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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 October 6-7, 2008 **Meeting of the Ohio State Board of Pharmacy**

Monday, October 6, 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:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

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

R-2009-082 Mr. Rowland announced that the following Settlement Agreement with **PSS World Medical, Inc.** (01-1366350) Louisville, Kentucky, had been signed by all parties, making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-080715-008

in the matter of:

PSS World Medical, Inc.
5150 Interchange Way, Suite B
Louisville, Kentucky 40229

W.D.D.D. Number 01-1366350

This Settlement Agreement is entered into by and between PSS World Medical, Inc. 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.

PSS World Medical, Inc. voluntarily enters into this Agreement being fully informed of its 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. PSS World Medical, Inc. acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew a license or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, PSS World Medical, Inc. is licensed as a wholesale distributor of dangerous drugs in the State of Ohio.

Whereas, on or about July 15, 2008, pursuant to Chapter 119. of the Ohio Revised Code, PSS World Medical, Inc. was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. PSS World Medical, Inc. requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations or charges set forth in the attached document, incorporated by reference herein.

PSS World Medical, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 15, 2008; 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, PSS World Medical, Inc. knowingly and voluntarily acknowledges and accepts admonition against such conduct hereby given by the State Board of Pharmacy. Further, PSS World Medical, Inc. hereby asserts that it has adopted the following procedures to ensure that its Ohio customers purchasing dangerous drugs will possess the requisite licensure issued by the Ohio State Board of Pharmacy:

- PSS ceased selling dangerous drugs to all customers until it can verify whether the customer has a valid TDDD license [Terminal Distributor of Dangerous Drugs].
- PSS completed an analysis of all existing customers to identify whether a TDDD license is required or whether they were exempt. This was accomplished by having the customers complete questionnaires and reviewing the records of this Ohio Secretary of State. If the customer did not provide a license and was not exempt, their accounts were blocked for sales of dangerous drugs.
- All new customers are required to provide either a TDDD license or proof of exemption prior to being set up in our system as able to receive dangerous drugs.
- Scheduled monthly audits are in place to ensure ongoing compliance.

PSS World Medical, Inc. acknowledges that it 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.

PSS World Medical, Inc. waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters that are the subject of this Agreement. PSS World Medical, Inc. 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/ PSS World Medical, Inc. Date Signed: 09/23/08
Respondent

/s/ John DeRienzi Date Signed: 09/23/08
Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 10/06/08
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 09/26/08
Ohio Assistant Attorney General

- 10:01 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 Ms. Lange and a roll-call vote was conducted by President Lipsyc as follows: Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.
- 10:11 a.m. Mr. Braylock arrived and joined the Executive Session in progress.
- 11:06 a.m. The Executive Session ended and the meeting was opened to the public.

R-2009-083

Mr. Rowland announced that the following Settlement Agreement with **Joseph Lee Baumgartner**, R.Ph. (03-2-12607) Oak Harbor, Ohio, and **The Medicine Shoppe #1712**, Terminal Distributor of Dangerous Drugs (02-0979550) Pemberville, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-080110-034 & Docket Number D-080110-033

in the matter of:

JOSEPH LEE BAUMGARTNER, R.Ph.

9368 W.S.R. 163
Oak Harbor, Ohio 43449

R.Ph. Number 03-2-12607

and

THE MEDICINE SHOPPE #1712

143 East Front Street
Pemberville, Ohio 43450

T.D.D.D. Number 02-0979550

This Settlement Agreement is entered into by and between Joseph Lee Baumgartner and The Medicine Shoppe #1712 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.

Joseph Lee Baumgartner and The Medicine Shoppe #1712 voluntarily enter into this Agreement being fully informed of their 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. Joseph Lee Baumgartner and The Medicine Shoppe #1712 acknowledge that by entering into this agreement they have waived their 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, Joseph Lee Baumgartner and The Medicine Shoppe #1712 are licensed to practice pharmacy and operate a terminal distributor of dangerous drugs in the State of Ohio.

Whereas, on or about January 10, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Joseph Lee Baumgartner and The Medicine Shoppe #1712 were notified of the allegations or charges against them, their right to a hearing, their rights in such hearing, and their right to submit contentions in writing. Joseph Lee Baumgartner and The Medicine Shoppe #1712 requested a hearing; it was scheduled and continued. The Notices of Opportunity for Hearing are appended hereto and incorporated herein.

