Kroger Co. N-341 for Dexedrine 10mg dated July 2, 1999.
- (18) Exhibit 9--Accountability Statement of Kroger Co. N-341 for Dexedrine 15mg dated July 2, 1999.
- (19) Exhibit 10--Accountability Statement of Kroger Co. N-341 for Methylphenidate 10mg dated July 2, 1999.
- (20) Exhibit 11--Accountability Statement of Kroger Co. N-341 for Methylphenidate 20mg dated July 2, 1999.
- (21) Exhibit 12--Accountability Statement of Kroger Co. N-341 for Methylphenidate 20mg (ER) dated July 2, 1999.
- (22) Exhibit 13--Accountability Statement of Kroger Co. N-341 for OxyContin 10mg dated July 2, 1999.
- (23) Exhibit 14--Accountability Statement of Kroger Co. N-341 for OxyContin 20mg dated July 2, 1999.
- (24) Exhibit 15--Accountability Statement of Kroger Co. N-341 for OxyContin 40mg dated July 2, 1999.
- (25) Exhibit 16--Accountability Statement of Kroger Co. N-341 for OxyContin 80mg dated July 2, 1999.
- (26) Exhibit 17--Accountability Statement of Kroger Co. N-341 for Oxycodone/APAP 325mg dated July 2, 1999.
- (27) Exhibit 18--Accountability Statement of Kroger Co. N-341 for Percocet dated July 2, 1999.
- (28) Exhibit 19--Accountability Statement of Kroger Co. N-341 for Ritalin SR 20mg dated July 2, 1999.
- (29) Exhibit 20--Accountability Statement of Kroger Co. N-341 for Roxicodone 5mg dated July 2, 1999.
- (30) Exhibit 21--Accountability Statement of Kroger Co. N-341 for APAP/Codeine #4 dated July 2, 1999.
- (31) Exhibit 22--Accountability Statement of Kroger Co. N-341 for Anexsia 7.5/650 dated July 2, 1999.

- (32) Exhibit 23--Accountability Statement of Kroger Co. N-341 for Cylert 37.5mg dated July 2, 1999.
- (33) Exhibit 24--Accountability Statement of Kroger Co. N-341 for Cylert 37.5mg chewable dated July 2, 1999.
- (34) Exhibit 25--Accountability Statement of Kroger Co. N-341 for Cylert 75mg dated July 2, 1999.
- (35) Exhibit 26--Accountability Statement of Kroger Co. N-341 for Hydrocodone/APAP 7.5/500 dated July 2, 1999.
- (36) Exhibit 27--Accountability Statement of Kroger Co. N-341 for Hydrocodone/APAP 10/500 dated July 2, 1999.
- (37) Exhibit 28--Accountability Statement of Kroger Co. N-341 for Hydrocodone/APAP 10/650 dated July 2, 1999.
- (38) Exhibit 29--Accountability Statement of Kroger Co. N-341 for Lorcet 10/650 dated July 2, 1999.
- (39) Exhibit 30--Accountability Statement of Kroger Co. N-341 for Lortab 7.5/500 dated July 2, 1999.
- (40) Exhibit 31--Accountability Statement of Kroger Co. N-341 for Lortab 10/500 dated July 2, 1999.
- (41) Exhibit 32--Accountability Statement of Kroger Co. N-341 for Norco 10/325 dated July 2, 1999.
- (42) Exhibit 33--Accountability Statement of Kroger Co. N-341 for Tussionex Suspension dated July 2, 1999.
- (43) Exhibit 34--Accountability Statement of Kroger Co. N-341 for Tylenol #4 dated July 2, 1999.
- (44) Exhibit 35--Accountability Statement of Kroger Co. N-341 for Vicodin ES dated July 2, 1999.
- (45) Exhibit 36--Amber prescription vial, not labeled, containing 40 Dexedrine 15mg capsules and 9 Adderall 20mg tablets.
- (46) Exhibit 37--Amber prescription vial, not labeled, containing 19 Lortab 7.5mg tablets.
- (47) Exhibit 38--Amber prescription vial, not labeled, containing 9 hydrocodone/APAP 10/500 tablets.
- (48) Exhibit 39--Eight assorted ink pens.
- (49) Exhibit 40--One correction pen.
- (50) Exhibit 41--Prescription No. 2216779.
- (51) Exhibit 42--Pages 654 and 655 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (52) Exhibit 43--Perpetual Inventory sheet for Oxycontin 40mg dated from July 13, 1998, through April 22, 1999.
- (53) Exhibit 44--Copy of Prescription No. 2216985.
- (54) Exhibit 45--Page 652 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (55) Exhibit 46--Prescription No. 2216988.
- (56) Exhibit 47--Prescription No. 2217036
- (57) Exhibit 48--Page 648 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (58) Exhibit 49--Perpetual Inventory sheet for Oxycontin 10mg dated from May 18, 1999, through June 25, 1999.

