



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-960214-040)

In The Matter Of:

THOMAS A. SZYMCZAK, R.Ph.
6721 Stonegate Street
Temperance, Michigan 48182
(R.Ph. No. 03-3-10438)

INTRODUCTION

THE MATTER OF THOMAS A. SZYMCZAK CAME TO HEARING ON JANUARY 27, 1997, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: SUZANNE L. NEUBER, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; PAUL F. LAMPING, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; JOSEPH J. MASLAK, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

THOMAS A. SZYMCZAK WAS REPRESENTED BY HARLAND M. BRITZ, 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) Thomas A. Szymczak, Respondent

Respondent's Witnesses:

- (1) Donald R. Rettig, The Pharm

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Notice of Opportunity letter dated February 14, 1996.
- (2) Exhibit 1A--Hearing Request letter dated March 11, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated March 15, 1996.
- (4) Exhibit 1C--Continuance Request letter dated March 19, 1996.
- (5) Exhibit 1D--Hearing Schedule letter dated March 27, 1996.
- (6) Exhibit 1E--Amendment/Addendum Notice dated March 27, 1996.

- (7) Exhibit 1F--Pharmacist File Front Sheet of Thomas A. Szymczak showing original date of registration as July 30, 1973, and Renewal Application for Pharmacist License, No. 03-3-10438, for a license to practice pharmacy in Ohio from September 15, 1996, to September 15, 1997, of Thomas A. Szymczak dated July 25, 1996.
- (8) Exhibit 2--Sealed Record-Twenty-seven-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through June 28, 1995, for Family No. 017881, Member No. 01788101.
- (9) Exhibit 3--Sealed Record-Prescription No. 192878.
- (10) Exhibit 4--Sealed Record-Prescription No. 192881.
- (11) Exhibit 5--Sealed Record-Table of Missing and Misfiled Prescriptions from Rite Aid #2310.
- (12) Exhibit 6--Sealed Record-Five-page Rite Aid Pharmacy #2310 Drug Usage Report dated from May 1, 1993, through December 31, 1993, for Valium 2mg tablet, Valium 5mg tablet, Valium 10mg tablet, Diazepam 2mg tablet, Diazepam 5mg tablet, and Diazepam 10mg tablet.
- (13) Exhibit 6A--Sealed Record-Seventeen-page Rite Aid Pharmacy #2310 Drug Usage Report dated from January 1, 1994, through January 12, 1995, for Valium 2mg tablet, Valium 5mg tablet, Valium 10mg tablet, Diazepam 2mg tablet, Diazepam 5mg tablet, and Diazepam 10mg tablet.
- (14) Exhibit 6B--Sealed Record-Six-page Rite Aid Pharmacy #2310 Drug Usage Report dated from May 1, 1993, through January 1, 1994, for Diazepam 5mg tablet, Diazepam 10mg tablet, and Diazepam 2mg tablet.
- (15) Exhibit 6C--Sealed Record-Rite Aid Pharmacy #2310 Drug Usage Report dated from January 2, 1994, through June 1, 1994, for the following drugs: Diazepam 5mg tablets, Diazepam 10mg tablets, and Diazepam 2mg tablets.
- (16) Exhibit 6D--Sealed Record-Rite Aid Pharmacy #2310 DUR Report by NDC Detail dated from December 1, 1994, through January 12, 1995, for Valium 2mg tablet, Diazepam 2mg tablet, Diazepam 5mg tablet, and Diazepam 10mg tablet, report dated January 19, 1995.
- (17) Exhibit 7--Sealed Record-Prescription No. 197706.
- (18) Exhibit 8--Sealed Record-Prescription No. 201938.
- (19) Exhibit 9--Sealed Record-Two-page table listing prescriptions from Rite Aid #2310 that had no documented physician authorization.
- (20) Exhibit 10--Sealed Record-Prescriptions numbered 180836 and 180837.
- (21) Exhibit 11--Sealed Record-Prescriptions numbered 173726, 173727, and 173728.
- (22) Exhibit 12--Sealed Record-Prescriptions numbered 219816, 219817, and 219818.
- (23) Exhibit 13--Sealed Record-Prescriptions numbered 165034 and 168729.
- (24) Exhibit 14--Sealed Record-Prescriptions numbered 168729 and 176050.
- (25) Exhibit 15--Sealed Record-Prescriptions numbered 201196 and 207491.
- (26) Exhibit 16--Sealed Record-Prescription No. 166754.
- (27) Exhibit 17--Sealed Record-Prescription No. 174018.
- (28) Exhibit 18--Sealed Record-Prescriptions numbered 138601 and 147376.
- (29) Exhibit 19--Sealed Record-Prescription No. 217960.
- (30) Exhibit 20--Sealed Record-Prescription No. 169073.
- (31) Exhibit 21--Sealed Record-Prescription No. 208975.
- (32) Exhibit 22--Sealed Record-Prescription No. 216226.
- (33) Exhibit 23--Sealed Record-Prescription No. 232246.
- (34) Exhibit 24--Sealed Record-Prescription No. 216401.
- (35) Exhibit 25--Sealed Record-Prescription No. 230666.
- (36) Exhibit 26--Sealed Record-Prescription No. 162717.
- (37) Exhibit 27--Sealed Record-Prescriptions numbered 195352 and 235451.

