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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126
telephone: 614-466-4143 fax: 614-752-4836 email: exec@bop.state.oh.us

Minutes of the February 4-6, 2008 Meeting of the Ohio State Board of Pharmacy

Monday, February 4, 2008

10:00 a.m. The Ohio State Board of Pharmacy convened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Sally Ann Steuk, *Assistant Attorney General*.

R-2008-111

Mr. Rowland announced that the following Settlement Agreement with **Anita D. Robinson**, R.Ph. (03-2-19336), Cincinnati, Ohio, has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-071120-016

in the matter of:

ANITA DENISE ROBINSON, R.Ph.

934 Findlay Street
Cincinnati, Ohio 45214

R.Ph. Number 03-2-19336

This Settlement Agreement is entered into by and between Anita Denise Robinson and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Anita Denise Robinson voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Anita Denise Robinson acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code

to suspend, revoke, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Anita Denise Robinson is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about November 20, 2007, pursuant to Chapter 119. of the Ohio Revised Code, Anita Denise Robinson was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Anita Denise Robinson requested a hearing; it was scheduled. The November 20, 2007, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Anita Denise Robinson was originally licensed by the State of Ohio as a pharmacist on July 30, 1992, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Anita Denise Robinson did, on or about May 29, 2007, misbrand a drug, to wit: when Anita Denise Robinson received a prescription for furosemide 40 mg, Rx #843142-06449, she dispensed fluoxetine, which had not been specifically prescribed by the physician. The patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Anita Denise Robinson neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 20, 2007; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Anita Denise Robinson knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Anita Denise Robinson must obtain, within six months from the effective date of this Agreement, five hours of continuing pharmacy education (0.5 CEUs) in medical errors, which may not also be used for license renewal.
- (B) Anita Denise Robinson agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Anita Denise Robinson acknowledges that she has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Anita Denise Robinson waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Anita Denise Robinson waives any rights of appeal pursuant to

Chapter 119. of the Ohio Revised Code.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

/s/ Anita Denise Robinson, R.Ph. Date Signed: 01/18/08
Respondent

/s/ Gregory Braylock Date Signed: 02/04/08
President; Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 02/04/08
Ohio Assistant Attorney General

R-2008-112

Mr. Rowland announced that the following Settlement Agreement with **Curt Robert Evans**, R.Ph. (03-1-12331), Jackson, Ohio, has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION
PENDING PERMANENT SURRENDER

Docket Number D-070913-009

in the matter of:

CURT ROBERT EVANS, R.Ph.
90 Ohio Avenue
Jackson, Ohio 45640

R.Ph. Number 03-1-12331

This Settlement Agreement is entered into by and between Curt Robert Evans and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Curt Robert Evans enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Curt Robert Evans is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Curt Robert Evans' license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) The Ohio State Board of Pharmacy recognizes an error in the minutes of the Board's September 12, 2007 meeting. The minutes read that the Board approved to summarily suspend the license to practice pharmacy of Curt Robert Evans pursuant to Sections 3719.121(A) and (B) of the Ohio

Revised Code, when in fact the Board approved the summary suspension pursuant to Section 3719.121(B) of the Ohio Revised Code. The minutes have been amended accordingly.

- (C) Curt Robert Evans does not acknowledge the merits of the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated September 13, 2007; however, the Board has duly filed the allegations in its Notice of Opportunity as stated therein and will withhold conducting an adjudication hearing pursuant to the terms of this agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Curt Robert Evans knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

Pursuant to Rule 4729-9-01, Curt Robert Evans may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

Curt Robert Evans acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner.

Curt Robert Evans waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Curt Robert Evans waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

Curt Robert Evans 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 Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

/s/ Curt Robert Evans, R.Ph. Date Signed: 01/15/08
Respondent

/s/ Lynn M. Grimshaw Date Signed: 01/15/08
Attorney for Respondent

/s/ Gregory Braylock Date Signed: 02/04/08
President; Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 02/04/08
Ohio Assistant Attorney General

10:06 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court

action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.

11:06 a.m. The Executive Session ended and the meeting was opened to the public.

R-2008-113 Mr. Turner moved that the settlement offer in the matter of **Charles Pearlmutter**, R.Ph. (03-1-26045), Cleveland Heights, Ohio, be accepted as amended by the Board. The acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mrs. Teater and approved by the Board: *Aye* – 8.