Joseph Lee Baumgartner and The Medicine Shoppe #1712 neither admit nor deny the allegations stated in the Notices of Opportunity for Hearing letters; 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, Joseph Lee Baumgartner and The Medicine Shoppe #1712 knowingly and voluntarily agree with the State Board of Pharmacy to the following:

1. Joseph Lee Baumgartner and The Medicine Shoppe #1712 have corrected their record keeping issues by retaining all records of the practice of pharmacy within the confines of the pharmacy. Drugs will not be dispensed without valid prescriptions, and all prescriptions and other records will be maintained on file in the pharmacy in accordance with Rules 4729-9-14 and 4729-9-22 of the Ohio Administrative Code. The administrative hearing scheduled for September 9, 2008, will be continued until October 8, 2008, at 9:00 a.m., so that the Board may conduct an administrative inspection to assure compliance with this provision of this agreement. Upon satisfactory completion of the inspection, and all other execution of this agreement, the hearing will be cancelled.
2. Joseph Lee Baumgartner and The Medicine Shoppe #1712 will require all dangerous drugs to be maintained within the confines of the pharmacy unless and until properly dispensed or otherwise transferred in accordance with law. The dangerous drugs listed in the Notices had been taken to the Baumgartner home by one of two ways: some had been dispensed to Joseph Lee Baumgartner's daughter; others were transferred by Mrs. Elsebeth Baumgartner. These drugs have been removed from the home and will not be taken back into the home.
3. Joseph Lee Baumgartner and The Medicine Shoppe #1712 agree to the imposition of monetary penalties of Two Thousand One Hundred Dollars (\$2,100.00) on behalf of Joseph Lee Baumgartner and Four Thousand Five

Hundred Dollars (\$4,500.00) on behalf of The Medicine Shoppe #1712 for a total of Six Thousand Six Hundred Dollars (\$6,600.00). Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

4. In the event that Joseph Lee Baumgartner enters a plea of guilty to a violation of Section 3719.07 of the Ohio Revised Code or similar misdemeanor in the Ottawa County Common Pleas Court relating to events having occurred prior to the date of this Agreement, the Board will not take additional action against Joseph Lee Baumgartner's license to practice pharmacy in Ohio. Said plea and conviction will be deemed to have been contemplated by the terms of this Agreement.

The parties agree that the final execution of this Agreement resolves all issues currently known to the parties prior to and as of the date of this Agreement. However, if, in the judgment of the Board, either Joseph Lee Baumgartner or The Medicine Shoppe #1712 appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Joseph Lee Baumgartner and The Medicine Shoppe #1712 acknowledge that they have 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.

Joseph Lee Baumgartner and The Medicine Shoppe #1712 waive any and all claims or causes of action they 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. Joseph Lee Baumgartner and The Medicine Shoppe #1712 waive any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

In the event the Board, in its discretion, does not adopt this Agreement as its Adjudication, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Joseph Lee Baumgartner and The Medicine Shoppe #1712 agree that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

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/ Joseph Lee Baumgartner, R.Ph. Date Signed: 08/21/08
*Respondent individually and on behalf of
The Medicine Shoppe #1712*

/s/ Derek A. Farmer Date Signed: 08/26/08
Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 10/06/08
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 10/06/08
Ohio Assistant Attorney General

R-2009-084 Mrs. Gregg moved that the Board allow the continuance request received in the matter of **Leah A. Wolfe**, R.Ph. (03-3-10007) Westlake, Ohio. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 5; Abstain – 1* (Braylock).

R-2009-085 Mrs. Gregg moved that the settlement offer in the matter of **Sidney Fox**, R.Ph. (03-1-05912) Solon, Ohio, be accepted. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 5; Abstain – 1* (Braylock).

R-2009-086 Mrs. Gregg moved that the settlement offer in the matter of **DIT Healthcare Distribution**, Wholesale Distributor of Dangerous Drugs (01-1532500) and Controlled Substance Wholesaler (W-2243) West Chester, Ohio, be accepted. The motion was seconded by Mr. Casar and approved by the Board: *Aye – 5; Nay – 1*.

R-2009-087 Concurrent with the approved **DIT Healthcare Distribution** settlement offer, Mrs. Gregg moved that the citation sent to **River City Pharmaceutical Distribution, Inc.**, (license pending) West Chester, Ohio, be withdrawn. The motion was seconded by Mr. Casar and approved by the Board: *Aye – 5; Nay – 1*.

11:11 a.m. Mrs. Droz presented the Ohio Automated Prescription Reporting System (OARRS) report.

R-2009-088 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 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. Kolezynski and approved by the Board: *Aye – 6*.

R-2009-089 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:

Martin Avenue Pharmacy Inc., Napierville, Illinois (02-1869100)
Cambridge Medical of Cincinnati, Cincinnati, Ohio (license pending)

After discussion, Mr. Braylock 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 Ms. Lange and approved by the Board: *Aye – 6*.