- (38) Exhibit 28--Sealed Record-Prescriptions numbered 165003, 165004, 165005, 165006, 165007, 165008, and 165010.
- (39) Exhibit 29--Sealed Record-Prescription No. 205532.
- (40) Exhibit 30--Sealed Record-Prescription No. 167622.
- (41) Exhibit 31--Sealed Record-Prescriptions numbered 222183 and 4047549.
- (42) Exhibit 32--Sealed Record-Prescription No. 148022.
- (43) Exhibit 33--Sealed Record-Prescriptions numbered 167684, 167685, and 167686.
- (44) Exhibit 34--Sealed Record-Prescriptions numbered 178554 and 185076.
- (45) Exhibit 35--Sealed Record-Prescription No. 218559.
- (46) Exhibit 36--Sealed Record-Prescriptions numbered 218559 and 228831.
- (47) Exhibit 37--Sealed Record-Prescription No. 174516.
- (48) Exhibit 38--Sealed Record-Prescription No. 188167.
- (49) Exhibit 39--Sealed Record-Prescription No. 155014.
- (50) Exhibit 40--Sealed Record-Prescriptions numbered 132097 and 143252.
- (51) Exhibit 41--Sealed Record-Prescription No. 213324.
- (52) Exhibit 42--Sealed Record-Prescriptions numbered 191734 and 234687.
- (53) Exhibit 43--Sealed Record-Prescription No. 183351.
- (54) Exhibit 44--Sealed Record-Prescription No. 178528.
- (55) Exhibit 45--Sealed Record-Prescription No. 176093.
- (56) Exhibit 46--Sealed Record-Prescription No. 161392.
- (57) Exhibit 47--Sealed Record-Prescription No. 161336.
- (58) Exhibit 48--Sealed Record-Prescription No. 207772.
- (59) Exhibit 49--Sealed Record-Prescription No. 161862.
- (60) Exhibit 50--Sealed Record-Prescription No. 161863.
- (61) Exhibit 51--Sealed Record-Prescription No. 164939.
- (62) Exhibit 52--Sealed Record-Prescription No. 180581.
- (63) Exhibit 53--Sealed Record-Prescription No. 190587.
- (64) Exhibit 54--Sealed Record-Prescription No. 2012.
- (65) Exhibit 55--Sealed Record-Prescription No. 205575.
- (66) Exhibit 56--Sealed Record-Prescriptions numbered 217630, 217631, and 217632.
- (67) Exhibit 57--Sealed Record-Page 36 of Rite Aid Pharmacy #2310 Deleted Prescription Report dated from May 1, 1993, through June 8, 1995.
- (68) Exhibit 58--Sealed Record-Prescription No. 230968.
- (69) Exhibit 59--Sealed Record-Page 48 of Rite Aid Pharmacy #2310 Deleted Prescription Report dated from May 1, 1993, through June 8, 1995.
- (70) Exhibit 60--Sealed Record-Prescription No. 233739.
- (71) Exhibit 61--Sealed Record-Page 60 of Rite Aid Pharmacy #2310 Deleted Prescription Report dated from May 1, 1993, through June 8, 1995.
- (72) Exhibit 62--Sealed Record-RADP Patient History dated from December 1, 1992, to January 12, 1995, and three-page Pharmacist's Statement dated from December 1, 1992, through January 12, 1995, for Family No. 017379, Member No. 01737902.
- (73) Exhibit 62A--Sealed Record-Prescription No. 229450.
- (74) Exhibit 63--Sealed Record-RADP Patient History dated from December 1, 1992, to January 12, 1995, and four-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from December 1, 1992, through January 12, 1995, for Family No. 001670, Member No. 00167001.
- (75) Exhibit 64--Sealed Record-RADP Patient History dated from May 1, 1993, to January 12, 1995, and twelve-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through January 12, 1995, for Family No. 016064, Member No. 01606401.
- (76) Exhibit 65--Sealed Record-RADP Patient History dated from December 1, 1992, to January 12, 1995, and two-page Rite Aid Pharmacy #2310 Pharmacist's Statement

dated from December 1, 1992, through January 12, 1995, for Family No. 001998, Member No. 00199804.

