

Note: These Minutes are provided for informational purposes only.

If you would like to obtain an official copy of the Minutes, please contact the State Board of Pharmacy at 614-466-4143 for instructions and fee information.

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.ohio.gov

Minutes of the October 3-5, 2011 Meeting of the Ohio State Board of Pharmacy

Monday, October 3, 2011

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:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Kevin J. Mitchell, R.Ph.

Also present were William T. Winsley, *Executive Director*; John Whittington, *Assistant Executive Director*; Mark Keeley, *Legislative Affairs Administrator*; Kyle Parker, *Licensing Administrator*; Chris Reed, *Compliance Supervisor*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Tracy Nave, *Assistant Attorney General*.

Mr. Winsley announced that the following Settlement Agreements had been signed by all parties making them effective.

R-2012-052

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110630-185

in the matter of:

CHRISTINE MICHELLE MARKER, R.Ph.

6800 Thackery Road
Urbana, Ohio 43078

R.Ph. Number 03-3-25219

This Settlement Agreement is entered into by and between Christine Michelle Marker 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.

Christine Michelle Marker 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. Christine Michelle Marker 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, limit, 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, Christine Michelle Marker is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 30, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Christine Michelle Marker 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. Christine Michelle Marker requested a hearing; it was scheduled and continued. The June 30, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Christine Michelle Marker was originally licensed in the State of Ohio on September 12, 2002, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Christine Michelle Marker did, on or about December 11, 2007, misbrand a drug, to wit: when dispensing a prescription for Xeloda 150 mg, RX #3212470, having the following directions: "take eleven (11) tablets (1650 mg) twice daily starting day two (2) through day fifteen (15), stop from day sixteen (16) through day twenty-one (21) and repeat every three (3) weeks for six (6) cycles," Christine Michelle Marker dispensed Xeloda 500 mg tablets, which had not been specifically prescribed by the physician. The patient subsequently succumbed due to Xeloda toxicity. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Christine Michelle Marker neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 30, 2011; 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, Christine Michelle Marker knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Christine Michelle Marker agrees to the imposition of a monetary penalty of two hundred and 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) In addition, Christine Michelle Marker must obtain, within one year from the effective date of this Agreement, ten hours of approved continuing pharmacy education (1.0 CEUs), which may not also be used for license renewal.

Christine Michelle Marker 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.

Christine Michelle Marker 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. Christine Michelle Marker 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.

<u>s/ Christine Michelle Marker, R.Ph.</u> <i>Respondent</i>	<u>Date Signed: 09/27/2011</u>
<u>/s/ James Lindon</u> <i>Attorney for Respondent</i>	<u>Date Signed: 10/01/2011</u>
<u>/s/ Donald M. Casar</u> <i>President; Ohio State Board of Pharmacy</i>	<u>Date Signed: 10/03/2011</u>
<u>/s/ Tracy Marie Nave</u> <i>Ohio Assistant Attorney General</i>	<u>Date Signed: 10/03/2011</u>

R-2012-053

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-203

in the matter of:

LINDA J. COPPOCK, R.Ph.
3473 Ault View Avenue
Cincinnati, Ohio 45208

R.Ph. Number 03-1-17990

This Settlement Agreement is entered into by and between Linda J. Coppock 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.

Linda J. Coppock 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. Linda J. Coppock acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Ohio 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, Linda J. Coppock is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Linda J. Coppock 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. Linda J. Coppock accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Linda J. Coppock was originally licensed in the State of Ohio on June 27, 1989, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Linda J. Coppock did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Linda J. Coppock was short two continuing education hours (0.2 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Linda J. Coppock neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, Linda J. Coppock knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Linda J. Coppock 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.
- (B) Linda J. Coppock will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Linda J. Coppock's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Linda J. Coppock 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, revoke the Agreement and may 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.

Linda J. Coppock 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.

Linda J. Coppock 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. Linda J. Coppock 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/ Linda J. Coppock, R.Ph. Date Signed: 09/09/11
Respondent

/s/ Donald M. Casar, R.Ph. Date Signed: 10/03/11
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/11
Ohio Assistant Attorney General

R-2012-054

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-205

in the matter of:

MARC STEPHEN DIGREGORIO, R.Ph.

8524 N. Lima Road
Poland, Ohio 44514

R.Ph. Number 03-1-15011

This Settlement Agreement is entered into by and between Marc Stephen Digregorio 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.

Marc Stephen Digregorio voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Marc Stephen Digregorio acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio 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, Marc Stephen Digregorio is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Marc Stephen Digregorio was notified of the

allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Marc Stephen Digregorio accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Marc Stephen Digregorio was originally licensed in the State of Ohio on March 2, 1983, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Marc Stephen Digregorio did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Marc Stephen Digregorio was short three continuing education hours (0.3 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Marc Stephen Digregorio neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, Marc Stephen Digregorio knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Marc Stephen Digregorio 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.
- (B) Marc Stephen Digregorio will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Marc Stephen Digregorio's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Marc Stephen Digregorio 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, revoke the Agreement and may 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.

Marc Stephen Digregorio 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. 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.

Marc Stephen Digregorio 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. Marc Stephen Digregorio 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/ Marc Stephen Digregorio, R.Ph. Date Signed: 09/07/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

R-2012-055

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-208

in the matter of:

KRISTINA MARIE NOLL, R.Ph.

6203 Pintail Court
Loveland, Ohio 45140

R.Ph. Number 03-1-18867

This Settlement Agreement is entered into by and between Kristina Marie Noll 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.

Kristina Marie Noll 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. Kristina Marie Noll acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Ohio 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, Kristina Marie Noll is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Kristina Marie Noll 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. Kristina Marie Noll accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Kristina Marie Noll was originally licensed in the State of Ohio on July 29, 1991, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Kristina Marie Noll did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Kristina Marie Noll was short two continuing education hours (0.2 CEUs) on board continuing education. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Kristina Marie Noll neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, Kristina Marie Noll knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Kristina Marie Noll 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.
- (B) Kristina Marie Noll will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Kristina Marie Noll's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Kristina Marie Noll 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, revoke the Agreement and may 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.

Kristina Marie Noll 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.

Kristina Marie Noll 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. Kristina Marie Noll 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/ Kristina Marie Noll, R.Ph. Date Signed: 09/11/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

R-2012-056

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110818-200

in the matter of:

TYLER ROBERT HOLLIDAY, R.Ph.

2200 Martinsburg Road

Newark, Ohio 43055

R.Ph. Number 03-1-24394

This Settlement Agreement is entered into by and between Tyler Robert Holliday 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.