R-2009-090

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Nathan David Simmons**, R.Ph. (03-3-26822) Cincinnati, Ohio, be permitted to be the responsible person for the following sites:

Evandale Medical Center, Cincinnati, Ohio (TDDD license pending)
Butler County Medical Center, Hamilton, Ohio (TDDD license pending)

After discussion, Mr. Braylock moved that the Board approve the request permanently. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 6.

R-2009-091

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Louis D. Fairfield**, R.Ph. (03-3-18582) Russell's Point, Ohio, be permitted to be the responsible person for the following sites:

Hocking Correctional Facility, Nelsonville, Ohio (02-0392850)
North Central Correctional Institution, Marion, Ohio (02-0818200)

After discussion, Mrs. Gregg moved that the Board approve the request for 60 days. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 6.

Mr. Braylock said the Nursing Board's Committee on Prescriptive Governance Report did not meet.

Mr. Benedict reported on the meeting of the Medical Board Prescribing Committee.

Mr. Keeley presented the Legislative report.

Ms. Pasquale and Mr. Benedict gave the Probation Report. There were no issues requiring Board action.

R-2009-092

Mr. McMillen presented a request from pharmacy intern **Cheryl Ann Wheeler**, (06-0-06748) Savannah, Georgia, for permission to extend her internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy Intern Identification Card Renewal). After discussion, Mr. Braylock moved that Ms. Wheeler's request be approved. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5; *Abstain* – 1 (Casar).

12:09 p.m. The Board recessed for lunch.

1:38 p.m. The Board reconvened with the following members present:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; and Deborah A. Lange, R.Ph., and Heather L. Pasquale, R.Ph.

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 **Bridgett Ruth Winborn**, pharmacy intern applicant, Warrensville Heights, Ohio.

2:28 p.m. The hearing ended and the record was closed.

2:28 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

2:36 p.m. The Executive Session ended and the meeting was opened to the public.

After votes were taken in public session, the Board adopted the following order in the matter of **Bridgett Ruth Winborn**, pharmacy intern applicant, Warrensville Heights, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080916-020

in the matter of:

BRIDGETT RUTH WINBORN

4421 Granada Boulevard, Apt. 121
Warrensville Heights, Ohio 44128

INTRODUCTION

The matter of Bridgett Ruth Winborn came for hearing on October 6, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Bridgett Ruth Winborn was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Greg Whitney, Ohio State Board of Pharmacy

Respondent's Witness: Bridgett Ruth Winborn, Respondent

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing letter [09-16-08]
- 1-1A. Procedurals
2. Application for Pharmacy Intern Registration Submitted by Bridgett Ruth Winborn [05-23-08]
3. Letter to Bill Winsley from Bridgett Winborn [09-05-08]
4. Copy of Information Card from the Village of North Randall, Ohio Mayor's Office for Bridgett Ruth Winborn [05-22-96]

Respondent's Exhibits:

- A. Letter from Patricia K. Coyne to Bridget Winborn [07-18-95]
- B. Cuyahoga Community College Official Academic Transcript For Bridgett R Winborn [06-24-04]
- C. Cuyahoga Community College Associate of Science Diploma for Bridgett R. Winborn [August 2005]
- D. Cuyahoga Community College News Article In Re Bridgett Winborn [12-16-06]
- E. Copy of The State of Ohio Notary Public Commission [12-03-99]; Cuyahoga County, Ohio Cuyahoga County, Ohio Documentation of Notary Record Recorded [12-07-99]

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 Bridgett Ruth Winborn applied to the Board for registration as an intern in the State of Ohio on May 23, 2008.
- (2) Bridgett Ruth Winborn did, on or about May 7, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Bridgett Ruth Winborn indicated on her Pharmacy Intern application that she had not been charged or convicted with a crime when in fact Bridgett Ruth Winborn had been convicted of Child Endangering, a misdemeanor of the first degree. State of Ohio vs. Bridgett Winborn, 96 CRB 00785, North Randall, Ohio, Municipal Court. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of 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 paragraph (2) of the Findings of Fact constitutes not being of good moral character and habits as provided in Section 4729-5-04 (C) of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Section 4729.11 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 Pharmacy Intern submitted by Bridgett Ruth Winborn.

Further, the State Board of Pharmacy places Bridgett Ruth Winborn on probation for a period of six months upon issuance of her pharmacist intern license with the following condition:

Bridgett Ruth Winborn 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.

Elizabeth Gregg moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed *Aye-6/Nay-0*.

Elizabeth Gregg moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed *Aye-6/Nay-0*.

Gregory Braylock moved for Action of the Board; Donald Casar seconded the motion. Motion passed *Aye-6/Nay-0*.

2:47 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 **Tamika Marie Leftwich**, R.Ph. (03-1-27219) Aurora, Ohio.

Mr. Braylock recused himself from this session.

2:58 p.m. The hearing ended and the record was closed.