- (77) Exhibit 66--Sealed Record--Two-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through August 9, 1995, for Family No. 001240, Member No. 00124002.
- (78) Exhibit 67--Sealed Record--Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through August 9, 1995, for Family No. 003418, Member No. 00341801.
- (79) Exhibit 68--Sealed Record--Six-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from December 1, 1992, through January 12, 1995, for Family No. 007817, Member No. 00781701.
- (80) Exhibit 69--Sealed Record--Prescriptions numbered 167163 and 167164.
- (81) Exhibit 70--Sealed Record--Prescription No. 172645.
- (82) Exhibit 71--Sealed Record--Prescription No. 175000.
- (83) Exhibit 72--Sealed Record--Prescription No. 176754.
- (84) Exhibit 73--Sealed Record--Prescriptions numbered 177610 and 177611.
- (85) Exhibit 74--Sealed Record--Prescription No. 181249.
- (86) Exhibit 75--Sealed Record--Prescriptions numbered 187046 and 187047.
- (87) Exhibit 76--Sealed Record--Prescriptions numbered 191326 and 191327.
- (88) Exhibit 77--Sealed Record--Prescriptions numbered 191326 and 195638.
- (89) Exhibit 78--Sealed Record--Prescriptions numbered 199373 and 199374.
- (90) Exhibit 79--Sealed Record--Prescription No. 223745.
- (91) Exhibit 80--Sealed Record--Seven-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through August 2, 1995, for Family No. 013836, Member No. 01383601.
- (92) Exhibit 81--Sealed Record--Two-page Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through June 28, 1995, for Family No. 018397, Member No. 01839701.
- (93) Exhibit 82--Sealed Record--Rite Aid Pharmacy #2310 Pharmacist's Statement dated from May 1, 1993, through August 2, 1995, for Family No. 018397, Member No. 01839702.
- (94) Exhibit 83--Sealed Record--Page 73 of Rite Aid Pharmacy #2310 Deleted Prescription Report dated from May 1, 1993, through June 29, 1995.
- (95) Exhibit 84--Sealed Record--Rite Aid Pharmacy #2310 Prescription Register dated from February 9, 1994, through February 9, 1994.
- (96) Exhibit 85--Sealed Record--Rite Aid Pharmacy #2310 Prescription Register dated from September 15, 1994, through September 15, 1994.
- (97) Exhibit 86--Sealed Record--Rite Aid 2310 Audit for the drugs Anadrol 50mg for the time period of May 1, 1993, through January 12, 1995; Android 10mg for the time period of May 1, 1993, through January 12, 1995; and Android 25mg for the time period of May 1, 1993, through January 12, 1995.
- (98) Exhibit 87--Sealed Record--Page Two of Amerisource Corporation Scheduled Drug Sales and Credits Report for June 1, 1994, through January 12, 1995, regarding Rite Aid Corp 2310, report dated January 19, 1995.
- (99) Exhibit 88--Sealed Record--Letter from Cheryl Crute of the Harvard Drug Group dated January 13, 1995, and copies of the following: report of purchase by Rite Aid #2310 for Anadrol Tab 50mg on October 12, 1993; GWWD Name Brand sales report, system date January 13, 1995; report of purchase by Rite Aid #2310 for Hydrocodone Bit/APAP 7.5/500mg on July 30, 1993; APAP w/Codeine #2 on October 1, 1993; and APAP w/Codeine #2 on September 17, 1993; and Great Lakes Wholesale Generics purchase order, system date January 13, 1995.