R-2008-114 Mr. Turner moved that the settlement offer in the matter of **Annette Kalina**, R.Ph. (03-1-27312), Parma, Ohio, be accepted as amended by the Board. The acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 8.

R-2008-115 Mr. Wiesenhahn moved that the continuance request in the matter of **Wayne Charles Kuikehi, Jr.**, Richland Correctional Institute, Mansfield, Ohio, be granted. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 5/*Nay* – 4.

R-2008-116 Mr. Turner moved that the settlement offers in the matters of **Scott Vinci**, R.Ph. (03-2-17886), New Philadelphia, Ohio; **Amy Lynn Froman**, R.Ph. (02-1-138200), Strasburg, Ohio, and **Connie Jo Campbell**, R.Ph. (03-2-15169), Mineral City, Ohio, be denied. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 7/*Nay* – 1.

R-2008-117 Mr. Mitchell moved that the settlement offer in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio, be denied. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

11:16 a.m. Mrs. Droz presented an update to the Board on the Prescription Drug Monitoring Program.

Mr. Keeley presented the Legislative Report.

12:10 p.m. The Board recessed for lunch.

1:07 p.m. The Board reconvened and was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Gary Howard Mann**, R.Ph. (03-3-17150), Independence, Ohio.

2:44 p.m. The hearing ended and the record was closed. The Board recessed briefly.

2:52 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.

3:23 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-118 Mr. Turner moved that the Board adopt the following order in the matter of **Gary Howard Mann**, R.Ph. (03-3-17150), Independence, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-071228-025

in the matter of:

GARY HOWARD MANN, R.Ph.

5007 Great Oaks Parkway
Independence, Ohio 44131

R.Ph. Number 03-3-17150

INTRODUCTION

The matter of Gary Howard Mann came for hearing on February 4, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Gary Howard Mann was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Christopher K. Reed, Ohio State Board of Pharmacy
Gary Howard Mann, R.Ph., Respondent

Respondent's Witness: Deborah Brown, R.N.

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing Letter [12-28-07]
1A-1C. Procedurals
2. Notice of Opportunity for Hearing Letter [11-20-87]
3. Ohio State Board of Pharmacy Order in re Gary Howard Mann [01-29-88]
4. Certification, Notice and Consent Order, State of Illinois Department of Registration and Education v. Arrow Discount Drugs, Case No. 86-19-X [10-06-87]
5. Journal Entry, State of Ohio vs. Gary H Mann, Case No. CR-238572, Cuyahoga County Common Pleas Court; Agreed Journal Entry [07-10-89]
6. Journal Entry [08-07-89]
7. Application For Examination As A Pharmacist Submitted with Attachment by Gary H Mann [12-13-07]

Respondent's Exhibits:

- A. Letter from Gary Mann [not dated]; Copy of Jarrett's © The Prayer of a Pharmacist [not dated]; Thirteen Letters of Support [01-27-07 to 01-27-08]; Extraordinary Minister of Holy Communion Certificate of Commission Issued to Gary Mann [12-11-05]

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 Board of Pharmacy indicate that Gary Howard Mann submitted an application for examination as a pharmacist on or about

December 13, 2007.

- (2) Records further indicate that Gary Howard Mann was originally licensed to practice pharmacy as a pharmacist in the State of Ohio on December 1, 1987, by reciprocity, and his license lapsed on September 15, 1989.
- (3) Records of the Board of Pharmacy indicate that Gary Howard Mann's application for reciprocity from the State of Illinois was approved but his license was placed on probation on January 29, 1988, through January 1, 1989, for having been found by the Illinois Department of Registration and Education to commit the following acts:
 - (a) from October 1, 1984, through May 10, 1985, Gary Howard Mann sold 4,600 tablets of Dilaudid 4 mg and 1,600 tablets of Preludin 75 mg, Schedule II controlled substances, without prescriptions;
 - (b) from October 1, 1984, through May 10, 1985, Gary Howard Mann sold 60 gallons of hydrocodone/Hycodan cough syrup, a Schedule III controlled substance, without prescriptions.
- (4) Gary Howard Mann was, on or about July 10, 1989, convicted in the Cuyahoga County Common Pleas Court of six (6) counts of Trafficking in Drugs in violation of Section 2925.03(A)(1) of the Ohio Revised Code, two (2) counts of Illegal Sale of Dangerous Drugs in violation of Section 4729.51(C) of the Ohio Revised Code, and one (1) count of Forgery in violation of Section 2913.31 of the Ohio Revised Code. The conduct giving rise to these convictions constitutes violating your probation.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code and paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been disciplined by any board of pharmacy as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Examination As A Pharmacist submitted by Gary Howard Mann on December 13, 2007.

