



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:

CASE NO. A-2021-0555

Steve Kaplan
2915 Bridle Path Way
Troy, OH 45373

License No. 03-115007

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Steve Kaplan, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of filling a prescription without verifying the prescription with the prescriber. Together, the Board and Steve Kaplan are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Steve Kaplan is a licensed pharmacist in the state of Ohio under license number 03-115007.

FACTS

1. The Board initiated an investigation of Steve Kaplan, pharmacist license number 03-115007, related to the Board investigation of filling a prescription without verifying the prescription with the prescriber.
2. On or about September 6, 2023, the Board sent a Notice of Opportunity for Hearing to Steve Kaplan, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.
3. On or about September 15, 2023, Steve Kaplan, timely requested an administrative hearing.

77 South High Street, 17th Floor, Columbus, Ohio 43215

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WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Steve Kaplan neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 6, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Steve Kaplan must obtain four hours of approved continuing pharmacy education in Ethics (0.4 CEUs) which may not also be used for license renewal. The 0.4 CEUs must be completed within six months from the effective date of this agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
4. The Board hereby imposes a written reprimand on Steve Kaplan's pharmacist license, number 03-115007.
5. Steve Kaplan agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Steve Kaplan understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Steve Kaplan agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
8. Steve Kaplan explicitly withdraws his request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

OHIO PHARMACY BOARD

OCT 20 2023

11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
13. This Agreement shall become effective upon the date of the Board President's signature below.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:

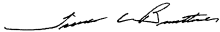


Steve Kaplan, Respondent

10/12/2023

Date of Signature

Attorney for Respondent (if applicable)



Trina Buettner, RPh, President,
State of Ohio Board of Pharmacy

Date of Signature

11.13.2023

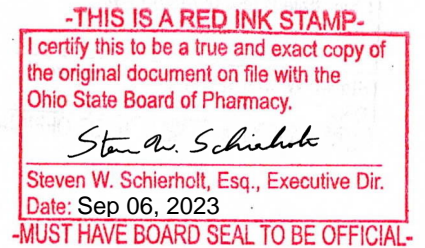
Date of Signature

OHIO PHARMACY BOARD

OCT 20 2023



**STATE OF
OHIO**
BOARD OF PHARMACY



**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

CASE NO. A-2021-0555

Steve Kaplan, RPh
2915 Birdle Path Way
Troy, Oh 45373

License No. 03-115007

September 6, 2023

Dear Steve Kaplan, RPh:

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license for violations of Chapter 4729. of the Revised Code and Section 4729 of the Administrative Code under authority of Section 4729.16 of the Revised Code.

JURISDICTION

1. Pursuant to division (A)(1) of Section 4729.16 (effective October 9, 2021) of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the Board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.16(A)(1)(a); and/or
 - b. Reprimand or place the license holder on probation, ORC 4729.16(A)(1)(b); and/or
 - c. Impose a monetary penalty or forfeiture not to exceed in severity any penalty 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, impose a monetary penalty or forfeiture of not more than \$500, ORC 4729.16(A)(1)(c).
2. Rule 4729:1-4-01 of the Ohio Administrative Code (OAC) provides that the Board may discipline or deny the issuance of a license to practice pharmacy as a pharmacist in Ohio.
3. RPh Steve Kaplan is a licensed pharmacist in the state of Ohio under license number 03-115007.

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ALLEGATIONS

1. On or about August 15, 2021, you filled a prescription for a co-worker for acetaminophen, butalbital, and caffeine with codeine, a dangerous drug, which was taken via telephone by a pharmacy technician trainee. You filled the prescription without verifying the prescription with the prescriber. You did not run an OARRS report prior to filling a controlled substance prescription for a co-worker. The prescription was a first-time prescription by the prescriber for the patient.
2. On or about August 15, 2021, you filled a prescription for a co-worker despite several red flags:
 - a. prescriber being over 60 miles away.
 - b. Steve Kaplan knew the prescriber was a long-time friend to the patient.
 - c. no previous prescriptions issued by the prescriber for the patient.
 - d. co-worker returned two pills at time of pick-up stating she already received two pills.
3. On or about August 30, 2021, you provided a written statement to an agent of the Board. In the statement you admitted:
 - a. A pharmacy technician trainee, "brought me an order for fioricet with codeine #10 for, that she (not knowing better) took over the phone. I told her she is not allowed to take oral Rx's. We filled the Rx."
 - b. "When stopped to pick up her Rx she returned two pills, stating she had already taken two. I put the two pills back. I should have reported this unusual situation but did not. Although unusual behavior, I did not think anything criminal had taken place. I will report anything unusual in the future."

POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019, each violation constituting a minor misdemeanor, each punishable by a maximum penalty of \$150:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16(A)(2)(b); and/or
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and/or
 - c. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC 4729.16(A)(2)(l).

2. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020, each violation punishable by a maximum penalty of \$500:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729-1-04-01(B)(2)(b); and/or
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or
 - c. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m); and/or
 - d. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p).
3. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Rule 4729:5-5-15(A) of the OAC as effective December 1, 2020, a prescription, to be valid, must be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of the prescriber's professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of bona fide treatment of a patient is not a prescription and the person knowingly dispensing such a purported prescription, as well as the person issuing it, shall be subject to the penalties of law, each violation punishable by a maximum penalty of \$500, OAC Rule 4729:4-5-15(A).
4. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Rule 4729:5-5-10(D) of the OAC as effective March 20, 2020, each violation punishable by a maximum penalty of \$500:
 - a. Oral prescriptions:
 - i. A pharmacist shall make a record of the full name of the prescriber and, if transmitted by the prescriber's agent, the full name of the agent. The pharmacist is responsible for ensuring the validity of the source of the oral prescription, OAC Rule 4729:5-5-10(D)(1); and/or
 - ii. Upon receiving a prescription from a recording device or voice mail service, a pharmacist shall transcribe the information. The pharmacist must document on the original prescription the full name of the prescriber and, if transmitted by the prescriber's agent, the full name of the agent. The pharmacist is responsible for ensuring the validity of the prescription removed from the recording device or voice mail service, OAC Rule 4729:5-5-10(D)(2).

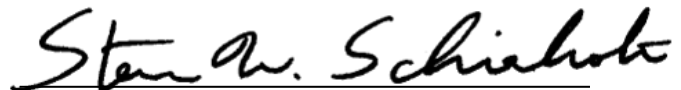
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. 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 there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing, and may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division RC 4729.16(A).

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY

A handwritten signature in black ink, reading "Steven W. Schierholt". The signature is written in a cursive, flowing style.

Steven W. Schierholt, Esq., Executive Director

SWS/jak/kll

CMRRR: 9414 7118 9956 2050 0208 70



OHIO STATE BOARD OF PHARMACY

77 S. High Street, 17th Floor
Columbus, Ohio 43266-0320
Telephone: 614/466-4143

THE STATE BOARD OF PHARMACY
(Docket No. D-890201-096)

In The Matter Of:

STEVEN J. KAPLAN, R.Ph.
1212 Northbrook Lane
Troy, Ohio 45373
(Identification No. 03-1-15007)

INTRODUCTION

THE MATTER OF STEVEN J. KAPLAN CAME TO HEARING ON JUNE 28, 1989 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JEROME WIESENHAHN, R.Ph. (pre-siding); GERALD CLOUSE, R.Ph.; NORMAN LEIBOW, R.Ph.; TIMOTHY MOORE, R.Ph.; BETTY NICHOL, R.Ph.; AND ROBERT VALENTINE, R.Ph.

STEVEN J. KAPLAN WAS REPRESENTED BY SCOTT D. RUDNICK, AND THE STATE OF OHIO WAS REPRESENTED BY STEVE DLOTT, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) David D. Avery - Board of Pharmacy
- (2) Gregory Berquist - Sidney Police Department

Respondent's Witnesses:

- (1) Steven J. Kaplan - Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit A - Notice of Opportunity letter dated February 1, 1989.
- (2) Exhibit B - Request for hearing letter dated February 21, 1989.
- (3) Exhibit C - Hearing Schedule letter dated February 27, 1989.
- (4) Exhibit D - Hearing Schedule letter dated March 7, 1989.
- (5) Exhibit E - Written Stipulation of Exhibits 1-71 by Respondent.
- (6) Exhibit 1 - Certificates of renewal showing R.Ph. Steven Kaplan was a licensed practicing pharmacist between 1-1-84 and 3-18-87.