- (100) Exhibit 89--Sealed Record-Rite Aid Pharmacy #2310 Drug Usage Report dated from May 1, 1993, through January 19, 1995, for Anadrol-50 tablet, Android 10 tablet, and Android 25 tablet.
- (101) Exhibit 90--Sealed Record-Handwritten statement of Kristin M. Bailey and Jeanette S. Nichols dated January 26, 1993 (sic 1994).
- (102) Exhibit 91--Sealed Record-Brown paper sack containing two unopened stock bottles, in boxes, of Anadrol-50 both with Lot No. 27814, expiration June, 1995; opened stock bottle of Anadrol-50 containing 15 units, Lot No. 07815, expiration June, 1994; and handwritten receipt for same from Dale Fritz on December 20, 1995.

Respondent's Exhibits:

- (1) Exhibit A--Letter from Suzanne Smitley dated January 16, 1997.
- (2) Exhibit B--Copy of letter from Rev. Alfred J. Miller dated January 21, 1997.
- (3) Exhibit C--Letter from Barbara M. Rudnicki dated January 21, 1997.
- (4) Exhibit D--Copy of letter from John O'Leary dated January 20, 1997.
- (5) Exhibit E--Copy of letter from Robert J. Schlembach dated January 23, 1997.
- (6) Exhibit F--Letter from Amy E. Pettaway, not dated.

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 Thomas A. Szymczak was originally licensed in the state of Ohio on July 30, 1973, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.
- (2) Thomas A. Szymczak did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Thomas A. Szymczak created and/or possessed the following prescriptions for Alprazolam 0.5mg which were not authorized by a physician:

<u>Rx No.</u>	<u>Date</u>	<u>Type</u>	<u>Quantity</u>
192878	12/30/93	new	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
205376	03/28/94	new	210
205376	03/28/94	refill	210
205376	03/28/94	refill	210
205376	07/18/94	refill	240
205376	08/31/94	refill	240
217091	06/22/94	new	240
231419	10/06/94	new	180

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (3) Thomas A. Szymczak did, on or about December 30, 1993, make false or forged prescriptions for a dangerous drug, to wit: Thomas A. Szymczak created the following documents for Fioricet which were not authorized by a physician:

<u>Rx No.</u>	<u>Date</u>	<u>Type</u>	<u>Quantity</u>
192881	12/30/93	new	100
192881	12/30/93	refill	100
192881	12/30/93	refill	100

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (4) Thomas A. Szymczak did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Thomas A. Szymczak sold Alprazolam 0.5mg, a schedule IV controlled substance, without legitimate prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Type</u>	<u>Quantity</u>
192878	12/30/93	new	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
192878	12/30/93	refill	180
205376	03/28/94	new	210
205376	03/28/94	refill	210
205376	03/28/94	refill	210
217091	06/22/94	new	240
205376	07/18/94	refill	240
205376	08/31/94	refill	240
231419	10/06/94	new	180

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (5) Thomas A. Szymczak did, during times relevant to the periods stated herein, fail to keep complete and accurate records of dangerous drugs dispensed, to wit: the following list is indicative of Mr. Szymczak practices:
- (a) Controlled substance prescriptions were found misfiled in the non-controlled file, non-controlled substance prescriptions were found in the controlled substance file, and some prescriptions were not located in any pharmacy files;
 - (b) Some prescription records were kept in a place other than the pharmacy area, unsecured and accessible to store personnel;
 - (c) Prescriptions were not routinely initialed;
 - (d) Hard-copy prescriptions and computer records do not indicate refill authorization;
 - (e) Pertinent prescription information was incomplete or omitted entirely;

- (f) Multiple prescriptions were partially filled, and original prescriptions were returned to the patient;
- (g) Original prescriptions numbered 180581, 190587, and 2012, indicate that Diazepam was dispensed; however, refill records indicate that Valium was dispensed; and
- (h) Original prescriptions numbered 217632, 230968, 233739, and 229450 were located in prescription files, however, they were not found in the computer data.

Such conduct is in violation of Rule 4729-5-17 of the Ohio Administrative Code.

- (6) Thomas A. Szymczak did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: while practicing pharmacy at Rite Aid #2310, 213 Main St., Toledo, Ohio, Thomas A. Szymczak dispensed the following refills when not authorized by the physician:

<u>Rx No.</u>	<u>Date</u>	<u>Drug/Strength</u>	<u>Quantity</u>
148022	05/18/93	Diazepam 5mg	50
167685	08/05/93	Diazepam 5mg	50
168729	08/05/93	Diazepam 5mg	30
174516	08/30/93	Diazepam 10mg	90
176050	10/13/93	Diazepam 5mg	30
185076	12/11/93	Diazepam 5mg	8
188167	12/20/93	Diazepam 10mg	90
207491	05/16/94	Diazepam 5mg	30
207491	06/13/94	Diazepam 5mg	30
218559	07/05/94	Diazepam 5mg	50
207491	07/14/94	Diazepam 5mg	30
207491	08/08/94	Diazepam 5mg	30
216226	08/03/94	Diazepam 5mg	30
228831	09/20/94	Diazepam 5mg	50
217960	09/12/94	Diazepam 2mg	60
232246	11/28/94	Valium 5mg	30
234687	11/28/94	Diazepam 2mg	90
234687	12/22/94	Diazepam 2mg	90
228831	12/14/94	Diazepam 5mg	50

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (7) Thomas A. Szymczak did, on or about August 4, 1993, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: while practicing pharmacy at Rite Aid #2310, 213 Main St., Toledo, Ohio, Thomas A. Szymczak sold 120 units of Diazepam 10mg, a schedule IV controlled substance, pursuant to prescription number 167622, not a legitimate prescription. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (8) Thomas A. Szymczak did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Thomas A. Szymczak created and maintained on file the following unauthorized prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug/Strength</u>	<u>Quantity</u>
148022	05/18/93	Diazepam 5mg	50
167622	08/04/93	Diazepam 10mg	120
167685	08/05/93	Diazepam 5mg	50
168729	08/05/93	Diazepam 5mg	30
174516	08/30/93	Diazepam 10mg	90
176050	10/13/93	Diazepam 5mg	30
185076	12/11/93	Diazepam 5mg	8
188167	12/20/93	Diazepam 10mg	90
207491	05/16/94	Diazepam 5mg	30
207491	06/13/94	Diazepam 5mg	30
218559	07/05/94	Diazepam 5mg	50
207491	07/14/94	Diazepam 5mg	30
207491	08/08/94	Diazepam 5mg	30
216226	08/03/94	Diazepam 5mg	30
228831	09/20/94	Diazepam 5mg	50
217960	09/12/94	Diazepam 2mg	60
232246	11/28/94	Valium 5mg	30
234687	11/28/94	Diazepam 2mg	90
234687	12/22/94	Diazepam 2mg	90
228831	12/14/94	Diazepam 5mg	50

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (9) Thomas A. Szymczak did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or exceeding three times the bulk amount, but in an amount less than one hundred times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: while practicing pharmacy at Rite Aid #2310, 213 Main St., Toledo, Ohio, Thomas A. Szymczak sold Vicodin, a schedule III controlled substance, on the following occasions without legitimate prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Quantity</u>
167164	06/28/93	56
167164	07/04/93	56
167164	07/10/93	56
167164	07/17/93	56
167164	07/23/93	56
172645	08/09/93	80
175000	08/28/93	60
176754	09/10/93	56
177610	09/16/93	56
177610	09/27/93	56
177610	10/03/93	56
181249	10/11/93	56
181249	10/16/93	56
181249	10/22/93	56

184093	10/29/93	56
184093	11/05/93	56
184093	11/10/93	56
187046	11/19/93	52
187046	11/24/93	52
187046	11/29/93	52
191326	12/20/93	56
191326	12/30/93	56
191326	01/05/94	56
191326	01/12/94	56
195638	01/19/94	56
195638	01/24/94	56
195638	02/02/94	56
195638	02/09/94	56
199373	02/16/94	56
199373	02/23/94	56
199373	02/28/94	56
199373	03/05/94	56
199373	03/09/94	56
203445	03/16/94	56
203445	03/22/94	56
203445	03/29/94	56
203445	04/05/94	56
223745	09/07/94	56

Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (10) Thomas A. Szymczak did, on or about the following dates, intentionally make and/or knowingly possess false or forged prescriptions, to wit: Thomas A. Szymczak created and maintained on file at Rite Aid #2310, 213 Main St., Toledo, Ohio, the following unauthorized prescriptions filled with Vicodin:

<u>Rx No.</u>	<u>Date</u>	<u>Quantity</u>
167164	06/28/93	56
167164	07/04/93	56
167164	07/10/93	56
167164	07/17/93	56
167164	07/23/93	56
172645	08/09/93	80
175000	08/28/93	60
176754	09/10/93	56
177610	09/16/93	56
177610	09/27/93	56
177610	10/03/93	56
181249	10/11/93	56
181249	10/16/93	56
181249	10/22/93	56
184093	10/29/93	56
184093	11/05/93	56
184093	11/10/93	56
187046	11/19/93	52
187046	11/24/93	52