Tyler Robert Holliday voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Tyler Robert Holliday acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio 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, Tyler Robert Holliday is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 18, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Tyler Robert Holliday was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Tyler Robert Holliday accepted this offer for settlement rather than a hearing. The August 18,

2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Tyler Robert Holliday was originally licensed in the State of Ohio on December 1, 2000, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Tyler Robert Holliday did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Tyler Robert Holliday did not complete two Continuing Education Units (0.2 CEUs) of Board approved Jurisprudence until after Tyler Robert Holliday signed his Continuing Pharmacy Education Report Form on July 15, 2010. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Tyler Robert Holliday neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 18, 2011; 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, Tyler Robert Holliday knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Tyler Robert Holliday 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.

If, in the judgment of the Board, Tyler Robert Holliday 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, revoke the Agreement and may 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.

Tyler Robert Holliday 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. 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.

Tyler Robert Holliday 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. Tyler Robert Holliday 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/ Tyler Robert Holliday, R.Ph. Date Signed: 08/30/2011

Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011

Ohio Assistant Attorney General

R-2012-057

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110818-201

in the matter of:

AMY CHRISTINE FULTZ, R.Ph.

136 Parmelee Drive
Hudson, Ohio 44236

R.Ph. Number 03-1-27708

This Settlement Agreement is entered into by and between Amy Christine Fultz 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.

Amy Christine Fultz 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. Amy Christine Fultz acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Ohio 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, Amy Christine Fultz is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 18, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Amy Christine Fultz 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. Amy Christine Fultz accepted this offer for settlement rather than a hearing. The August 18, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Amy Christine Fultz was originally licensed in the State of Ohio on January 9, 2007,

pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) Amy Christine Fultz did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Amy Christine Fultz did not complete two Continuing Education Units (0.2 CEUs) of Board approved Jurisprudence until after Amy Christine Fultz signed her Continuing Pharmacy Education Report Form on June 29, 2010. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Amy Christine Fultz neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 18, 2011; 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, Amy Christine Fultz knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Amy Christine Fultz 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.

If, in the judgment of the Board, Amy Christine Fultz 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, revoke the Agreement and may 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.

Amy Christine Fultz 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.

Amy Christine Fultz 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. Amy Christine Fultz 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/ Amy Christine Fultz, R.Ph. Date Signed: 09/09/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

R-2012-058

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-202

in the matter of:

FRED BRENNER III, R.Ph.

3825 Highland Road
Cleveland, Ohio 44111

R.Ph. Number 03-1-12462

This Settlement Agreement is entered into by and between Fred Brenner III, R.Ph. 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.

Fred Brenner III voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Fred Brenner acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Ohio 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, Fred Brenner III is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Fred Brenner III was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Fred Brenner III accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Fred Brenner III was originally licensed in the State of Ohio on March 6, 1978, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Fred Brenner III did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that

Fred Brenner III was short two continuing education hours (0.2 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Fred Brenner III neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, Fred Brenner III knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Fred Brenner III 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.
- (B) Fred Brenner will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Fred Brenner's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Fred Brenner 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, revoke the Agreement and may 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.

Fred Brenner 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. 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.

Fred Brenner 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. Fred Brenner 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/ Fred Brenner III, R.Ph. Date Signed: 09/09/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

R-2012-059 SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-206
in the matter of:

ROBERT DOUGLAS FISSEL, R.Ph.
10544 Brettridge Drive
Powell, Ohio 43065

R.Ph. Number 03-1-17648

This Settlement Agreement is entered into by and between Robert Douglas Fissel 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.

Robert Douglas Fissel voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Robert Douglas Fissel acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio 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, Robert Douglas Fissel is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Robert Douglas Fissel was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Robert Douglas Fissel accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Robert Douglas Fissel was originally licensed in the State of Ohio on February 24, 1989, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Robert Douglas Fissel did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved

continuing education, to wit: when audited, it was determined that Robert Douglas Fissel was short three continuing education hours (0.3 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Robert Douglas Fissel neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, Robert Douglas Fissel knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Robert Douglas Fissel 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.
- (B) Robert Douglas Fissel will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Robert Douglas Fissel's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Robert Douglas Fissel 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, revoke the Agreement and may 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.

Robert Douglas Fissel 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. 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.

Robert Douglas Fissel 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. Robert Douglas Fissel 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/ Robert Douglas Fissel, R.Ph. Date Signed: 08/30/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

R-2012-060

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110816-207

in the matter of:

JOHN FRANKLIN NATHAN, R.Ph.

450 Clairbrook Avenue

Columbus, Ohio 43228

R.Ph. Number 03-1-11160

This Settlement Agreement is entered into by and between John Franklin Nathan 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.

John Franklin Nathan voluntarily 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, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. John Franklin Nathan acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio 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, John Franklin Nathan is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 16, 2011, pursuant to Chapter 119. of the Ohio Revised Code, John Franklin Nathan was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. John Franklin Nathan accepted this offer for settlement rather than a hearing. The August 16, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that John Franklin Nathan was originally licensed in the State of Ohio on May 21, 1975, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) John Franklin Nathan did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved

continuing education, to wit: when audited, it was determined that John Franklin Nathan was short two continuing education hours (0.2 CEUs) on board continuing education. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

John Franklin Nathan neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 16, 2011; 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, John Franklin Nathan knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) John Franklin Nathan 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.
- (B) John Franklin Nathan will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else John Franklin Nathan's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, John Franklin Nathan 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, revoke the Agreement and may 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.

John Franklin Nathan 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. 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.

John Franklin Nathan 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. John Franklin Nathan 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/ John Franklin Nathan, R.Ph. Date Signed: 09/12/2011
Respondent

/s/ Donald M. Casar Date Signed: 10/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 10/03/2011
Ohio Assistant Attorney General

10:02 a.m. Mr. Gahm 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 Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*.

10:08 a.m. Mr. Joyce temporarily assumed the position as chair when Mr. Casar left the Executive Session having recusing himself from a discussion relating to licensees.

10:12 a.m. Mr. Casar returned to the Execution Session and resumed his position as chair.

11:05 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-061 After discussion, Ms. Lange moved that the settlement offer in the matter of **Andrea Rene Luchette**, R.Ph. (03-3-22022) Masury, Ohio, be denied. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye* – 6.

Mr. Casar recused himself from the following three settlements involving **Giant Eagle**.

R-2012-062 With vice-president Joyce presiding over the discussion, Mr. Gahm moved that the settlement offers in the matters of **Giant Eagle #4098**, (02-1214700) Chardon, Ohio; **Douglas E. Urbaniak**, R.Ph. (03-3-10687) Chardon, Ohio; **Kelly Ann Nicole Chappell**, R.Ph. (03-3-28656) Newbury, Ohio, be accepted. The motion was seconded by Ms. Lange and the settlements were approved by the Board: *Aye* – 6; *Recused* – 1; *Casar*.

The Board recessed briefly.

11:11 a.m. Mr. Casar resumed the chair.