- (7) Exhibit 2 - Statement of Dora Scherer.
- (8) Exhibit 3 - Statement of Dr. Enrique Montana.
- (9) Exhibit 4 - Prescription #280428.
- (10) Exhibit 5 - Computer drug profile printout from Lane Drugs #102 for Dora Scherer.
- (11) Exhibit 6 - Copy of Dora Scherer's medical treatment record from the office of Dr. Montana.
- (12) Exhibit 7 - Statement of Pharmacist Steven Kaplan dated 8-12-87.
- (13) Exhibit 8 - Statement of Pharmacist Steven Kaplan dated 9-4-87.
- (14) Exhibit 9 - Statement of Pharmacist Steven Kaplan dated 10-25-88.
- (15) Exhibit 10 - Statement of Dr. Miguel Topalov.
- (16) Exhibit 11 - Statement of Dr. Timothy Baumann.
- (17) Exhibit 12 - Statement of Susan Elsass.
- (18) Exhibit 13 - A&M Drugs daily DEA C-Drug printout for prescription #273556.
- (19) Exhibit 14 - Prescription #276425.
- (20) Exhibit 15 - Prescription #268616 & attached A&M Drugs DEA C-Drug printout showing a refill of this prescription on 3-29-85 by Pharmacist Kaplan.
- (21) Exhibit 16 - Copy of medical record from the office of Dr. Topalov showing Dale Scherer was in Wilson Memorial Hospital on 3-29-85.
- (22) Exhibit 17 - Statement of Dr. Roger Terry.
- (23) Exhibit 18 - Statement of Thomas Spurgeon.
- (24) Exhibit 19 - Prescription #260503 and attached A&M Drugs daily DEA C-Drug printout.
- (25) Exhibit 20 - Prescription #264612 & attached A&M Drugs daily DEA C-Drug printout.
- (26) Exhibit 21 - Prescription #265471 & attached A&M Drugs daily DEA C-Drug printouts.
- (27) Exhibit 22 - Prescription #270658 & attached A&M Drugs daily DEA C-Drug printouts.
- (28) Exhibit 23 - Prescription #274811.
- (29) Exhibit 24 - Prescription #279778.
- (30) Exhibit 25 - Computer Drug Profile printout from Lane Drugs #102 for Thomas Spurgeon.
- (31) Exhibit 26 - Copy of Thomas Spurgeon's medical record from the office of Dr. Roger Terry.
- (32) Exhibit 27 - Statement of Dr. Richard Paulus.
- (33) Exhibit 28 - Statement of Charles Johnson.
- (34) Exhibit 29 - Prescription #253569 & attached A&M Drugs daily DEA C-Drug printouts.
- (35) Exhibit 30 - Prescription #259560 & attached A&M Drugs daily DEA C-Drug printouts.
- (36) Exhibit 31 - Statement of Dr. Robert Miller.
- (37) Exhibit 32 - Prescription #297798.
- (38) Exhibit 33 - Prescription #306908.
- (39) Exhibit 34 - Computer Drug Profile printout of Charles Johnson from Lane Drugs #102, Sidney, Ohio.
- (40) Exhibit 35 - Copy of Charles Johnson's medical record from the office of Dr. Robert Miller.
- (41) Exhibit 36 - Statement of Dr. Nicanor Payawal.
- (42) Exhibit 37 - Prescription #291466.

- (43) Exhibit 38 - Prescription #294137.
- (44) Exhibit 39 - Prescription #298227.
- (45) Exhibit 40 - Computer Drug Profile printout of Robert Nystrom from Lane Drugs #102, Sidney, Ohio.
- (46) Exhibit 41 - Copy of Robert Nystrom's medical record from the office of Dr. Payawal.
- (47) Exhibit 42 - Prescription #288265.
- (48) Exhibit 43 - Prescription #294141.
- (49) Exhibit 44 - Prescription #284313.
- (50) Exhibit 45 - Prescription #288713.
- (51) Exhibit 46 - Computer Drug Profile printout of Mary Craft from Lane Drugs #102, Sidney, Ohio.
- (52) Exhibit 47 - Copy of medical record of Mary Craft from the office of Dr. Nicanor Payawal.
- (53) Exhibit 48 - Statement of Dr. Florencio Reyes.
- (54) Exhibit 49 - Statement of Lina F. Demarcus.
- (55) Exhibit 50 - Prescription #279048.
- (56) Exhibit 51 - Computer Drug Profile printout of Billy Demarcus from Lane Drugs #102, Sidney, Ohio.
- (57) Exhibit 52 - Copy of medical record of Billy Demarcus from the office of Dr. Florencio Reyes.
- (58) Exhibit 53 - Statement of Dr. Jerome Mestemaker.
- (59) Exhibit 54 - Statement of Eileen Taylor.
- (60) Exhibit 55 - Prescription #300895.
- (61) Exhibit 56 - Prescription #301382.
- (62) Exhibit 57 - Computer Drug Profile printout of Eileen Taylor from Lane Drugs #102, Sidney, Ohio.
- (63) Exhibit 58 - Copy of medical record of Eileen Taylor from office of Dr. Jerome Mestemaker.
- (64) Exhibit 59 - Statement of Sue Spradling.
- (65) Exhibit 60 - Prescription #281903.
- (66) Exhibit 61 - Prescription #288073.
- (67) Exhibit 62 - Prescription #292314.
- (68) Exhibit 63 - Computer Drug Profile printout of Sue Spradling from Lane Drugs #102, Sidney, Ohio.
- (69) Exhibit 64 - Copy of medical record of Sue Spradling from office of Dr. Jerome Mestemaker.
- (70) Exhibit 65 - Statement of Dr. Steven Blatchley.
- (71) Exhibit 66 - Prescription #291033.
- (72) Exhibit 67 - Computer Drug Profile printout of Marion Huffman from Lane Drugs #102, Sidney, Ohio.
- (73) Exhibit 68 - Prescription #291050.
- (74) Exhibit 69 - Prescription #4028767.
- (75) Exhibit 70 - Computer printouts of Prescription #4028767 from Bunny's Drugs.
- (76) Exhibit 71 - Original of Pharmacist Steven Kaplan's petition to enter a plea of guilty and judgment entry of his felony conviction.