187046	11/29/93	52
191326	12/20/93	56
191326	12/30/93	56
191326	01/05/94	56
191326	01/12/94	56
195638	01/19/94	56
195638	01/24/94	56
195638	02/02/94	56
195638	02/09/94	56
199373	02/16/94	56
199373	02/23/94	56
199373	02/28/94	56
199373	03/05/94	56
199373	03/09/94	56
203445	03/16/94	56
203445	03/22/94	56
203445	03/29/94	56
203445	04/05/94	56
223745	09/07/94	56

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (11) Thomas A. Szymczak did, on or about February 5, 1995, knowing that he had no privilege to do so, destroy, remove, or conceal computer data, to wit: on February 5, 1995, Thomas A. Szymczak deleted the following controlled substance prescriptions, filled for him and/or his wife, from the computer system of Rite Aid #2310:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
157082	04/07/93	Diphenoxylate Hydrochloride & Atropine Sulfate	100
198587	02/09/94	ASA/Codeine 325/30	100
228209	09/15/94	ASA/Codeine 325/30	100
225980	08/29/94	Alprazolam 0.25mg	100

Such conduct is in violation of Section 2913.42 of the Ohio Revised Code.

- (12) Thomas A. Szymczak did, on or about the following dates, knowingly sell a controlled substance in an amount less than the minimum bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Thomas A. Szymczak sold the following controlled substances without legitimate prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
157082	04/07/93	Diphenoxylate Hydrochloride & Atropine Sulfate	100
225980	08/29/94	Alprazolam 0.25mg	100

Such conduct is in violation of Section 2925.03(A)(1) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (13) Thomas A. Szymczak did, on or about the following dates, knowingly sell a controlled substance in an amount equal to or exceeding the minimum bulk amount,

but in an amount less than three times that amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Thomas A. Szymczak sold the following controlled substances without legitimate prescriptions:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
198587	02/09/94	ASA/Codeine 325/30	100
228209	09/15/94	ASA/Codeine 325/30	100

Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (14) Thomas A. Szymczak did, on or about the following dates, make a false or forged prescription for dangerous drugs, to wit: while practicing pharmacy at Rite Aid #2310, 213 Main St., Toledo, Ohio, Thomas A. Szymczak created the following prescriptions which were not authorized by a physician:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
195448	01/17/94	Iphen DM	480
203836	03/17/94	Fluocinonide Ointment	60
203835	03/17/94	Lodine 300mg	120
195447	01/17/94	Trimox 500mg	30
195448	09/12/94	Iphen DM	480
229708	09/25/94	Garamycin CRM	60
249660	02/18/95	Tussidin DM	360

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (15) Thomas A. Szymczak did, on or about the following dates, with the purpose to deprive, knowingly obtain or exert control over the property of Rite Aid #2310, 213 Main St., Toledo, Ohio, to wit: Thomas A. Szymczak stole the following drugs from Rite Aid #2310 for himself and/or his wife, Linda:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
157082	04/07/93	Diphenoxylate Hydrochloride & Atropine Sulfate	100
195448	01/17/94	Iphen DM	480
195447	01/17/94	Trimox 500mg	30
198587	02/09/94	ASA/Codeine 325/30	100
203836	03/17/94	Fluocinonide Ointment	60
203835	03/17/94	Lodine 300mg	120
225980	08/29/94	Alprazolam 0.25mg	100
195448	09/12/94	Iphen DM	480
228209	09/15/94	ASA/Codeine 325/30	100
229708	09/25/94	Garamycin CRM	60
249660	02/18/95	Tussidin DM	360

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

- (16) Thomas A. Szymczak did, during times relevant to the periods stated herein, allow persons other than a registered pharmacist to receive and record telephone prescriptions, when the conduct was not in accordance with Rule 4729-5-30 of the

Ohio Administrative Code, to wit: Thomas A. Szymczak repeatedly instructed his technicians to take prescription orders over the telephone. Such conduct is in violation of Sections 3719.05 and 4729.37 of the Ohio Revised Code.