Mr. Keeley presented the legislative report.

Mr. Casar reported on the meeting of the Nursing Board Committee on Prescriptive Governance.

Ms. Lange said there was no report from the Medical Board Physician-Assistant Policy Committee.

Mr. Whittington said there was no report from the Medical Board Prescribing Committee.

Mr. Keeley and Ms. Lange presented the Technician Examination report.

R-2012-063 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:

CVS/Caremark, Specialty Pharmacies
Multiple physician office locations on the letter of request

After discussion, Mr. Joyce 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. Mitchell and approved by the Board: *Aye* – 5; *Abstained* – 1 (*Kolezynski*).

R-2012-064 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:

Bettman's Pharmacy, Dayton, Ohio	(02-0087000)
Public Health Dayton/Montgomery County, Dayton, Ohio	(02-0255300)
Samaritan Healthcare Clinic for the Homeless, Dayton, Ohio	(02-0978450)

After discussion, the request was tabled pending further information.

R-2012-065 Mr. Keeley reported on the approval of the following e-prescribing (e-RX) systems. These systems were approved pursuant to **Resolution 2012-007**.

Allscripts 5.5. (Robinson Memorial Hospital)
SRSsoft
QuickDoc by DocuTrac
eHealth Made EASY
Medical Informatics Engineering - Webchart EHR
Siemens - Soarian E Prescribing
Altos Onco EMR

R-2012-066 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Louis Fairfield, R.Ph.** (03-3-18582) Russells Point, Ohio be permitted to be the responsible person for the following sites:

Chillicothe Correctional Institution, Chillicothe, Ohio,	(02-0296100)
Ohio Reformatory for Women, Marysville, Ohio	(02-0296600)

After discussion, Mr. Joyce moved that the Board approve the request for 90 days. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.

R-2012-067 After discussion, Mr. Gahm moved that **Eric Chevlen, M.D.**, Youngstown, Ohio, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 6.

R-2012-068 After discussion, Ms. Lange moved that **G. P. Naum III, D.O.**, Martins Ferry, Ohio, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.

R-2012-069 After discussion, Mr. Gahm moved that **Clive L. Sinoff, M.D.**, Beachwood, Ohio, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 6.

R-2012-070 After discussion, Mr. Joyce moved that **Internal Medicine Physicians (Mark Hostettler, M.D., Alliance, Ohio; Pamela Rodocoy, M.D., Minerva, Ohio and David Kimbell, M.D., Canton, Ohio)** be permitted to withdraw its application for licensure as a pain-management clinic. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

R-2012-071 After discussion, Mr. Joyce moved that **Arthur Hale**, M.D., be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

R-2012-072 After discussion, Ms. Lange moved that **Bienvenido D. Ortega**, M.D., Parma, Ohio, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

R-2012-073 After discussion, Mr. Joyce moved that **G.B. Blossom**, D.O., Toledo, Ohio, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.

1:37 p.m.

R-2012-074 The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matters of **Andrea Luchette**, R.Ph. (03-3-22022) Masury, Ohio; **Robert James Gaves**, R.Ph. (03-2-12746) Newton Falls, Ohio, and to create a record in the matter of **Kenneth M. Overholt**, R.Ph. (03-2-13266) Warren, Ohio. Mr. Joyce recused himself from these hearings.

5:54 p.m. The hearing ended and the record was closed.

5:55 p.m. Mr. Kolezynski 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. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *recused*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*.

6:27 p.m. The Executive Session ended and the meeting was opened to the public.

R-2012-075 After votes were taken in public session, the Board adopted the following order in the matter of **Andrea Luchette**, R.Ph. (03-3-22022) Masury, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110322-178

in the matter of:

ANDREA RENE LUCHETTE, R.Ph.

1135 Yankee Run Road
Masury, Ohio 44438

R.Ph. Number 03-3-22022

INTRODUCTION

The matter of Andrea Rene Luchette came for hearing on Monday, October 3, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Brian M. Joyce, R.Ph., Board Vice-President, Recused.
Michael A. Moné, R.Ph., Board Member, Absent.

Andrea Rene Luchette was represented by Ronald James Rice. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
Joann Predina, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: Andrea Rene Luchette, R.Ph., Respondent
Robert James Gaves, R.Ph., Respondent

State's Exhibits:

- 1-1A. Procedurals for Kenneth M. Overholt, R.Ph.
- 2-2F. Procedurals for Robert James Gaves, R.Ph.
- 3. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter for Andrea Rene Luchette, R.Ph. [03-22-11]
- 3A-3B. Procedurals for Andrea Rene Luchette, R.Ph.
- 3C. Addendum Notice Summary Suspension/Notice of Opportunity for Hearing letter for Andrea Rene Luchette, R.Ph. [07-28-11]
- 3D-3F. Procedurals for Andrea Rene Luchette, R.Ph.
- 4A. Lake County Adult Detention Facilities Inmate Medical Screening Report [12-14-07]; Lake County Adult Detention Facilities Medications Release form [12-17-07]; Lake County Adult Detention Facilities Physician's Orders/Progress Notes [12-14-07 to 12-17-07]
- 4B. Overholt's Pharmacy Patient Profile Printout for Joseph H. [01-01-07 to 04-12-08]
- 4C. Notarized written statement of Joseph Harrington [03-04-09]
- 4D. Copy of RX #964733 [02-08-08]; Copy of RX #964735 [02-08-08];
Copy of RX #964736 [02-08-08]; Copy of RX #964737 [02-08-08];
Copy of RX #964734 [02-08-08]; Copy of RX #959626 [01-11-08];
Copy of RX #959607 [01-11-08]; Copy of RX #959611 [01-11-08];
Copy of RX #959623 [01-11-08]; Copy of RX #959608 [01-11-08];
Copy of RX #954175 [12-12-07]; Copy of RX #954183 [12-12-07];
Copy of RX #954176 [12-12-07]; Copy of RX #954184 [12-12-07];
Copy of RX #954179 [12-12-07]; Copy of RX #954177 [12-12-07];
Copy of RX #950132 [11-20-07]; Copy of RX #950120 [11-20-07];
Copy of RX #950129 [11-20-07]; Copy of RX #950122 [11-20-07];
Copy of RX #950123 [11-20-07]; Copy of RX #944617 [10-20-07];
Copy of RX #944619 [10-20-07]; Copy of RX #944620 [10-20-07];
Copy of RX #944618 [10-20-07]; Copy of RX #939398 [09-24-07];
Copy of RX #939396 [09-24-07]; Copy of RX #939395 [09-24-07];
Copy of RX #939397 [09-24-07]; Copy of RX #939393 [09-24-07];
Copy of RX #933899 [08-23-07]; Copy of RX #933897 [08-23-07];
Copy of RX #933898 [08-23-07]; Copy of RX #933896 [08-23-07];
Copy of RX #933900 [08-23-07]; Copy of RX #928417 [07-24-07];
Copy of RX #928419 [07-24-07]; Copy of RX #928418 [07-24-07];
Copy of RX #928420 [07-24-07]; Note RX #928415 missing from original file [not dated]; Copy of RX #928416 [07-24-07]; Copy of RX #922881 [06-25-07]; Copy of RX #922880 [06-25-07]; Copy of RX #922883 [06-25-07]; Copy of RX #922884 [06-25-07]; Copy of RX #922882 [06-25-07]; Copy of RX #922775 [06-22-07]; Copy of RX #917883 [05-25-07]; Copy of RX #917865 [05-25-07]; Copy of RX #917862 [05-25-07]; Copy of RX #917861 [05-25-07]; Copy of RX #917860 [05-25-07]; Copy of RX #917864 [05-25-07]; Copy of RX #912725 [04-27-07]; Copy of RX #912727 [04-27-07]; Copy of RX #912728 [04-27-07]; Copy of RX #912729 [04-27-07]; Copy of RX #911040 [04-17-07]; Copy of RX #908913 [04-05-07]; Copy of RX #908912 [04-05-07]; Copy of RX #908916 [04-05-07]; Copy of RX