Respondent's Exhibits:

- (1) Exhibit 1 - Letter dated June 7, 1989 from John Mathew of Revco D.S., Inc.

FINDINGS OF FACT

- (1) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan has been a licensed practicing pharmacist in Ohio since March 2, 1983.
- (2) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess a false or forged prescription, to wit: Prescription #280428. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (3) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, on or about January 3, 1987 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 60 tablets of Acetaminophen-with-Codeine #3 to Dora Scherer. This drug is a prescription drug and Schedule III controlled substance and was sold in an amount equal to or exceeding the bulk amount but in an amount less than three times that amount. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (4) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, and Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #273556 and #276425. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (5) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of September 3, 1985 and October 18, 1985 while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, and Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 175 tablets of Talwin NX-50mg to Dale Scherer. This drug is a prescription drug and Schedule IV controlled substance, and was sold in an amount less than the minimum bulk amount. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (6) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, and Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #260503, #264612, #265471, #270658, #274811, and #279778. Such conduct is prohibited by Section 2925.23 of the Ohio Revised Code.
- (7) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of April 2, 1984 and June 6, 1986 while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, and Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without valid prescriptions approximately 705 tablets of Pentazocine-50mg (Talwin-50mg and Talwin NX-50mg) to Thomas Spurgeon. Pentazocine is a prescription drug and Schedule IV controlled substance, and was sold in an amount equal to or exceeding the bulk amount but less than three times that amount. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (8) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #253569 and #259560. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (9) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of January 12, 1984 and November 3, 1984 while practicing pharmacy at Steinle Drugs, Inc., 106 S. Main, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-085000, knowingly sell without valid prescriptions approximately 78 tablets of Bufferin #3 to Charles (Chuck) E. Johnson. Bufferin #3 is a prescription drug and Schedule III controlled substance, and was sold in an amount equal to or exceeding the bulk amount but less than three times the bulk amount. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (10) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #297798 and #306908. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (11) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of December 8, 1986 and May 15, 1987 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without valid prescriptions approximately 160 tablets of Phenobarbital-30mg to Charles (Chuck) E. Johnson. Phenobarbital is a prescription drug and Schedule IV controlled substance, and was sold in an amount less than the minimum bulk amount. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (12) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #291466, #294137, and #298227. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (13) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of August 7, 1986 and December 15, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without valid prescriptions approximately 150 capsules of Tylox to Robert Nystrom. Tylox is a prescription drug and Schedule II controlled substance, and was sold in an amount equal to or exceeding three times the bulk amount. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (14) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #288265 and #294141. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (15) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of January 24, 1986 and September 29, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 120 tablets of Darvocet-N100 to Robert Nystrom. This drug product is a prescription drug and Schedule IV controlled substance, in an amount less than the minimum bulk amount. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.