Upon successful completion of the licensing examinations and issuance of his pharmacist card, the Board places Gary Howard Mann on probation for five years beginning on the date of the issuance of his pharmacist identification card. The terms of probation are as follows:

- (A) Gary Howard Mann must, during the first 1,500 hours of practice, be directly supervised by another pharmacist whose license is in good standing. Gary Howard Mann must submit to the Board documentation attesting to the hours supervised.
- (B) Gary Howard Mann must not violate the drug laws of Ohio, any other state, or the federal government.
- (C) Gary Howard Mann must abide by the rules of the State Board of Pharmacy.
- (D) Gary Howard Mann must comply with the terms of this Order.
- (E) Gary Howard Mann's license is deemed to be not in good standing until successful completion of the probationary period.
- (F) 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.

Gary Howard Mann 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.

The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye – 6/Nay – 2.*

3:30 p.m. Mrs. Gregg left the meeting for personal reasons.

3:33 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John A. LeFever**, R.Ph. (03-2-16622), Orrville, Ohio.

4:33 p.m. The hearing ended and the record was closed.

Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Teater and a roll-call vote was conducted by President Braylock as follows: Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.

4:47 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-119 Mr. Lipsyc moved that the Board adopt the following order in the matter of **John A. LeFever**, R.Ph. (03-2-16622), Orrville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Numbers D-071113-014 and D-071210-023

in the matter of:

JOHN A. LeFEVER, R.Ph.

1112 North Kohler Road
Orrville, Ohio 44667

R.Ph. Number 03-2-16622

INTRODUCTION

The matter of John A. LeFever came for hearing on February 4, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

John A. LeFever was represented by John E. Johnson, Jr. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: David Gallagher, Ohio State Board of Pharmacy

Respondent's Witness: John A. LeFever, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [11-13-07]
- 1A. Summary Suspension Order/Notice of Opportunity For Hearing Letter [12-10-07]
- 1B-1F. Procedurals
2. Drug Accountability Statement at CVS Pharmacy #4605 for carisoprodol 350 mg [08-16-07]
3. Notarized Statement of John LeFever [05-14-07]
4. Drug Accountability Statement at CVS Pharmacy #4605 for hydrocodone/APAP 5/500 mg [08-16-07]
5. Drug Accountability Statement at CVS Pharmacy #4605 for Vicodin 5/500 mg [08-16-07]
6. Indictment, State of Ohio vs. John A LeFever, Case No. 07-CR-0307, Wayne County Common Pleas Court [07-20-07]
7. Judgment Entry [11-28-07]

Respondent's Exhibits:

- A. Letter from Todd Raehtz, R.Ph., MS, MBA [01-15-08]
- B-D. Three Letters of Support [01-22-08 to 01-25-08]
- E. Letter from Ralph Huhn, Ph.D. to Brandi Couch, P.O. [11-14-07]
- F. Letter from Ralph Huhn, Ph.D. to John E. Johnson, Jr. [01-18-08]
- G. Your Human Resource Center Intake Assessment of John LeFever [10-24-07]
- H. Treatment Letter from Steven C. Hirsch, M.D., FACC to John Johnson [01-24-08]; Progress Note [01-13-05]
- I. Ohio Revised Code Section 2951.041 Drug treatment in lieu of conviction [2008]

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 John A. LeFever was originally licensed by the State of Ohio as a pharmacist on November 5, 1986 by examination and his license to practice pharmacy in Ohio was summarily suspended on December 10, 2007.
- (2) John A. LeFever did, from September 25, 2006, through May 14, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: John A. LeFever admittedly stole 316 tablets of carisoprodol 350 mg, a dangerous drug, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) John A. LeFever did, from May 1, 2005, through May 10, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy, beyond the express or implied consent of the owner, to wit: John A. LeFever admittedly stole 100 tablets of hydrocodone/APAP 5/500 mg, a Schedule III controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Wayne County, Ohio, has submitted to this Board information which indicates that on November 28, 2007, John A. LeFever pled guilty in the Common Pleas Court of Wayne County, Ohio, to one (1) count of Theft of Drugs, a felony of the fourth degree under Section 2913.02 of the Ohio Revised Code. John A. LeFever was found eligible for, and granted, Intervention in Lieu of Conviction. State of Ohio vs. John A. LeFever, Case No. 07-CR-0307, Wayne County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) 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) The State Board of Pharmacy concludes that paragraphs (2) through (4) 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) The State Board of Pharmacy concludes that paragraph (4) 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.