- #908915 [04-05-07]; Copy of RX #893215 [01-05-07]; Copy of RX #897613 [01-31-07]; Copy of RX #898052 [date illegible]
5. Daily log signature documentation [04-05-07 to 02-08-08]
 6. Letter from Peter S. Franklin, MD [12-17-07]
 7. Dangerous Drug Distributor Inspection Report for Overholt's Champion Pharmacy Inc. [04-15-08]; Letter from Kenneth M. Overholt, R.Ph., Overholt's Champion Pharmacy, Inc. [05-01-08]; Copy of New Rules for RX's [05-01-08]
 8. Copy of nine photographs of Overholt's Champion Pharmacy, Inc. [not dated]
 9. Expert letter from Bruce A. Pizsel, MD, Medical Director Pain Management Svcs. UHHS Geneva & Brown Memorial Hospitals to Agent Pavlich with attachments [08-20-08]
 - 10A. Overholt's Pharmacy Patient Profile Printout for Ken V. [01-01-07 to 04-12-08]
 - 10B. Medical Expenses printout for Kenneth V. [08-18-09 to 02-03-10]
 - 10C. Letter from Peter S. Franklin, MD to Overholt Pharmacy [04-25-08]
 - 10D. Copy of RX #974537 [04-02-08]; Copy of RX #974534 [04-02-08]; Copy of RX #971942 [03-18-08]; Copy of RX #971941 [03-18-08]; Copy of RX #971940 [03-18-08]; Copy of RX #971939 [03-18-08]; Copy of RX #968996 [03-03-08]; Copy of RX #968997 [03-03-08]; Copy of RX #966621 [02-19-08]; Copy of RX #966620 [02-19-08]; Copy of RX #966619 [02-19-08]; Copy of RX #966069 [02-15-08]; Copy of RX #966070 [02-15-08]; Copy of RX #964193 [02-06-08]; Copy of RX #961634 [01-23-08]; Copy of RX #961633 [01-23-08]; Copy of RX #961028 [01-18-08]; Copy of RX #960422 [01-16-08]; Copy of RX #959198 [01-10-08]; Copy of RX #957483 [01-02-08]; Copy of RX #956189 [12-24-07]; Copy of RX #956190 [12-24-07]; Copy of RX #956190 [12-24-07]; Copy of RX #956019 [12-21-07]; Copy of RX #956022 [12-21-07]; Copy of RX #956023 [12-21-07]; Copy of RX #953395 [12-08-07]; Copy of RX #951211 [11-27-07]; Copy of RX #951210 [11-27-07]; Copy of RX #951212 [11-27-07]; Copy of RX #951213 [11-27-07]; Copy of RX #948358 [11-10-07]; Copy of RX #947162 [11-05-07]; Copy of RX #945917 [10-29-07]; Copy of RX #944612 [10-20-07]; Copy of RX #944611 [10-20-07]; Copy of RX #943616 [10-16-07]; Copy of RX #943636 [10-16-07]; Copy of RX #941675 [10-05-07]; Copy of RX #941674 [10-05-07]
 - 11A. Overholt's Pharmacy Patient Profile Printout for Gary J. [07-01-07 to 07-01-08]
 - 11B. Copy of RX #977462 [04-18-08]; Copy of RX #977459 [04-18-08]; Copy of RX #976590 [04-14-08]; Copy of RX #976591 [04-14-08]; Copy of RX #974573 [04-02-08]; Copy of RX #974572 [04-02-08]; Copy of RX #972282 [03-19-08]; Copy of RX #972283 [03-19-08]; Copy of RX #972284 [03-19-08]; Copy of RX #972285 [03-19-08]
 - 12A. Overholt's Pharmacy printout for Kayla E. [07-01-07 to 07-01-08]
 - 12B. Copy of RX #958549 [01-07-08]; Copy of RX #956414 [12-26-07]; Copy of RX #950591 [11-23-07]; Copy of RX #947394 [11-06-07]; Copy of RX #945767 [10-26-07]; Copy of RX #943432 [10-15-07]; Copy of RX #942014 [10-08-07]
 - 13A. Overholt's Pharmacy Patient Profile Printout for Rene T. [07-01-07 to 07-01-08]
 - 13B. Copy of RX #932756 [08-18-07]; Copy of RX #932757 [08-18-07]; Copy of RX #932809 [08-18-07]; Copy of RX #934662 [08-28-07]; Copy of RX #936465 [09-07-07]; Copy of RX #936467 [09-07-07]; Copy of RX #940076 [09-26-07]; Copy of RX #940075 [09-26-07];