3:00 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

3:08 p.m. The Executive Session ended and the meeting was opened to the public.

R-2009-094 After votes were taken in public session, the Board adopted the following order in the matter of **Tamika Marie Leftwich**, R.Ph. (03-1-27219) Aurora, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080807-013

in the matter of:

TAMIKA MARIE LEFTWICH, R.Ph.

465 Sycamore Lane #101
Aurora, Ohio 44202

R.Ph. Number 03-1-27219

INTRODUCTION

The matter of Tamika Marie Leftwich came for consideration on October 6, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Gregory Braylock, R.Ph.; Board Member, Recused

Tamika Marie Leftwich was not present nor was she represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Joanne Predina, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [08-07-08]
- 1-1A. Procedural
2. Prescription #890447-04685 [02-08-08]; Prescription Dispensing Label [02-15-08]
3. Notarized Statement of Tamika Leftwich [05-18-08]
4. Dangerous Drug Distributor Inspection Report [05-15-08] Response [05-27-08]
5. Copy of Computer Screen for Patient Profile [03-02-07 to 04-27-08]

Respondent's Exhibits: None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, 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 Tamika Marie Leftwich was originally licensed in the State of Ohio on June 28, 2006, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Tamika Marie Leftwich did, on or about February 15, 2008, misbrand a drug, to wit: when Tamika Marie Leftwich received a prescription for 30 doses of Focalin XR 10 mg, Rx #890447-04685, she dispensed dexmethylphenidate 10 mg, a generic immediate-release dosage form, 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.
- (3) Tamika Marie Leftwich did, on or about February 15, 2008, prior to dispensing Rx #890447-04685, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Tamika Marie Leftwich failed to review the patient profile for incorrect drug dosage. The patient, a 10-year-old child, had only received Focalin XR 10 mg, the extended-release dosage form, yet Tamika Marie Leftwich dispensed an immediate-release form generic drug. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating a rule of the Board as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

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 adjudicates the matter of Tamika Marie Leftwich as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Tamika Marie Leftwich a monetary penalty of seven hundred fifty dollars (\$750.00) due and owing within thirty days of the issuance of this Order. The monetary penalty 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.
- (B) Tamika Marie Leftwich must obtain, within six months from the effective date of this Order, ten (1.0 CEUs) of approved continuing pharmacy education in medication error prevention, which may not also be used for license renewal.

Elizabeth Gregg moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed: *Aye-5/Nay-0*.

Elizabeth Gregg moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed: *Aye-5/Nay-0*.

Elizabeth Gregg moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed: *Aye-5/Nay-0*.

3:15 p.m. The Board recessed briefly.

3:22 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to resume an adjudication hearing that began during the August 5, 2008 Board meeting in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Thomas Jefferson Hutton**, R.Ph. (03-1-11067) Toledo, Ohio.

4:06 p.m. The hearing ended and the record was closed.

4:07 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. Braylock and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

4:41 p.m. The Executive Session ended and the meeting was opened to the public.

4:43 p.m. The meeting was adjourned for the day.

Tuesday, October 7, 2008

8:30 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:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

8:31 a.m.
R-2009-095 After discussion, Mrs. Gregg moved that the Board minutes of September 8-10, 2008, be approved as amended. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 6.

8:44 a.m.
R-2009-096 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:

Akron Children's Hospital Mahoning Valley, Boardman, Ohio (02-1886550)
Central Admixture Pharmacy Services, Valley View, Ohio (02-1312700)

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 Ms. Lange and approved by the Board: *Aye* – 6.

- 8:46 a.m. Mr. McMillen presented for discussion an electronic prescribing system proposal from **EHSmed**. Mrs. Gregg moved that the system be found approvable pending final inspection. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 6.
- 8:50 a.m. The Board recessed briefly.
- 9:00 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 **Bradley Alan Collins**, R.Ph. (03-2-23055) Syracuse, Ohio.
- 10:10 a.m. The hearing ended and the record was closed.
- 10:10 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. Casar and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.
- 10:25 a.m. The Executive Session ended and the meeting was opened to the public.

R-2009-097

After votes were taken in public session, the Board adopted the following order in the matter of **Bradley Alan Collins**, R.Ph. (03-2-23055) Syracuse, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080325-041

in the matter of:

BRADLEY ALAN COLLINS, R.Ph.

2064 West College Road
Syracuse, Ohio 45779

R.Ph. Number 03-2-23055

INTRODUCTION

The matter of Bradley Alan Collins came for hearing on October 7, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Bradley Alan Collins was represented by Jeffrey J. Jurca. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses: Bradley Alan Collins, R.Ph., Respondent
Jarrod Grossman, R.Ph.