- (59) Exhibit 50--Prescription No. 2217098.
- (60) Exhibit 51--Page 449 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (61) Exhibit 52--Perpetual Inventory sheet for Percocet dated from May 22, 1999, through June 22,1999.
- (62) Exhibit 53--Prescription 2217119.
- (63) Exhibit 54--Page 287 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (64) Exhibit 55--Perpetual Inventory sheet for Endocet dated from May 20, 1999, through May 27,1999.
- (65) Exhibit 56--Prescription No. 221723500.
- (66) Exhibit 57--Page 422 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (67) Exhibit 58--Perpetual Inventory sheet for Endocet dated from May 22, 1999, through June 4, 1999.
- (68) Exhibit 59--Prescription No. 221724800.
- (69) Exhibit 60--Prescription No. 2217260.
- (70) Exhibit 61--Page 423 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (71) Exhibit 62--Perpetual Inventory sheet for Endocet tabs dated from June 4, 1999, through June 9, 1999.
- (72) Exhibit 63--Prescription No. 2217331.
- (73) Exhibit 64--Page 261 of Kroger Pharmacy 01600341 "Prescription Daily Audit with Notes" report dated August 10, 1999.
- (74) Exhibit 65--Prescription No. 221735500.
- (75) Exhibit 66--Perpetual Inventory sheet for Oxycontin 40mg dated May 18th through July 3rd.

Respondent's Exhibits:

- (1) Exhibit A--Copy of letter from Cindy Barbour dated June 1, 2000.
- (2) Exhibit B--Copy of letter from Tyler R. Holliday dated June 7, 2000.
- (3) Exhibit C--Copy of two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Scott Patton dated April 30, 2000.
- (4) Exhibit D--Copy of two pages of AA Meeting Reporting Sheet of Scott Patton dated from April 14, 2000, through June 5, 2000.
- (5) Exhibit E--Drug screen urine reports with specimen dates as follows: November 3, 1999; November 12, 1999; November 19, 1999; November 22, 1999; December 3, 1999; December 7, 1999; December 17, 1999; December 21, 1999; December 30, 1999; January 6, 2000; January 11, 2000; January 21, 2000; January 25, 2000; January 04, 2000; and May 21, 2000.
- (6) Exhibit F--Copy of four-page "Motion for Treatment in Lieu of Conviction" in the Franklin County Court of Common Pleas, State of Ohio vs. James Scott Patton, Case No. 00CR063467, dated June 8, 2000.
- (7) Exhibit G--Copy of three-page "Entry for Treatment in Lieu of Conviction" in the Franklin County Common Pleas Court, State of Ohio vs. James Scott Patton, Case No. 00CR063467, dated June 8, 2000.
- (8) Exhibit H--Copy of two-page letter from Nick A. Kallis dated June 8, 2000.