DECISION 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 John A. LeFever on December 10, 2007.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends for two months the pharmacist identification card, No. 03-2-16622, held by John A. LeFever and such suspension is effective as of the date of the mailing of this Order.

- (A) John A. LeFever, 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) John A. LeFever, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.
- (C) Beginning two months from the effective date of this Order, the State Board of Pharmacy places John A. LeFever on probation for two years. The terms of probation are as follows:
 - (1) The State Board of Pharmacy hereby declares that John A. LeFever'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.
 - (2) John A. LeFever may not serve as a responsible pharmacist.
 - (3) John A. LeFever must not violate the drug laws of Ohio, any other state, or the federal government.
 - (4) John A. LeFever must abide by the rules of the State Board of Pharmacy.
 - (5) John A. LeFever must comply with the terms of this Order.
 - (6) John A. LeFever's license is deemed not in good standing until successful completion of the probationary period.
 - (7) 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.

John A. LeFever 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.

The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye – 6/Nay – 1.*

4:50 p.m. The Board recessed for the day.

Tuesday, February 5, 2008#

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8:35 a.m. The Ohio State Board of Pharmacy convened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Mr. McMillen discussed the Licensing Report with the Board.

R-2008-120 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible person) requesting that **Richard Theodore**, R.Ph. (03-3-15902), Lima, Ohio, be permitted to be the responsible person for the following sites:

Oakwood Correctional Facility; Lima, Ohio (02-0036350)
Orient Complex Pharmacy; Orient, Ohio (02-0400200)

After discussion, Mrs. Gregg moved that the Board approve the request for 60 days. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 7/Abstain – 1*.

Board Member Dorothy Teater arrived during the discussion of the exemption request and did not vote.

R-2008-121 Mr. McMillen presented a Continuing Education provider request from **Bioscrip Pharmacy Services (Wendalyn Russ**, R.Ph., 03-2-20100). After discussion, Mrs. Gregg moved that the application be approved. Mr. Turner seconded the motion and it was approved by the Board: *Aye – 8*.

R-2008-122 Mr. McMillen also presented a Continuing Education provider request from **University Hospital Home Care Services (Nagy Ramzy**, R.Ph., 03-2-13886). After discussion, Ms. Pasquale moved that the application be approved. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye – 8*.

Mr. Benedict presented an update on this month's Medical Board Prescribing Committee meeting.

Mr. Mitchell presented an update on this month's Medical Board Physician Assistant Policy Committee meeting.

R-2008-123 After discussion, Mrs. Gregg moved that the Board minutes of January 8-9, 2008, be approved as amended. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye – 8*.

9:01 a.m. The Board recessed briefly.

9:16 a.m. The University of Toledo student immunization training program was presented to the Board by Mr. Keeley and after discussion, Mrs. Gregg moved that the program be approved. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye – 8*.

Mr. Keeley requested that the Board appoint members to the 2008 Ad Hoc Committee of Rule Review.

R-2008-124

After discussion, Mrs. Gregg moved that the following list be appointed by the Board. The motion was seconded by Mrs. Teater and approved by the Board: *Aye* – 8.

AD HOC COMMITTEE MEMBERS FOR 2008:

OSHP:

- 1) Louis Barone, R.Ph.: North Eastern Ohio College of Pharmacy
- 2) Doug Lukens, R.Ph.: Kettering Medical Center-Sycamore Hospital, Miamisburg
- 3) Kristen MacEwen, R.Ph.: Omnicare Pharmacy, Wadsworth
- 4) Paul Mosko, R.Ph.: Good Samaritan Hospital, Dayton
- 5) Jennifer Cimoch, R.Ph.: Pharmacy Resident/OSU Medical Center, Columbus

OPA:

- 1) David Lamberjack, R.Ph.: Kroger, Columbus
- 2) Kathy Nameth, R.Ph.: Ohio Pharmacists Association
- 3) Debbie Lange, R.Ph.: Target, West Chester
- 4) Debra Parker, R.Ph.: University of Findlay

OOA:

Katherine A. Clark, D.O.: Indian Ripple Family Health Center, Beavercreek

Miscellaneous

- 1) Amy Piorkowski, R.Ph.: Central Admixture Pharmacy Services/Valley View
- 2) Karen Beard, R.Ph.: VHA
- 3) Tim Tannert, R.Ph.: Absolute Pharmacy/North Canton

Board Members:

- 1) Kevin Mitchell, R.Ph.
- 2) Jerome Wiesenbahn, R.Ph.