State's Exhibits:

1. Copy of Summary Suspension/Notice of Opportunity For Hearing letter [03-25-08]
1A-1E. Procedurals
- 2.

- 3.
- 4.
- 5.

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Bradley A. Collins [05-20-08]
- B. Letter from Robert Gillies at The Woods at Parkside in re Bradley Collins [04-17-08]
- C.
- D. Letter from Linda Holley at Health Recovery Services, Inc. in re Bradley A. Collins [05-28-08]
- E. Copy of Certification of Continuing Pharmacy Education [04-27-08]
- F. Outpatient Services Progress and Status [09-26-08]
- G. Patient Progress Report from Steven W. Clay in re Brad Collins [09-30-08]
- H. Support Group Attendance Records [03-27-08 to 10-02-08]
- I. Drug Screen Results [05-13-08 to 09-25-08]
- J. Order, State of Ohio vs. Bradley A. Collins, Case No. 08-CR-042, Court Order Granting Treatment Plan in Lieu of Conviction, Meigs County Court of Common Pleas [10-06-08]

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 Bradley Alan Collins was originally licensed in the State of Ohio on August 5, 1998, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective March 25, 2008. Records further reflect during the relevant time periods stated herein, that Bradley Alan Collins was the Responsible Pharmacist at Powell's Food Fair Pharmacy, 700 East Main Street, Pomeroy, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised.
- (2)
- (3)
- (4)

CONCLUSIONS OF LAW

- (1)
- (2)
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4)

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 Bradley Alan Collins on March 25, 2008.

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. 03-2-23055, held by Bradley Alan Collins and such suspension is effective as of the date of the mailing of this Order.

- (A) Bradley Alan Collins, 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) Bradley Alan Collins, 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 one year from the effective date of this Order, the Board will consider any petition filed by Bradley Alan Collins 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) Bradley Alan Collins 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 and alcohol 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) Bradley Alan Collins 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) Bradley Alan Collins must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Documentation of Restitution in full to Powell's Food Fair Pharmacy;
 - (2) 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.);
 - (3) 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;
 - (4) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Bradley Alan Collins must also show successful completion of the NAPLEX.
- (E) Upon such time as the Board may consider reinstatement, Bradley Alan Collins 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.

Elizabeth Gregg moved for Findings of Fact; Heather Pasquale seconded the motion. Motion passed: *Aye-6/Nay-0*.

Deborah Lange moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed *Aye-6/Nay-0*.

Gregory Braylock moved for Action of the Board; Deborah Lange seconded the motion. Motion passed *Aye-4/Nay-2*.

10:29 a.m. The Board recessed briefly.

10:37 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

10:41 a.m. The Executive Session ended and the meeting was opened to the public.

10:44 a.m.
R-2009-098

After votes were taken in public session, the Board adopted the following order in the matter of **Thomas Jefferson Hutton**, R.Ph. (03-1-11067) Toledo, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-061004-010

in the matter of:

THOMAS JEFFERSON HUTTON

1603 Belmont Avenue
Toledo, Ohio 43607

INTRODUCTION

The matter of Thomas Jefferson Hutton was resumed on October 6, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Thomas Jefferson Hutton was represented by Douglas E. Graff. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Dale R. Fritz, Jr. Ohio State Board of Pharmacy
Thomas Jefferson Hutton, Respondent

Respondent's Witness: Thomas Jefferson Hutton, Respondent

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing letter [10-04-06]
1A-1L. Procedurals
2. State Board of Pharmacy Order in re Thomas Jefferson Hutton, R.Ph. [03-13-97]; State Board of Pharmacy Order in re Hutton's Pharmacy [03-13-97]; Personal Delivery Record in the Matter of Hutton's Pharmacy [04-08-97]
3. Transcript of Proceedings in the Matter of Thomas Jefferson Hutton, R.Ph. and Hutton's Pharmacy [01-29-97]

Respondent's Exhibits:

- A. Resume of Thomas J. Hutton [not dated]
- D1. Opinion, State of Ohio v. Thomas Hutton, Case No. L-98-1199, Lucas County 6th District Court of Appeals [12-11-98]
- D2. Opinion, State of Ohio v. Thomas Hutton, Case No. L-00-1285, Lucas County 6th District Court of Appeals [02-22-02]
- E1. Letter from Johnnie L. Early, II, Ph.D., R.Ph. to The Ohio State Board of Pharmacy [08-04-08]
- F1. Article, *Prosecution or Persecution?* from U.S. Pharmacist [04-24-02]
- F2. Article, *Thomas Hutton's part of community*, The Blade [02-24-92]

Certain Exhibits were Proffered

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 Thomas Jefferson Hutton submitted an application for examination as a pharmacist on or about September 29, 2006. Records further indicate that Thomas Jefferson Hutton was originally licensed by the State of Ohio as a Pharmacist on November 13, 1974, pursuant to Reciprocity.
- (2) On March 13, 1997, Thomas Jefferson Hutton's license to practice pharmacy in the State of Ohio was revoked. The Board concluded that Thomas Jefferson Hutton was guilty of dishonesty and unprofessional conduct in the practice of pharmacy and guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., or 3719. of the Ohio Revised.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having previously been disciplined by the Ohio State Board of Pharmacy as provided in Rule 4729-5-04 of the Ohio Revised Code.