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 Scott Patton was originally licensed in the state of Ohio on February 27, 1997, pursuant to examination, and his license to practice pharmacy in the state of Ohio was summarily suspended on July 14, 1999, pursuant to Sections 3719.121(A) and 3719.121(B) of the Ohio Revised Code.
- (2) James Scott Patton is addicted to controlled substances, to wit: James Scott Patton admitted that he is drug dependent; James Scott Patton has admittedly been stealing controlled substances since November 1996; James Scott Patton has admittedly been stealing Schedule II controlled substances for approximately four to six weeks prior to the date of the Summary Suspension; and James Scott Patton was arrested by the Grove City Police Department on July 1, 1999, after having stolen one hundred unit doses of hydrocodone 10mg with APAP 325mg. Such conduct indicates that James Scott Patton is addicted to controlled substances within the meaning of Section 3719.121(A) of the Ohio Revised Code.
- (3) James Scott Patton did, on or about July 1, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger, 2474 Stringtown Road, Grove City, Ohio, beyond the express or implied consent of the owner, to wit: James Scott Patton was caught stealing one hundred unit doses of hydrocodone 10mg with APAP 325mg from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) James Scott Patton did, from July 8, 1997, through July 1, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger N-341, by deception, to wit: James Scott Patton stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>	<u>% Drug Stock</u>	<u>Schedule</u>
Adderall 10mg	1,168 unit doses	7.2%	II
Adderall 20mg	1,263 unit doses	22.1%	II
Dexedrine 5mg	1,509 unit doses	8.0%	II
Dexedrine 10mg	353 unit doses	3.3%	II
Dexedrine 15mg	1,442 unit doses	15.5%	II
methylphenidate 10mg	1,715 unit doses	4.1%	II
methylphenidate 20mg	2,077 unit doses	10.6%	II
methylphenidate 20mg ER	3,892 unit doses	23.2%	II
OxyContin 10mg	75 unit doses	4.2%	II
OxyContin 20mg	132 unit doses	5.7%	II
OxyContin 40mg	211 unit doses	12.4%	II
OxyContin 80mg	10 unit doses	1.5%	II
oxycodone/APAP 325mg	6,476 unit doses	6.3%	II
Percocet	2,189 unit doses	10.6%	II

Ritalin SR 20mg	650 unit doses	6.4%	II
Roxicodone 5mg	17 unit doses	<1.0%	II
acetaminophen/codeine #4	1,047 unit doses	3.8%	III
Anexsia 7.5/650	95 unit doses	95.0%	III
Cylert 37.5mg	252 unit doses	3.0%	IV
Cylert 37.5mg (chewable)	1,207 unit doses	46.4%	IV
Cylert 75mg	109 unit doses	18.2%	IV
hydrocodone 7.5mg/APAP 500mg	1,793 unit doses	4.4%	III
hydrocodone 10mg/APAP 500mg	5,441 unit doses	42.2%	II
hydrocodone 10mg/APAP 650mg	3,099 unit doses	32.1%	III
Lorcet 10/650	1,011 unit doses	40.0%	III
Lortab 7.5/500	2,461 unit doses	17.8%	III
Lortab 10/500	449 unit doses	16.6%	III
Norco 10/325	2,717 unit doses	*59.1%	III
Tussionex Suspension	3,194 ml	7.0%	III
Tylenol #4	555 unit doses	14.2%	III
Vicodin ES	417 unit doses	6.1%	III

**Quantities from paragraph (3) are included in these figures.*

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) James Scott Patton did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: James Scott Patton admittedly altered the following prescriptions in order to steal controlled substances:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Altered Qty.</u>
2216779	04/25/99	OxyContin 40mg	100	180
2216985	05/14/99	OxyContin 20mg	107	180
2216988	05/14/99	OxyContin 20mg	62	120
2217036	05/18/99	OxyContin 10mg	60	120
2217098	05/22/99	Percocet	20	120
2217119	05/24/99	oxycodone/APAP 325mg	20	120
2217235	06/02/99	oxycodone/APAP 325mg	30	130
2217248	06/03/99	oxycodone/APAP 325mg	10	40
2217260	06/04/99	oxycodone/APAP 325mg	40	90
2217331	06/10/99	Percocet	40	140
2217335	06/13/99	OxyContin 40mg	90	180

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (6) James Scott Patton did, on or about the following dates, knowing he had no privilege to do so, and with purpose to defraud or knowing that he was facilitating a fraud, falsify or alter computer data, to wit: James Scott Patton falsified data for the following prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Altered Qty.</u>
2216779	04/25/99	OxyContin 40mg	100	180
2216985	05/14/99	OxyContin 20mg	107	180
2216988	05/14/99	OxyContin 20mg	62	120
2217036	05/18/99	OxyContin 10mg	60	120
2217098	05/22/99	Percocet	20	120
2217119	05/24/99	oxycodone/APAP 325mg	20	120

2217235	06/02/99	oxycodone/APAP 325mg	30	130
2217248	06/03/99	oxycodone/APAP 325mg	10	40
2217260	06/04/99	oxycodone/APAP 325mg	40	90
2217331	06/10/99	Percocet	40	140
2217335	06/13/99	OxyContin 40mg	90	180

Such conduct is in violation of Section 2913.42 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) through (6) of the Findings of Fact constitute being guilty of a felony and 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 (6) 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 (5) 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 to James Scott Patton on July 14, 1999.