- (17) Thomas A. Szymczak did, on or about the following dates, make false or forged prescriptions for dangerous drugs, to wit: Thomas A. Szymczak created the following documents for dangerous drugs which were not authorized by a physician:

<u>Rx No.</u>	<u>Date</u>	<u>Drug</u>	<u>Quantity</u>
152293	05/31/93	Dipyridamole 50mg	60
152295	05/31/93	Florinef Acetate 0.1 mg	60
151195	05/31/93	Glucagon Kit 1 mg	1
151195	05/31/93	Glucagon Kit 1 mg	1
151195	05/31/93	Glucagon Kit 1 mg	1
151195	05/31/93	Glucagon Kit 1 mg	1
152296	05/31/93	Imuran 50mg	60
152294	05/31/93	Pepcid 20mg	30
151193	05/31/93	Prednisone 5mg	45
151920	05/31/93	Provera 10mg	10
151919	05/31/93	Sandimmune 100mg	30
151919	05/31/93	Sandimmune 100mg	30
151919	05/31/93	Sandimmune 100mg	30
151919	05/31/93	Sandimmune 100mg	30
160164	05/31/93	Zoloft 50mg	40
152293	06/23/93	Dipyridamole 50mg	60
151195	06/23/93	Glucagon Kit 1 mg	1
151195	06/23/93	Glucagon Kit 1 mg	1
151195	06/23/93	Glucagon Kit 1 mg	1
151195	06/23/93	Glucagon Kit 1 mg	1
152296	06/23/93	Imuran 50mg	60
151193	06/23/93	Prednisone 5mg	45
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
151919	06/23/93	Sandimmune 100mg	30
160164	06/23/93	Zoloft 50mg	30
151195	07/25/93	Glucagon Kit 1 mg	1
151195	07/25/93	Glucagon Kit 1 mg	1
151195	07/25/93	Glucagon Kit 1 mg	1
151195	07/25/93	Glucagon Kit 1 mg	1
152296	07/25/93	Imuran 50mg	60
151193	07/25/93	Prednisone 5mg	45
160164	07/25/93	Zoloft 50mg	30
152293	08/09/93	Dipyridamole 50mg	60
152293	08/22/93	Dipyridamole 50mg	60
152295	08/22/93	Florinef Acetate 0.1 mg	60
151195	08/22/93	Glucagon Kit 1 mg	1
151195	08/22/93	Glucagon Kit 1 mg	1
151195	08/22/93	Glucagon Kit 1 mg	1
151195	08/22/93	Glucagon Kit 1 mg	1
151195	08/22/93	Glucagon Kit 1 mg	1

151195	08/22/93	Glucagon Kit 1 mg	1
152296	08/22/93	Imuran 50mg	60
152294	08/22/93	Pepcid 20mg	30
151193	08/22/93	Prednisone 5mg	45
151920	08/22/93	Provera 10mg	10
151919	08/22/93	Sandimmune 100mg	30
151919	08/22/93	Sandimmune 100mg	30
151919	08/22/93	Sandimmune 100mg	30
160164	08/22/93	Zoloft 50mg	30
152293	09/20/93	Dipyridamole 50mg	60
152295	09/20/93	Florinef Acetate 0.1 mg	60
151195	09/20/93	Glucagon Kit 1 mg	1
151195	09/20/93	Glucagon Kit 1 mg	1
151195	09/20/93	Glucagon Kit 1 mg	1
152296	09/20/93	Imuran 50mg	60
152294	09/20/93	Pepcid 20mg	30
151193	09/20/93	Prednisone 5mg	45
151919	09/20/93	Sandimmune 100mg	30
151919	09/20/93	Sandimmune 100mg	30
160164	09/20/93	Zoloft 50mg	30
152293	10/14/93	Dipyridamole 50mg	60
152295	10/14/93	Florinef Acetate 0.1 mg	60
151195	10/14/93	Glucagon Kit 1 mg	1
151195	10/14/93	Glucagon Kit 1 mg	1
152296	10/14/93	Imuran 50mg	60
152294	10/14/93	Pepcid 20mg	30
151193	10/14/93	Prednisone 5mg	45
151919	10/14/93	Sandimmune 100mg	30
151919	10/14/93	Sandimmune 100mg	30
151919	10/14/93	Sandimmune 100mg	30
151919	10/14/93	Sandimmune 100mg	30
160164	10/14/93	Zoloft 50mg	30
152293	11/15/93	Dipyridamole 50mg	60
152295	11/15/93	Florinef Acetate 0.1 mg	60
151195	11/15/93	Glucagon Kit 1 mg	1
151195	11/15/93	Glucagon Kit 1 mg	1
151195	11/15/93	Glucagon Kit 1 mg	1
151195	11/15/93	Glucagon Kit 1 mg	1
152296	11/15/93	Imuran 50mg	60
152294	11/15/93	Pepcid 20mg	30
151193	11/15/93	Prednisone 5mg	45
151919	11/15/93	Sandimmune 100mg	30
151919	11/15/93	Sandimmune 100mg	30
151919	11/15/93	Sandimmune 100mg	30
151919	11/15/93	Sandimmune 100mg	30
151919	11/15/93	Sandimmune 100mg	30
160164	11/15/93	Zoloft 50mg	30
192873	12/30/93	Dipyridamole 50mg	60
192873	12/30/93	Dipyridamole 50mg	60
192873	12/30/93	Dipyridamole 50mg	60
192866	12/30/93	Florinef Acetate 0.1 mg	60
192866	12/30/93	Florinef Acetate 0.1 mg	60
192866	12/30/93	Florinef Acetate 0.1 mg	60