DECISION OF THE BOARD

This is a de novo review of an application to take the exam. It is not an appeal or review of a revocation decision rendered 13 years ago as Thomas Jefferson Hutton's counsel suggested in his opening statement. Section 4729.08 of the Ohio Revised Code sets forth the qualifications Thomas Jefferson Hutton must meet to be a pharmacist. This statute is amplified by Rule 4729-5-04 of the Ohio Administrative Code. Clearly, Thomas Jefferson Hutton must be "of good moral character and habits." Further, the Board may consider as evidence that a person is not "of good moral character and habits" if a person has been disciplined by the Board. It is unrefuted that the respondent has been so disciplined. It is, at this time, immaterial that a criminal case brought by the State of Ohio was ultimately dismissed. It is also immaterial that Thomas Jefferson Hutton was exonerated criminally. It is axiomatic that criminal courts hold the state to a different standard, or burden of proof than what is pertinent to the present proceedings. Criminal courts do not measure directly, as this Board must, one's fitness to practice pharmacy.

In 1993, the Board disciplined Thomas Jefferson Hutton with the most severe sanction: revocation. The Board here finds that this fact is indeed evidence that Thomas Jefferson Hutton is not of good moral character and habits. The prior board order was not appealed or overturned. It stands. The evidence presented now taken as a whole, does not outweigh the evidence, again, taken as a whole, that Thomas Jefferson Hutton is not of good moral character and habits.

Pursuant to Sections 4729.08 and 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Application for

Examination As a Pharmacist submitted by Thomas Jefferson Hutton on or about September 29, 2006.

Elizabeth Gregg moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed: *Aye-6/Nay-0*.

Donald Casar moved for Conclusions of Law; Elizabeth Gregg seconded the motion. Motion passed: *Aye-6/Nay-0*.

Donald Casar moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed: *Aye-6/Nay-0*.

The Board then discussed a presentation to be made by Board members and staff at the NABP/AACP (National Association of Boards of Pharmacy/American Association of Colleges Pharmacy) District IV meeting in November.

11:45 a.m. The Board recessed for lunch.

1:30 p.m.

R-2009-099

The following candidates for licensure by reciprocity met with members of the Board in Room South A, 31st Floor of the Vern Riffe Center. The candidates introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. McMillen.

Ieman Abualhija	<i>New York</i>	Douglas Heinrick Espersen	<i>New Jersey</i>
Charles David Ancell	<i>Mississippi</i>	Melinda Griffin	<i>Texas</i>
Amanda Sue Bernardi	<i>West Virginia</i>	Amanda Lynn Schaetzke	<i>Michigan</i>
Alpesh Bhagat	<i>New Jersey</i>	Hui Won Seo	<i>Maryland</i>
Piper L. Black	<i>Georgia</i>	John Anthony Solomon, Jr.	<i>Pennsylvania</i>
Daniel Joseph Boller	<i>Pennsylvania</i>	Cara Umberger	<i>New Jersey</i>
Susan Patricia Bruce	<i>New York</i>	Jay Allen Wenig	<i>Maryland</i>
Richard Eric Campbell	<i>West Virginia</i>	Sabrina Kathleen Wilcox	<i>West Virginia</i>

2:00 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 **Sravanthi Lingam**, R.Ph. (03-3-27071) Hilliard, Ohio, and **Long Dinh Vu**, R.Ph. (03-1-24271) Gahanna, Ohio.

3:08 p.m. The hearing ended and the record was closed.

3:08 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. Casar and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

3:52 p.m. The Executive Session ended and the meeting was opened to the public.

3:53 p.m.
R-2009-100

After votes were taken in public session, the Board adopted the following orders in the matter of **Sravanthi Lingam**, R.Ph. (03-3-27071) Hilliard, Ohio, and **Long Dinh Vu**, R.Ph. (03-1-24271) Gahanna, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080529-049

in the matter of:

SRAVANTHI LINGAM, R.Ph.