- (16) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan or pharmacists under his supervision did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #284313 and #288713. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (17) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan or pharmacists under his supervision did, between the dates of March 15, 1986 and August 26, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without valid prescriptions approximately 500 tablets of Acetaminophen-with-Codeine #3 to Mary Craft. Acetaminophen-with-Codeine #3 is a prescription drug and Schedule III controlled substance, and was sold in an amount equal to or exceeding three times the bulk amount. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (18) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess a false or forged prescription, to wit: Prescription #279048. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (19) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of December 1, 1985 and December 7, 1985 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 50 tablets of Talwin Nx-50mg. This drug is a prescription drug and Schedule IV controlled substance, and was sold in an amount less than the minimum bulk amount. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (20) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #300895 and #301382. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (21) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of February 5, 1987 and March 4, 1987 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 100 tablets of Wygesic to Eileen Taylor. Wygesic is a prescription drug and Schedule IV controlled substance, and was sold in an amount less than the minimum bulk amount. Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code.
- (22) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of January 29, 1987 and February 28, 1987 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 200 tablets of Darvocet-N100 to Eileen Taylor. Darvocet-N100 is a prescription drug and Schedule IV controlled substance, in an amount equal to or exceeding the bulk amount but less than three times that amount. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (23) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess false or forged prescriptions, to wit: Prescriptions #281904, #288073, and #292314. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (24) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of January 31, 1986 and November 4, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without valid prescriptions approximately 1,000 tablets of Darvocet-N100 to Sue Spradling. Darvocet-N100 is a prescription drug and Schedule IV controlled substance, and was sold in an amount equal to or exceeding three times the bulk amount. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (25) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess a false or forged prescription, to wit: Prescription #291033. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (26) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of July 30, 1986 and August 5, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 200 tablets of Meprobamate-400mg to Marion Huffman. Meprobamate-400mg is a prescription drug and Schedule IV controlled substance, in an amount equal to or exceeding the bulk amount but less than three times that amount. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.
- (27) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, on or about July 30, 1986, while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, intentionally make or knowingly possess a false or forged prescription, to wit: Prescription #291050. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (28) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan did, between the dates of July 30, 1986 and August 1, 1986 while practicing pharmacy at Lane Drug Store, 166 West Court Street, Sidney, Ohio 45365, Terminal Distributor of Dangerous Drugs License No. 02-432500, knowingly sell without a valid prescription approximately 120 tablets of Vicodin to Marion Huffman. Vicodin is a prescription drug and Schedule III controlled substance, in an amount equal to or exceeding three times the bulk amount. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
- (29) From the evidence presented, the State Board of Pharmacy finds that Steven J. Kaplan was, on or about June 28, 1988, in the Common Pleas Court of Shelby County, Ohio, convicted of Trafficking in Drugs in violation of Section 2925.03(A)(1) of the Ohio Revised Code, a felony of the fourth degree.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (29) of the Findings Of Fact constitutes being guilty of a felony, within the meaning of Section 4729.16(A)(1) of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (29) of the Findings Of Fact constitutes unprofessional conduct in the practice of pharmacy, within the meaning of Section 4729.16(A)(2) of the Ohio Revised Code.

- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that the conduct set forth in paragraphs (2) through (28) of the Findings Of Fact constitutes willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Chapter 2925. of the Revised Code, within the meaning of Section 4729.16(A)(5) of the Ohio Revised Code.

ORDER

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions concerning the pharmacist license, No. 03-1-15007, held by Steven J. Kaplan:

(A) On the basis of paragraphs (1) and (2) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card held by Steven J. Kaplan, No. 03-1-15007, for twelve months.

(B) On the basis of paragraph (3) of the Conclusions Of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five thousand dollars (\$5,000.00).

(C) Further, the Board will suspend the suspension and two thousand five hundred dollars of the five thousand dollar monetary penalty imposed in paragraph (B) above on the conditions that Steven J. Kaplan:

- (1) successfully completes a Jurisprudence examination offered by the Board;
- (2) does not violate the drug laws of the state of Ohio, any other state, or the federal government; and
- (3) abides by the rules of the State Board of Pharmacy.

The two thousand five hundred dollar (\$2,500.00) monetary penalty which was not suspended in paragraph (C) above is due and owing within thirty (30) days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed to the State Board of Pharmacy, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0320, with the enclosed form.

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

MOTION CARRIED.

SO ORDERED.

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

STEVEN J. KAPLAN, R.Ph.
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Order of the Board

Section 119.12 of the Revised Code authorizes an appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to said court of the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

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

BY ORDER OF THE STATE BOARD OF PHARMACY

CERTIFIED MAIL
Return Receipt
#P 417 664 890

ORDER MAILED: AUGUST 23, 1989

FZW/pw

By Franklin Z. Wickham
Franklin Z. Wickham, Executive Director

cc: Steve Dlott, Assistant Attorney General
Scott D. Rudnick, Attorney for Respondent
121 West Third St., Greenville, OH 45331