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 suspends indefinitely the pharmacist identification card, No. 03-3-22165. held by James Scott Patton and such suspension is effective as of the date of the mailing of this Order.

- (A) James Scott Patton, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) James Scott Patton, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order. The certificate and identification card should be sent by certified mail, return receipt requested.

Further, thirty months from the effective date of this Order or thereafter, the Board will consider any petition filed by James Scott Patton 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 the following conditions have been met:

- (A) James Scott Patton must enter into a contract, signed within 90 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. The contract must provide that:
- (1) Random, observed urine drug screens shall be conducted at least once each month.
 - (a) 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.
 - (b) Ritalin 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.
 - (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.
 - (2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) James Scott Patton must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Compliance with the contract required in paragraph (A) above (e.g.-proof of giving the sample within 12 hours of notification, copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.

- (C) If reinstatement is not accomplished within three years of the effective date of this Order, James Scott Patton must successfully complete the NAPLEX examination or an equivalent examination approved by the Board.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-8/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE JULY 17, 2000

SUMMARY SUSPENSION ORDER/NOTICE OF OPPORTUNITY FOR HEARING

July 14, 1999

James Scott Patton, R.Ph.
3541 Sunset Drive
Columbus, Ohio 43221

Re: Ohio Registered Pharmacist
Number 03-3-22165

Dear Mr. Patton:

Records of the Ohio State Board of Pharmacy 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 that you have committed any and/or all of the following acts:

- (1) Records of the Ohio State Board of Pharmacy indicate that you were originally licensed in the state of Ohio on February 27, 1997, pursuant to examination, and are currently licensed to practice pharmacy in the state of Ohio.
- (2) You are addicted to controlled substances, to wit: you have admitted that you are drug dependent; you have admittedly been stealing controlled substances since November 1996; you have admittedly been stealing schedule II controlled substances for approximately four to six weeks prior to the date of this suspension; and you were arrested by the Grove City Police Department on July 1, 1999, after having stolen one hundred unit doses of hydrocodone 10mg with APAP 325mg. Such conduct indicates that you are addicted to controlled substances within the meaning of Section 3719.121(A) of the Ohio Revised Code.
- (3) You did, on or about July 1, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger, 2474 Stringtown Road, Grove City, Ohio, beyond the express or implied consent of the owner, to wit: you were caught stealing one hundred unit doses of hydrocodone 10mg with APAP 325mg from your employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, from July 8, 1997, through July 1, 1999, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger N-341, by deception, to wit: you stole the following controlled substances:

<u>Drug</u>	<u>Quantity</u>	<u>% Drug Stock</u>	<u>Schedule</u>
Adderall 10mg	1,168 unit doses	7.2%	II
Adderall 20mg	1,263 unit doses	22.1%	II
Dexedrine 5mg	1,509 unit doses	8.0%	II
Dexedrine 10mg	353 unit doses	3.3%	II
Dexedrine 15mg	1,442 unit doses	15.5%	II
methylphenidate 10mg	1,715 unit doses	4.1%	II
methylphenidate 20mg	2,077 unit doses	10.6%	II
methylphenidate 20mg ER	3,892 unit doses	23.2%	II
OxyContin 10mg	75 unit doses	4.2%	II
OxyContin 20mg	132 unit doses	5.7%	II
OxyContin 40mg	211 unit doses	12.4%	II
OxyContin 80mg	10 unit doses	1.5%	II
oxycodone/APAP 325mg	6,476 unit doses	6.3%	II
Percocet	2,189 unit doses	10.6%	II
Ritalin SR 20mg	650 unit doses	6.4%	II
Roxicodone 5mg	17 unit doses	<1.0%	II
acetaminophen/codeine #4	1,047 unit doses	3.8%	III
Anexsia 7.5/650	95 unit doses	95.0%	III
Cylert 37.5mg	252 unit doses	3.0%	IV
Cylert 37.5mg (chewable)	1,207 unit doses	46.4%	IV
Cylert 75mg	109 unit doses	18.2%	IV
hydrocodone 7.5mg/APAP 500mg	1,793 unit doses	4.4%	III
hydrocodone 10mg/APAP 500mg	5,441 unit doses	42.2%	III
hydrocodone 10mg/APAP 650mg	3,099 unit doses	32.1%	III
Lorcet 10/650	1,011 unit doses	40.0%	III
Lortab 7.5/500	2,461 unit doses	17.8%	III
Lortab 10/500	449 unit doses	16.6%	III
Norco 10/325	2,717 unit doses	59.1% *	III
Tussionex Suspension	3,194 ml	7.0%	III
Tylenol #4	555 unit doses	14.2%	III
Vicodin ES	417 unit doses	6.1%	III