R-2008-125

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Buderer Drug/Sandusky (02-1106900)
Buderer Drug/Perrysburg (02-1198400)
Various Physician Offices included in the letter of request

After discussion, Mrs. Gregg moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Wiesenbahn and approved by the Board: *Aye* – 8.

Mr. Keeley discussed with the Board a memo from the Office of Management and Budget concerning changes in travel, meals and hotel reimbursements.

9:44 a.m. The Board recessed briefly.

9:51 a.m. Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Turner and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenbahn – *yes*.

10:16 a.m. The Executive Session ended and the meeting was opened to the public.

10:18 a.m. President Braylock ruled on a motion for a continuance in the adjudicatory hearing of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio. The motion was granted, and the hearing was reset to March, 2008.

R-2008-126

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Teregen Laboratories, Willoughby, Ohio (02-1235150)
Various Physician Offices on the letter or request**

After discussion, Mrs. Gregg moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye* – 8.

R-2008-127

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**PharMEDium Services, Sugarland, Texas (02-1703850)
Various Physician Offices on the letter or request**

After discussion, Mrs. Gregg moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Turner and approved by the Board: *Aye* – 8.

The Board discussed the Optometry Board's proposed new and amended rules, but no Board action was required at this time.

11:27 a.m. The Board recessed for lunch.

1:06: p.m. The Board reconvened with all members present.

Mrs. Gregg moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Mitchell and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.

1:30 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-128

The Board reconvened in Room South A and the following candidates for licensure by reciprocity introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen and the Board. They were then presented their pharmacist identification cards.

Heather Elise Absher	03-2-28405	Indiana
Cheri Dawn Elmore	03-2-28455	Kentucky
Brent D. Groscost	03-2-28445	Pennsylvania
Kenneth Troy Koch	03-2-28453	Kentucky
Ronald Benjamin Koehler	03-2-28459	Colorado
Debra Elizabeth Meyer	03-2-28435	Indiana
Matthew Charles Palmgren	03-2-28456	Alabama
Sonal Vasantkumar Shah	03-2-28471	Texas
Christine A. Tomari	03-2-28443	Pennsylvania
Danny Yue-Ren Tsai	03-2-28464	Kentucky
Jenifer Pekich Urso	03-2-28447	Pennsylvania

The Board reconvened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

1:55 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Braylock as

follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenbahn – *yes*.

2:16 p.m. The Executive Session ended and the meeting was opened to the public.

2:16 p.m. The Board recessed for the day.

Wednesday, February 6, 2008

#

8:55 a.m. The Board reconvened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

R-2008-129

The Board considered a request from **Cornerstone of Recovery**, 1214 Topside Road, Louisville, Tennessee, for approval as an addictive services treatment provider. Mrs. Gregg moved that the request be approved and the motion was seconded by Mr. Kolezynski. It was approved by the Board: *Aye* – 8.

9:01 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mark Alan Bremick**, R.Ph. (03-1-20673), Worthington, Ohio.

10:34 a.m. The hearing ended and the record was closed.

10:40 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenbahn – *yes*.

11:04 a.m. The Executive Session ended and the meeting was opened to the public.

11:11 a.m. Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenbahn – *yes*.

12:00 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-130

Mrs. Gregg moved that the Board adopt the following order in the matter of **Mark Alan Bremick**, R.Ph. (03-1-20673), Plain City, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-071121-017

in the matter of:

MARK ALAN BREMICK, R.Ph.

261 N. Chillicothe Street
Plain City, Ohio 43064

R.Ph. Number 03-1-20673

INTRODUCTION

The matter of Mark Alan Bremick came for hearing on February 6, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Mark Alan Bremick was represented by Harry R. Reinhart. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General and Andrea L. Vincent, Pharm D, Legal Intern.