5945 Paron Place
Hilliard, Ohio 43026

R.Ph. Number 03-3-27071

INTRODUCTION

The matter of Sravanthi Lingam came for hearing on October 7, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Sravanthi Lingam was represented by Robert C. Buchbinder. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: John Whittington, D.O., R.Ph.
Ohio State Board of Pharmacy

Respondent's Witness: Sravanthi Lingam, R.Ph., Respondent

State's Exhibits:

- 1L. Notice of Opportunity For Hearing letter For Sravanthi Lingam, R.Ph. [05-29-08]
- 1V. Notice of Opportunity For Hearing letter for Long Dinh Vu, R.Ph. [05-29-08]
- 1L-1V-A. Notice of Appearance of Counsel and Hearing Request letter from Robert C. Buchbinder and Steven B. Ayers [06-23-08]
- 1L-B. Hearing Schedule Letter for Sravanthi Lingam [06-25-08]
- 1V-B. Hearing Schedule Letter for Long Vu, R.Ph. [06-25-08]
- 1V-C. Letter from Long Vu [not dated]
- 1V-D. Letter from David L. Rowland to Long Vu, R.Ph. [08-06-08]
- 1L-1V-E. Letter from Robert C. Buchbinder and Steven B. Ayers to David Rowland [08-11-08]; letter from Long Vu [not dated]
- 1L-F. Ohio State Board of Pharmacy License Credential Screen for Sravanthi Lingam, R.Ph. [09-25-08]
- 1V-F. Ohio State Board of Pharmacy License Credential Screen for Long Dinh Vu, R.Ph. [09-25-08]
2. Rx #400777-07525 for phenobarbital 15 mg [09-28-07]; Dispensing Label [10-01-07]
3. Copy of computer screen for patient history in re Rx #400777-7525 [10-01-07 to 12-29-07]
4. Dangerous Drug Distributor Inspection Report of Walgreens #07525 [01-14-08]; Response from Long D. Vu, R.Ph. [not dated]
5. Statement from Misty Adkins [not dated]

Respondent's Exhibits:

- Vu A. Walgreens Statement of Action Concerning Long Vu [09-26-08]
- Vu B. Walgreens list of Continuing Education programs and self study programs for Long Vu [09-13-08 to 09-24-08]
- Vu-C. Letter from Long D. Vu, R.Ph. to The Ohio State Board of Pharmacy [not dated]
- Vu-D. Letter from Eamonn Kerrigan PharmD [09-28-08]
- Vu-E. Two Letters of Support [09-28-08 and 09-29-08]
- Lingam A. Walgreens Statement of Action Concerning Sravanthi Lingam [09-25-08]
- Lingam B. Walgreens Statement of Action Concerning Sravanthi Lingam [09-26-08]
- Lingam C-E. Nine Letters of Support [07-18-08 to 08-20-08]
- Lingam F. Walgreens List of Continuing Education Programs and Self Study Programs Completed by Sravanthi Lingam [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 Sravanthi Lingam was originally licensed in the State of Ohio on February 14, 2006, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Sravanthi Lingam did, on or about December 29, 2007, when dispensing Rx #400777, fail to offer to counsel the patient or caregiver, to wit: after a patient had been given phenobarbital 60 mg rather than phenobarbital 15 mg, the patient's mother requested counseling about the appearance of the medication, yet Sravanthi Lingam did not counsel the caregiver. The 12-year-old patient's mother asked the technician for counseling, and when the technician relayed that information to Sravanthi Lingam, she simply looked at the vial and told the technician to tell the caregiver that the medication had been correctly dispensed. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Sravanthi Lingam as follows:

(A) 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 imposes a monetary penalty of five hundred dollars (\$500.00) on Sravanthi Lingam and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) Sravanthi Lingam must obtain, within six months from the effective date of this Order, five hours of approved continuing pharmacy education (0.5 CEUs) on Counseling and Preventing Medication Errors, which may not also be used for license renewal.

Elizabeth Gregg moved for Findings of Fact; Donald Casar seconded the motion. Motion passed: *Aye-6/Nay-0*.

Deborah Lange moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed: *Aye-6/Nay-0*.

Donald Casar moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed: *Aye-5/Nay-1*.

R-2009-101

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080529-050

in the matter of:

LONG DINH VU, R.Ph.

5700 Medalist

Gahanna, Ohio 43230

R.Ph. Number 03-1-24271

INTRODUCTION

The matter of Long Dinh Vu came for hearing on October 7, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Heather L. Pasquale, R.Ph.