192869	12/30/93	Sandimmune 100mg	30
192869	12/30/93	Sandimmune 100mg	30
192876	12/30/93	Zoloft 50mg	30
192876	12/30/93	Zoloft 50mg	30
192876	02/16/94	Zoloft 50mg	30
205392	03/28/94	Florinef Acetate 0.1 mg	70
205392	03/28/94	Florinef Acetate 0.1 mg	70
205392	03/28/94	Florinef Acetate 0.1 mg	70
205393	03/28/94	Loperamide 2mg	35
205393	03/28/94	Loperamide 2mg	35
205393	03/28/94	Loperamide 2mg	35
202192	06/15/94	Imuran 50mg	60
216200	06/15/94	Loperamide 2mg	100
202194	06/15/94	Pepcid 20mg	30
202191	06/15/94	Prednisone 5mg	45
202196	06/15/94	Zoloft 50mg	45
217090	06/22/94	Florinef Acetate 0.1 mg	200
217094	06/22/94	Glucagon Kit 1 mg	15
217094	07/18/94	Glucagon Kit 1 mg	15
202192	07/18/94	Imuran 50mg	100
216200	07/18/94	Loperamide 2 MG	100
202194	07/18/94	Pepcid 20mg	100
202191	07/18/94	Prednisone 5mg	150
202196	07/18/94	Zoloft 50mg	120
202192	09/04/94	Imuran 50mg	70
202194	09/04/94	Pepcid 20mg	35
202191	09/04/94	Prednisone 5mg	53
226743	09/04/94	Zithromax 250mg	30
231421	10/06/94	Imuran 50mg	60
231417	10/06/94	Pepcid 20mg	30
231414	10/06/94	Prednisone 5mg	45
231417	11/14/94	Pepcid 20mg	30
231414	11/14/94	Prednisone 5mg	45
231421	11/26/94	Imuran 50mg	60

Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

- (18) Thomas A. Szymczak did, from May 1, 1993, to January 18, 1995, with the purpose to deprive, knowingly obtain or exert control over the property of Rite Aid #2310, 213 Main St., Toledo, Ohio beyond the express or implied consent of the owner, to wit: Thomas A. Szymczak stole 700 units of Anadrol 50mg, a schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (19) Thomas A. Szymczak did, on or about December 20, 1995, possess a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, to wit: Thomas A. Szymczak possessed, outside the confines of the pharmacy and without a prescription, 215 units of Anadrol 50mg. Such conduct is in violation of Section 2925.03(A)(4) of the Ohio Revised Code (as was in effect prior to July 1, 1996).

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (19) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) and (6) through (19) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925., 3719., or 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, the State Board of Pharmacy takes the following actions in the matter of Thomas A. Szymczak:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-10438, held by Thomas A. Szymczak for one year and such suspension is effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Thomas A. Szymczak may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) Upon reinstatement of Thomas A. Szymczak's license to practice pharmacy in Ohio, the pharmacist identification card, No. 03-3-10438, will be placed on probation for five years. The terms of probation are as follows:
 - (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of pharmacy hereby declares that Thomas A. Szymczak's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Thomas A. Szymczak may not serve as a responsible pharmacist.
 - (3) Thomas A. Szymczak must inform all employers of his probationary status with the Ohio State Board of Pharmacy.
 - (4) Thomas A. Szymczak must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (5) Thomas A. Szymczak must abide by the rules of the Ohio State Board of Pharmacy.
 - (6) Thomas A. Szymczak 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.

Division (B) of Section 4729.16 of the Revised Code provides 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 the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

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

MOTION CARRIED.

SO ORDERED.