SUMMARY OF EVIDENCE

State's Witness: Robert Amiet, Jr., R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Mark Alan Bremick, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [11-21-07]
- 1A-1C. Procedurals
2. Indictment for, State of Ohio vs. Mark Bremick, Case No. 07CR 04-2573, Franklin County Common Pleas Court [04-10-07]
3. Entry for Intervention in Lieu of Conviction [09-11-07]
4. C-II Safe list of hydromorphone signed out [09-02-04 to 03-30-06]
5. Delivery Signature Receipt for Location Pharmacy [11-26-05]

Respondent's Exhibits:

- A. Treatment Letter from Dominick Assante, Narconon Stone Hawk Rehabilitation Center [05-14-07]
- B-G. Six Narconon Stone Hawk Rehabilitation Center Certificates of Achievement Issued to Mark Bremick [04-28-06 to 09-29-06]
- H. Ohio State University Official Academic Transcript of Mark Alan Bremick [07-07-07]
- I. Support Group Attendance Records [12-26-07 to 01-31-08]
- J. Focus Health Care Client Status Report for Mark Bremick [01-30-08]
- K. Franklin County Common Pleas Court Evaluation of Mark Alan Bremick [not dated]

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 Mark Alan Bremick was originally licensed by the State of Ohio as a pharmacist on July 28, 1994, pursuant to examination, and that his license to practice pharmacy in Ohio lapsed on September 15, 2006. Further, Mark Alan Bremick's license was summarily suspended on November 21, 2007.
- (2) Mark Alan Bremick did, on or about September 17, 2007, plead guilty to a felony drug abuse offense, to wit: Mark Alan Bremick pled guilty in the Common Pleas Court of Franklin County, Ohio, to ten (10) counts of Theft of Drugs in violation of Section 2913.02 of the Ohio Revised Code, felonies

of the fourth degree. State of Ohio vs. Mark A. Bremick, Case No. 07 CR 002573, Franklin County Common Pleas Court.

- (3) Mark Alan Bremick did, from September 2, 2004, through March 20, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of St. Ann's Hospital, by deception, to wit: Mark Alan Bremick admittedly stole hydromorphone injections on 88 different occasions from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Mark Alan Bremick is abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Mark Alan Bremick has admittedly stolen controlled substances for his personal abuse; he has admitted to abusing controlled substances; he has admittedly entered himself into a residential treatment program. Such conduct indicates that Mark Alan Bremick is within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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) The State Board of Pharmacy concludes that paragraph (4) 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.

DECISION 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 Mark Alan Bremick on November 21, 2007.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-20673, held by Mark Alan Bremick and such suspension is effective as of the date of the mailing of this Order.

- (A) Mark Alan Bremick, 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) Mark Alan Bremick, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The

identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after April 1, 2009, the Board will consider any petition filed by Mark Alan Bremick 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) Mark Alan Bremick must enter into a **new** 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. 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 drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. 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) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (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) Mark Alan Bremick must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Mark Alan Bremick must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as

applicable and in effect on the date of petitioning the Board for reinstatement;

- (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Mark Alan Bremick must also show successful completion of the NAPLEX examination.
- (E) Upon such time as the Board may consider reinstatement, Mark Alan Bremick will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

Mr. Wiesenhahn seconded the order and it was approved by the Board: *Aye* – 8.

R-2008-131

Mr. Lipsyc moved that the Board summarily suspend the license to practice pharmacy belonging to **Emil Dontenville**, R.Ph. (03-3-14448), Strongsville, Ohio, pursuant to Ohio Revised Code 3719.121(A). Mr. Mitchell seconded the motion and it was approved by the Board: *Aye* – 8.

12:00 p.m. Mrs. Teater moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>10/22</u>	<u>01/10</u>	<u>02/04</u>	<u>02/05</u>	<u>02/06</u>	<u>Total</u>
Braylock	1	1	1	1	1	5
Gregg	-	-	1	1	1	3
Kolezynski	-	-	1	1	1	3
Lipsyc	-	-	1	1	1	3
Mitchell	-	-	1	1	1	3
Pasquale	-	-	1	1	1	3
Teater	-	-	1	1	1	3
Turner	-	-	1	1	1	3
Wiesenhahn	-	-	1	1	1	3

Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye* – 8.

12:01 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

The Ohio State Board of Pharmacy
approved these Minutes March 5, 2008