*Quantities from paragraph (3) are included in these figures.

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

[paragraph added by Notice dated 09/03/99]

- (5) You did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit; you admittedly altered the following prescriptions in order to steal controlled substances:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Altered Qty.</u>
2216779	04/25/99	OxyContin 40mg	100	180
2216985	05/14/99	OxyContin 20mg	107	180
2216988	05/14/99	OxyContin 20mg	62	120
2217036	05/18/99	OxyContin 10mg	60	120

2217098	05/22/99	Percocet	20	120
2217119	05/24/99	oxycodone/APAP 325mg	20	120
2217235	06/02/99	oxycodone/APAP 325mg	30	130
2217248	06/03/99	oxycodone/APAP 325mg	10	40
2217260	06/04/99	oxycodone/APAP 325mg	40	90
2217331	06/10/99	Percocet	40	140
2217335	06/13/99	OxyContin 40mg	90	180

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections Chapter 2925. of the Revised Code.

[paragraph added by Notice dated 09/03/99]

- (6) You did, on or about the following dates, knowing you had no privilege to do so, and with purpose to defraud or knowing that you were facilitating a fraud, falsify or alter computer data, to wit:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Qty.</u>	<u>Altered Qty.</u>
2216779	04/25/99	OxyContin 40mg	100	180
2216985	05/14/99	OxyContin 20mg	107	180
2216988	05/14/99	OxyContin 20mg	62	120
2217036	05/18/99	OxyContin 10mg	60	120
2217098	05/22/99	Percocet	20	120
2217119	05/24/99	oxycodone/APAP 325mg	20	120
2217235	06/02/99	oxycodone/APAP 325mg	30	130
2217248	06/03/99	oxycodone/APAP 325mg	10	40
2217260	06/04/99	oxycodone/APAP 325mg	40	90
2217331	06/10/99	Percocet	40	140
2217335	06/13/99	OxyContin 40mg	90	180

Such conduct is in violation of Section 2913.42 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

[paragraph added by Notice dated 09/03/99]

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: “any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person’s license, certificate, or registration...” Additionally, Section 3719.121(B) of the Revised Code states, in pertinent part:

- (B) If the board under which a person has been issued a license, certificate or evidence of registration determines that there is clear and convincing evidence that continuation of the person’s professional practice or method of distributing controlled substances presents a danger of immediate and serious harm to others, the board may suspend the person’s license, certificate, or registration without a hearing....

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, pursuant to Rule 4729-9-01(F) of the ohio administrative code, during this term of suspension you may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs. This suspension shall remain in effect until an adjudicatory hearing has been held pursuant to Chapter 119. of the Revised Code, and a final Order has been issued, 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, 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 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 the pharmacist or pharmacy intern 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 this chapter, sections 3715.52 to 3715.72 of the Revised Code, or Chapter 2925. or 3719. of the Revised Code;
 - (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
 - (7) Guilty of knowingly lending the pharmacist's or pharmacy intern's 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, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home.
 - (9) Has violated the terms of a consult agreement entered into pursuant to Section 4729.39 of the Revised Code.

IF YOU REQUEST A HEARING within thirty (30) days of the time of the mailing of this notice, such will be afforded. Such request shall be mailed to the Ohio State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER ADVISED that if you do not request such a hearing within thirty (30) days of the mailing of this notice, the Ohio 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-990714-001)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE JULY 14, 1999

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective July 17, 2000)*