Long Dinh Vu was represented by Robert C. Buchbinder. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: John Whittington, D.O., R.Ph.,
Ohio State Board of Pharmacy

Respondent's Witnesses: Long Dinh Vu, R.Ph., Respondent

State's Exhibits:

- 1V. Notice of Opportunity For Hearing letter for Long Dinh Vu, R.Ph. [05-29-08]
- 1L. Notice of Opportunity For Hearing letter For Sravanthi Lingam, R.Ph. [05-29-08]

- 1L-1V-A. Notice of Appearance of Counsel and Hearing Request letter from Robert C. Buchbinder and Steven B. Ayers [06-23-08]
- 1L-B. Hearing Schedule Letter for Sravanthi Lingam [06-25-08]
- 1V-B. Hearing Schedule Letter for Long Vu, R.Ph. [06-25-08]
- 1V-C. Letter from Long Vu [not dated]
- 1V-D. Letter from David L. Rowland to Long Vu, R.Ph. [08-06-08]
- 1L-1V-E. Letter from Robert C. Buchbinder and Steven B. Ayers to David Rowland [08-11-08] letter from Long Vu [not dated]
- 1L-F. Ohio State Board of Pharmacy License Credential Screen for Sravanthi Lingam, R.Ph. [09-25-08]
- 1V-F. Ohio State Board of Pharmacy License Credential Screen for Long Dinh Vu, R.Ph. [09-25-08]
- 2. Rx #400777-07525 for phenobarbital 15 mg [09-28-07]; Dispensing Label
- 3. Copy of computer screen for patient history in re Rx #400777-7525 [10-01-07 to 12-29-07]
- 4. Dangerous Drug Distributor Inspection Report of Walgreens #07525 [01-14-08]; Response from Long D. Vu, R.Ph. [not dated]
- 5. Statement from Misty Adkins [not dated]

Respondent's Exhibits:

- Vu A. Walgreens Statement of Action Concerning Long Vu [09-26-08]
- Vu B. Walgreens list of Continuing Education programs and self study programs for Long Vu [09-13-08 to 09-24-08]
- Vu-C. Letter from Long D. Vu, R.Ph. to The Ohio State Board of Pharmacy [not dated]
- Vu-D. Letter from Eamonn Kerrigan PharmD [09-28-08]
- Vu-E. Two Letters of Support [09-28-08 and 09-29-08]
- Lingam A. Walgreens Statement of Action Concerning Sravanthi Lingam [09-25-08]
- Lingam B. Walgreens Statement of Action Concerning Sravanthi Lingam [09-26-08]
- Lingam C-E. Nine Letters of Support [07-18-08 to 08-20-08]

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 Long Dinh Vu was originally licensed in the State of Ohio on August 8, 2000, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Long Dinh Vu was the Responsible Pharmacist at Walgreens #07525, 2150 East Dublin-Granville Road, Columbus, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Long Dinh Vu did, on or about December 29, 2007, misbrand a drug, to wit: when Long Dinh Vu received a prescription for phenobarbital 15 mg, Rx #400777, he dispensed phenobarbital 60 mg, which had not been specifically prescribed by the physician. The patient subsequently was harmed. A few months previously, Long Dinh Vu had made the same mistake but he corrected it when the patient's mother brought it to his attention prior to leaving the pharmacy. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Long Dinh Vu as follows:

- (A) 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 imposes a monetary penalty of five hundred dollars (\$500.00) on Long Dinh Vu and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Long Dinh Vu must obtain, within six months from the effective date of this Order, five hours of approved continuing pharmacy education (0.5 CEUs) on Preventing Medication Errors, which may not also be used for license renewal.

Elizabeth Gregg moved for Findings of Fact; Donald Casar seconded the motion. Motion passed: *Aye-6/Nay-0*.

Elizabeth Gregg moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed: *Aye-6/Nay-0*.

Heather Pasquale moved for Action of the Board; Elizabeth Gregg seconded the motion. Motion passed: *Aye-5/Nay-1*.

3:56 p.m. The Board recessed briefly.

4:00 p.m. Mr. Braylock 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 Ms. Lange and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; and Pasquale – *yes*.

4:52 p.m. The Executive Session ended and the meeting was opened to the public.

R-2009-102 Mr. Braylock moved that the Board summarily suspend the license to practice pharmacy belonging to **Paul Daniel Ciavarella**, R.Ph. (03-3-17226) Poland, Ohio, pursuant to Ohio Revised Code 3719.121 (A) and (B). Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 6*.

4:56 p.m. Mr. Braylock moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>08/07/08</u>	<u>09/30/08</u>	<u>10/06/08</u>	<u>10/07/08</u>	<u>Total</u>
Braylock	-	1	1	1	3
Casar	-	-	1	1	2
Gregg	-	-	1	1	2
Kaderly	-	-	-	-	0
Kolezynski	-	-	1	1	2
Lange	1	-	1	1	3
Lipsyc	-	-	1	1	2
Pasquale	-	-	1	1	2
Wiesenhahn	-	-	-	-	0

Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 6.

Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* –6.

<p>The Ohio State Board of Pharmacy approved these Minutes November 3, 2008</p>