- Copy of RX #943180 [10-12-07]; Copy of RX #943174 [10-12-07];
Copy of RX #946310 [no date]
- 14A. Overholt's Pharmacy Patient Profile Printout for Louis M. [01-01-07 to 04-12-08]
- 14B. Copy of RX #947884 [11-08-07]; Copy of RX #946855 [11-02-07];
Copy of RX #946854 [11-02-07]; Copy of RX #946853 [11-02-07];
Copy of RX #946207 [10-30-07]; Copy of RX #945365 [10-24-07];
Copy of RX #944571 [10-19-07]; Copy of RX #944083 [10-18-07];
Copy of RX #943739 [10-16-07]; Copy of RX #941040 [10-02-07];
Copy of RX #941045 [10-02-07]; Copy of RX #941044 [10-02-07]
- 15A. Overholt's Pharmacy Patient Profile Printout for Tonya M. [01-01-07 to 04-12-08]
- 15B. Copy of RX #962129 [01-25-08]; Copy of RX #962465 [01-28-08];
Copy of RX #958694 [01-08-08]; Copy of RX #956787 [12-27-07];
Copy of RX #956789 [12-27-07]; Copy of RX #954140 [12-12-07];
Copy of RX #951385 [11-28-07]; Copy of RX #946856 [11-02-07];
Copy of RX #946866 [11-02-07]
- 16A. Overholt's Pharmacy Patient Profile Printout for Anthony H. [01-01-07 to 04-12-08]
- 16B. Copy of RX #947758 [11-07-07]; Copy of RX #947153 [11-05-07];
Copy of RX #947157 [11-05-07]; Copy of RX #947158 [11-05-07];
Copy of RX #947159 [11-05-07]; Copy of RX #947160 [11-05-07];
Copy of RX #955412 and RX #955411 [12-18-07]
- 17A. Overholt's Pharmacy printout for Perry B., Jr. [01-01-07 to 04-15-08]
- 17B. Copy of RX # 927014 [07-16-07]; Copy of RX #932265 [08-15-07];
Copy of RX #932264 [08-15-07]; Copy of RX #941456 [10-04-07];
Copy of RX #946871 [11-02-07]; Copy of RX #952131 [12-03-07];
Copy of RX #947178 [11-05-07]; Copy of RX #947827 [11-07-07];
Copy of RX #948398 [11-12-07]; Copy of RX # 949181 [11-15-07];
Copy of RX #949799 [11-17-07]; Copy of RX #950392 [11-21-07];
Copy of RX #950916 [11-26-07]; Copy of RX #951722 [11-29-07];
Copy of RX #952130 [12-03-07]
- 18A. Overholt's Pharmacy Patient Profile Printout for Christine B. [01-01-07 to 04-15-08]
- 18B. Copy of RX #959147 [01-10-08]; Copy of RX #959148 [01-10-08];
Copy of RX #959146 [01-10-08]; Copy of RX #954804 [12-15-07];
Copy of RX #954803 [12-15-07]; Copy of RX #954805 [12-15-07];
Copy of RX #949168 [11-15-07]; Copy of RX #949169 [11-15-07];
Copy of RX #949167 [11-15-07]; Copy of RX #943285 [10-15-07];
Copy of RX #943284 [10-15-07]; Copy of RX #943286 [10-15-07];
Copy of RX #938593 [09-19-07]; Copy of RX #938594 [09-19-07];
Copy of RX #938592 [09-19-07]; Copy of RX #932901 [08-20-07];
Copy of RX #932900 [08-20-07]; Copy of RX #932902 [08-20-07];
Copy of RX #927961 [07-23-07]; Copy of RX #927962 [07-23-07];
Copy of RX #928063 [07-23-07]; Copy of RX #922887 [06-25-07];
Copy of RX #922885 [06-25-07]; Copy of RX #922886 [06-25-07]
- 19A. Overholt's Pharmacy Patient Profile Printout for Robert G. [06-01-07 to 12-31-07]
- 19B. Copy of RX #923569 [06-28-07]; Copy of RX #923568 [06-28-07];
Copy of RX #923567 [06-28-07]; Copy of RX #926908 [07-16-07];
Copy of RX #926905 [07-16-07]; Copy of RX #926906 [07-16-07];
Copy of RX #933375 [08-21-07]; Copy of RX #933376 [08-21-07];
Copy of RX #933365 [08-21-07]
- 20A. Overholt's Pharmacy Patient Profile Printout for Stephanie T. [01-01-07 to 04-12-08]

- 20B. Copy of RX #930193 [08-04-07]; Copy of RX #930194 [08-04-07];
 Copy of RX #930195 [08-04-07]; Copy of RX #935677 [09-04-07];
 Copy of RX #944085 [10-18-07]; Copy of RX #944087 [10-18-07];
 Copy of RX #944086 [10-18-07]; Copy of RX #944088 [10-18-07];
 Copy of RX #925435 [07-09-07]; Copy of RX #925425 [07-09-07];
 Copy of RX #925426 [07-09-07]; Copy of RX #920832 and 920831
 [06-12-07]; Copy of RX #920816 [06-12-07]; Copy of RX #920817
 [06-12-07]
- 21A. Overholt's Pharmacy Patient Profile Printout for John C. [01-01-07
 to 04-15-08]
- 21B. Copy of RX #938039 [09-17-07]; Copy of RX #938040 [09-17-07];
 Copy of RX #941835 [10-06-07]; Copy of RX #943898 [10-17-07];
 Copy of RX #943897 [10-17-07]; Copy of RX #947398 [11-06-07];
 Copy of RX #947397 [11-06-07]; Copy of RX #949165 [11-15-07];
 Copy of RX #921435 [06-15-07]; Copy of RX #921434 [06-15-07];
 Copy of RX #922901 [06-25-07]; Copy of RX #922900 [06-25-07];
 Copy of RX #925808 [07-10-07]; Copy of RX #925807 [07-10-07];
 Copy of RX #927964 [07-23-07]; Copy of RX #927963 [07-23-07]
- 22A. Overholt's Pharmacy Patient Profile Printout for Tiffany J. [01-01-07
 to 04-12-08]
- 22B. Copy of RX #909782 [04-10-07]; Copy of RX #911553 [04-20-07];
 Copy of RX #929420 [07-31-07]; Copy of RX #932733 [08-17-07];
 Copy of RX #938585 [09-19-07]
- 23A. Overholt's Pharmacy Patient Profile Printout for Debbie T. [01-01-
 07 to 06-30-07]
- 23B. Copy of RX #892823 [01-03-07]; Copy of RX #893698 [01-08-07];
 Copy of RX #895730 [01-19-07]; Copy of RX #895731 [01-19-07];
 Copy of RX #896548 [01-24-07]; Copy of RX #896547 [01-24-07];
 Copy of RX #898855 [02-06-07]; Copy of RX #898856 [02-06-07];
 Copy of RX #899573 [02-10-07]; Copy of RX #899849 [02-12-07];
 Copy of RX #905593 [03-16-07]; Copy of RX #905595 [03-16-07];
 Copy of RX #908611 [04-03-07]; Copy of RX #908612 [04-03-07]
- 24A. Overholt's Pharmacy Patient Profile Printout for Nathan S. [01-01-
 07 to 06-30-07]
- 24B. Copy of RX #893739 [01-09-07]; Copy of RX #893739 [01-09-07];
 Copy of RX #898029 [02-02-07]; Copy of RX #902935 [03-02-07];
 Copy of RX #906978 [date illegible]; Copy of RX #906979 [03-26-
 07]; Copy of RX #912110 [04-24-07]; Copy of RX #912109 [04-24-
 07]; Copy of RX #916085 [05-16-07]; Copy of RX #917288 [05-23-
 07]; Copy of RX #922835 [06-23-07]
25. Finding On Guilty Plea to a Bill Of Information, State of Ohio, -vs-
 Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull
 County, Ohio Common Pleas Court [03-17-11]; Journal Entry, State
 of Ohio, -vs- Kenneth M. Overholt Jr., Case No. 2011-CR-134-A,
 Trumbull County, Ohio Common Pleas Court [03-17-11] Waiver of
 Prosecution, State of Ohio-vs- Kenneth M. Overholt Jr., Case No.
 2011-CR-134-A, Trumbull County, Ohio Common Pleas Court [03-
 17-11]; Bill of Information, The State of Ohio Trumbull... County,
 ss. Case No. 2011-CR-134-A, Court of Common Pleas [03-17-11];
 Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy,
 by and Through its Agent Kenneth M. Overholt Jr., Case No. 2011-
 CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11];
 Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy
 Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No.
 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-
 17-11]; Waiver of Prosecution, State of Ohio -vs- Overholt's

- Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Bill of Information, The State of Ohio Trumbull...County, ss., Case No. 2011-CR-135-A, Court of Common Pleas [03-17-11]
26. Journal Entry, State of Ohio v Andrea R. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Andrea R. Luchette, Case No. 11-CR-104, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Andrea Re. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [03-04-11]
27. Docket Search, State of Ohio -vs- Gaves, Robert J ADL, Case No. 2011 CR 00103 [02-17-11 to 03-25-11]; Journal Entry, State of Ohio v Robert J. Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Robert Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Court of Common Pleas [03-04-11]

Respondent's Exhibits:

1. Statement of Andrea R. Luchette [07-06-11]
2. Medical record of Andrea Luchette [10-05-06]
3. UMPC Post-traumatic Stress Disorder summary [not dated]
4. Statement of Kenneth Hlywa, R.Ph. [not dated]
5. Statement of Susan Fields, R.Ph. [04-19-11]
6. Statement of Barb McAney, R.Ph. [04-19-11]
7. Statement of Stephen E. Ting, R.Ph. [05-12-11]
8. Statement of Edward L. Ting, R.Ph. [05-11-11]
9. Statement of Fred Bencivengo, R.Ph. [not dated]
10. Statement of Rachel Ulam [05-11-11]
11. Statement of Alicia Manser [05-11-11]
12. Statement of Teresa Clingersmith, Pharmacy Technician [05-10-11]
13. Statement of Joy Lay [not dated]
14. Statement of Amanda Rice, Pharmacy Technician [05-12-11]
15. State of Heather L. Pleska, R.Ph. [05-21-11]
16. Statement of Brittany B. McCowin [05-19-11]
17. Statement of Kelly Cooney, C.PhT [not dated]
18. Statement of Theresa Rhine, Pharmacy Tech [not dated]
19. Statement of Nicole Deluco [05-20-11]
20. Champion Police Department Incident/Offense Report Summary [10-04-06]
21. Bill of Information, The State of Ohio Trumbull...County, ss, Case No. 11-CR-104-A [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 Board of Pharmacy indicate that Andrea Rene Luchette was originally licensed in the State of Ohio on October 16, 1996, pursuant to examination, and Andrea Rene Luchette's license to practice pharmacy in the State of Ohio was Summarily Suspended effective March 22, 2011.
- (2) Andrea Rene Luchette did, on or about February 23, 2011, plead and was found guilty in the Common Pleas Court of Trumbull County, Ohio, of felony drug abuse offenses in violation of Sections 2923.03 (A) and (F) and 2925.22 (A) and (B)(2) of the Ohio Revised Code, felonies of the fifth degree. State of Ohio vs. Andrea R. Luchette, Case No. 11-CR-104-A, Trumbull County Common Pleas Court.
- (3) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Joseph H. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 02-08-2008:

RX # 964733	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 964735	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 964736	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 964737	amphetamine 10 mg	#60 tablets	Bulk 180 tabs
RX # 964734	diazepam 10 mg	#90 tablets	Bulk 120 tabs

Dispensed on 11-20-2007:

RX # 950132	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 950120	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 950129	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 950122	amphetamine 10 mg	#60 tablets	Bulk 180 tabs
RX # 950123	diazepam 10 mg	#60 tablets	Bulk 120 tabs

Dispensed on 09-24-2007:

RX # 939398	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 939396	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 939395	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 939397	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 939393	diazepam 10 mg	#60 tablets	Bulk 120 tabs

Dispensed on 05-25-2007:

RX # 917863	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 917865	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 917862	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 917861	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 917860	amphetamine 10mg	#60 tablets	Bulk 180 tabs

RX # 917864 diazepam 10 mg #60 tablets Bulk 120 tabs

Dispensed on 04-17-2007:

RX # 911040 diazepam 10 mg #60 tablets Bulk 120 tabs

Dispensed on 01-31-2007:

RX # 897613 methadose 40 mg #120 tablets Bulk 4 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (4) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Ken V. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 3-18-2008:

RX # 971942 fentanyl 25 mcg #56 patches Bulk 3 patches
RX # 971941 fentanyl 75 mcg #56 patches Bulk 1 patch
RX # 971940 fentanyl 50 mcg #56 patches Bulk 2 patches
RX # 971939 oxycodone 30 mg #120 tablets Bulk 15 tabs

Dispensed on 3-3-2008:

RX # 968997 methadone 10 mg #120 tablets Bulk 15 tabs
RX # 968996 fentanyl 100 mcg #56 patches Bulk 1 patch

Dispensed on 2-19-2008:

RX # 966621 oxycodone 30 mg #120 tablets Bulk 15 tabs
RX # 966620 fentanyl 50 mcg #56 patches Bulk 1 patch
RX # 966619 fentanyl 75 mcg #56 patches Bulk 2 patches

Dispensed on 2-6-2008:

RX # 964193 fentanyl 100 mcg #56 patches Bulk 1 patch

Dispensed on 1-23-2008:

RX # 961634 fentanyl 75 mcg #56 patches Bulk 1 patch
RX # 961633 fentanyl 50 mcg #56 patches Bulk 2 patches

Dispensed on 1-10-2008:

RX # 959198 fentanyl 25 mcg #56 patches Bulk 3 patches

Dispensed on 12-24-2007:

RX # 956189 fentanyl 75 mcg #56 patches Bulk 1 patch
RX # 956190 fentanyl 50 mcg #56 patches Bulk 2 patches

Dispensed on 12-8-2007:

RX # 953395 fentanyl 100 mcg #56 patches Bulk 1 patch

Dispensed on 11-27-2007:

RX # 951211 fentanyl 75 mcg #56 patches Bulk 1 patch
RX # 951210 fentanyl 50 mcg #56 patches Bulk 2 patches
RX # 951212 oxycodone 30 mg #120 tablets Bulk 15 tabs
RX # 951213 methadone 10 mg #120 tablets Bulk 15 tabs

Dispensed on 11-10-2007:

RX # 948358	fentanyl 100 mcg	#56 patches	Bulk 1 patch
-------------	------------------	-------------	--------------

Dispensed on 10-16-2007:

RX # 943616	fentanyl 25 mcg	#56 patches	Bulk 3 patches
RX # 943636	fentanyl 100 mcg	#56 patches	Bulk 1 patch

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (5) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Gary J. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 04-14-2008:

RX # 976590	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 976591	oxycodone 30 mg	#60 tablets	Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (6) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Kayla E. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 10-15-2007:

RX # 943432	Suboxone 8 mg sl	#120 tablets	Bulk 40 tabs
-------------	------------------	--------------	--------------

Dispensed on 11-06-2007:

RX # 947394	Suboxone 8 mg sl	#120 tablets	Bulk 40 tabs
-------------	------------------	--------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (7) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Rene T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 10-12-2007:

RX # 943180	OxyContin 40 mg	#120 tablets	Bulk 12 tabs
RX # 943174	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 10-30-2007:

RX # 946310	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
-------------	-----------------	--------------	-------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (8) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Louis M. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 11-08-2007:

RX # 947884	OxyContin 40 mg QID	#60 tablets	Bulk 12 tabs
-------------	---------------------	-------------	--------------

Dispensed on 11-02-2007:

RX # 946855	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 946854	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 946853	Opana ER 40 mg	#60 tablets	Bulk 15 tabs

Dispensed on 10-30-2007:

RX # 946207	Opana ER 40 mg	#57 tablets	Bulk 15 tabs
-------------	----------------	-------------	--------------

Dispensed on 10-24-2007:

RX # 945365	OxyContin 40 mg	#240 tablets	Bulk 12 tabs
-------------	-----------------	--------------	--------------

Dispensed on 10-18-2007:

RX # 944083	fentanyl 50 mcg	#20 patches	Bulk 2 patches
-------------	-----------------	-------------	----------------

Dispensed on 10-16-2007:

RX # 943739	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
-------------	-----------------	--------------	--------------

Dispensed on 10-02-2007:

RX # 941040	OxyContin 40 mg	#180 tablets	Bulk 12 tabs
-------------	-----------------	--------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (9) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Tonya M. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-28-2008:

RX # 962465	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
-------------	-----------------	-------------	--------------

Dispensed on 01-08-2008:

RX # 958694	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
-------------	-----------------	-------------	--------------

Dispensed on 12-27-2007:

RX # 956787	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
RX # 956789	methadose 40 mg	#240 tabs	Bulk 4 tabs

Dispensed on 11-02-2007:

RX # 946856	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
RX # 946866	OxyContin 40 mg	#60 tablets	Bulk 12 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (10) You did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Anthony H. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 12-18-07:

RX # 955411	OxyContin 80 mg	#75 tablets	Bulk 6 tabs
RX # 955412	OxyContin 80 mg	#15 tablets	Bulk 6 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (11) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Perry B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 8-15-2007:

RX # 932265	methylphenidate 20 mg	#30 tablets	Bulk 90 tabs
RX # 932264	Ritalin LA 30 mg	#30 capsules	Bulk 60 caps

Dispensed on 10-4-2007:

RX # 941456	methylphenidate 20 mg	#30 tablets	Bulk 90 tabs
-------------	-----------------------	-------------	--------------

Dispensed on 11-2-2007:

RX # 946871	methylphenidate 20 mg	#30 tablets	Bulk 90 tabs
-------------	-----------------------	-------------	--------------

Dispensed on 12-3-2007:

RX # 952131	methylphenidate 20 mg	#30 tablets	Bulk 90 tabs
-------------	-----------------------	-------------	--------------

Dispensed on 11-05-2007:

RX # 947178	oxycodone ER 80 mg	#49 tablets	Bulk 6 tabs
-------------	--------------------	-------------	-------------

Dispensed on 11-15-2007:

RX # 949181	OxyContin 80 mg	#49 tablets	Bulk 6 tabs
-------------	-----------------	-------------	-------------

Dispensed on 11-26-2007:

RX # 950916	OxyContin 80 mg	#49 tablets	Bulk 6 tabs
-------------	-----------------	-------------	-------------

Dispensed on 11-29-2007:

RX # 951722	OxyContin 40 mg	#49 tablets	Bulk 12 tabs
-------------	-----------------	-------------	--------------

Dispensed on 12-3-2007:

RX # 952130	OxyContin 40 mg	#210 tablets	Bulk 12 tabs
-------------	-----------------	--------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (12) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with

Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Christine B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 11-15-2007:

RX # 949168	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 949169	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 949167	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 10-15-2007:

RX # 943285	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 943284	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 943286	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 09-19-2007:

RX # 938593	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 938594	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 938592	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 07-23-2007:

RX # 928063	methadone 10 mg	#90 tablets	Bulk 15 tabs
-------------	-----------------	-------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (13) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Stephanie T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 08-04-2007:

RX # 930193	OxyContin 80 mg	#180 tablets	Bulk 6 tabs
RX # 930194	methadose 40 mg	#120 tablets	Bulk 4 tabs
RX # 930195	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 10-18-2007:

RX # 944087	OxyContin 80 mg	#180 tablets	Bulk 6 tabs
RX # 944086	methadose 40 mg	#120 tablets	Bulk 4 tabs
RX # 944088	hydromorphone 8 mg	#120 tablets	Bulk 15 tabs
RX # 944085	Adderall XR 30 mg	#60 capsules	Bulk 60 caps

Dispensed on 07-09-2007:

RX # 925435	OxyContin 80 mg	#180 tablets	Bulk 6 tabs
-------------	-----------------	--------------	-------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (14) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient John C. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 11-06-2007:

RX # 947398	OxyContin 80 mg	#30 tablets	Bulk 6 tabs
RX # 947397	methadose 40 mg	#60 tablets	Bulk 4 tabs

Dispensed on 06-15-2007:

RX # 921435	OxyContin 80 mg	#30 tablets	Bulk 6 tabs
RX # 921434	methadose 40 mg	#40 tablets	Bulk 4 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (15) You did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Tiffany J. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 04-20-2007:

RX # 911553	amphetamine 30 mg	#60 tablets	Bulk 60 tabs
-------------	-------------------	-------------	--------------

Dispensed on 09-19-2007:

RX # 938585	amphetamine 30 mg	#60 tablets	Bulk 60 tabs
-------------	-------------------	-------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (16) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to patient Debbie T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-03-2007:

RX # 892823	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
-------------	-----------------	-------------	--------------

Dispensed on 01-08-2007:

RX # 893698	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
-------------	-----------------	-------------	--------------

Dispensed on 02-12-2007:

RX # 899849	morphine CR 100 mg	#60 tablets	Bulk 9 tabs
-------------	--------------------	-------------	-------------

Dispensed on 04-03-2007:

RX # 908611	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 908612	morphine ER 100 mg	#120 tablets	Bulk 9 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (17) Andrea Rene Luchette did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Andrea Rene Luchette sold the following controlled substances to

patient Nathan S. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-09-2007:

RX # 893739 oxycodone ER 20 mg #120 tablets Bulk 23 tabs

Dispensed on 05-16-2007:

RX # 916085 oxycodone ER 40 mg #120 tablets Bulk 12 tabs

Dispensed on 05-23-2007:

RX # 917288 oxycodone ER 40 mg #120 tablets Bulk 12 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (18) Andrea Rene Luchette did, during calendar years 2007 and 2008, continuously fail to perform prospective drug utilization review, to wit: when dispensing medications to the patients listed above as set forth in the paragraphs above, Andrea Rene Luchette failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

The Board also finds that the aforementioned prescriptions in each of the foregoing paragraphs were not issued for a legitimate medical purpose or for a bonafide medical purpose.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (17) of the Findings of Fact constitute being guilty of a felony and/or 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 (3) through (18) 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.
- (3) The State Board of Pharmacy concludes that paragraph (3) through (17) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Andrea Rene Luchette on March 22, 2011.

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 Andrea Rene Luchette as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-22022, held by Andrea Rene Luchette effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-22022, held by Andrea Rene Luchette effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-22022, held by Andrea Rene Luchette effective as of the date of the mailing of this Order.

Andrea Rene Luchette, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her 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.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Edward Cain moved for Action of the Board; Kevin Mitchell seconded the motion. Motion passed (Aye-3/Nay-2).

R-2012-076 After votes were taken in public session, the Board adopted the following order in the matter of **Robert James Gaves**, R.Ph., (03-2-12746) Newton Falls, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110322-176

in the matter of:

ROBERT JAMES GAVES, R.Ph.

73 Orchard Street
Newton Falls, Ohio 44444

R.Ph. Number 03-2-12746

INTRODUCTION

The matter of Robert James Gaves came for hearing on October 3, 3011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Brian M. Joyce, R.Ph., Board Vice-President Recused.
Michael A. Moné, R.Ph., Board Member, Absent.

Robert James Gaves was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
Joann Predina, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: Andrea Rene Luchette, R.Ph., Respondent
Robert James Gaves, R.Ph., Respondent

State's Exhibits:

- 1-1A. Procedurals for Kenneth M. Overholt, R.Ph.
- 2. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter for Robert James Gaves, R.Ph. [03-22-11]
- 2A-2B. Procedurals for Robert James Gaves, R.Ph.
- 2C. Addendum Notice Summary Suspension/Notice of Opportunity for Hearing for Robert James Gaves, R.Ph. [07-28-11]
- 2D-2F. Procedurals for Robert James Gaves, R.Ph.
- 3-3F. Procedurals for Andrea Rene Luchette, R.Ph.
- 4A. Lake County Adult Detention Facilities Inmate Medical Screening Report [12-14-07]; Lake County Adult Detention Facilities Medications Release form [12-17-07]; Lake County Adult Detention Facilities Physician's Orders/Progress Notes [12-14-07 to 12-17-07]
- 4B. Overholt's Pharmacy Patient Profile Printout for Joseph H. [01-01-07 to 04-12-08]
- 4C. Notarized written statement of Joseph Harrington [03-04-09]
- 4D. Copy of RX #964733 [02-08-08]; Copy of RX #964735 [02-08-08]; Copy of RX #964736 [02-08-08]; Copy of RX #964737 [02-08-08]; Copy of RX #964734 [02-08-08]; Copy of RX #959626 [01-11-08]; Copy of RX #959607 [01-11-08]; Copy of RX #959611 [01-11-08]; Copy of RX #959623 [01-11-08]; Copy of RX #959608 [01-11-08]; Copy of RX #954175 [12-12-07]; Copy of RX #954183 [12-12-07]; Copy of RX #954176 [12-12-07]; Copy of RX #954184 [12-12-07]; Copy of RX #954179 [12-12-07]; Copy of RX #954177 [12-12-07]; Copy of RX #950132 [11-20-07]; Copy of RX #950120 [11-20-07]; Copy of RX #950129 [11-20-07]; Copy of RX #950122 [11-20-07]; Copy of RX #950123 [11-20-07]; Copy of RX #944617 [10-20-07]; Copy of RX #944619 [10-20-07]; Copy of RX #944620 [10-20-07]; Copy of RX #944618 [10-20-07]; Copy of RX #939398 [09-24-07]; Copy of RX #939396 [09-24-07]; Copy of RX #939395 [09-24-07]; Copy of RX #939397 [09-24-07]; Copy of RX #939393 [09-24-07]; Copy of RX #933899 [08-23-07]; Copy of RX #933897 [08-23-07]; Copy of RX #933898 [08-23-07]; Copy of RX #933896 [08-23-07]; Copy of RX #933900 [08-23-07]; Copy of RX #928417 [07-24-07]; Copy of RX #928419 [07-24-07]; Copy of RX #928418 [07-24-07]; Copy of RX #928420 [07-24-07]; Note RX #928415 missing from original file [not dated]; Copy of RX #928416 [07-24-07]; Copy of RX #922881 [06-25-07]; Copy of RX #922880 [06-25-07]; Copy of RX #922883 [06-25-07]; Copy of RX #922884 [06-25-07]; Copy of RX #922882 [06-25-07]; Copy of RX #922775 [06-22-07]; Copy of RX #917883 [05-25-07]; Copy of RX #917865 [05-25-07]; Copy of RX #917862 [05-25-07]; Copy of RX #917861 [05-25-07]; Copy of RX

- #917860 [05-25-07]; Copy of RX #917864 [05-25-07]; Copy of RX #912725 [04-27-07]; Copy of RX #912727 [04-27-07]; Copy of RX #912728 [04-27-07]; Copy of RX #912729 [04-27-07]; Copy of RX #911040 [04-17-07]; Copy of RX #908913 [04-05-07]; Copy of RX #908912 [04-05-07]; Copy of RX #908916 [04-05-07]; Copy of RX #908915 [04-05-07]; Copy of RX #893215 [01-05-07]; Copy of RX #897613 [01-31-07]; Copy of RX #898052 [date illegible]
- 5. Daily log signature documentation [04-05-07 to 02-08-08]
- 6. Letter from Peter S. Franklin, MD [12-17-07]
- 7. Dangerous Drug Distributor Inspection Report for Overholt's Champion Pharmacy Inc. [04-15-08]; Letter from Kenneth M. Overholt, R.Ph., Overholt's Champion Pharmacy, Inc. [05-01-08]; Copy of New Rules for RX's [05-01-08]
- 8. Copy of nine photographs of Overholt's Champion Pharmacy, Inc. [not dated]
- 9. Expert letter from Bruce A. Pizsel, MD, Medical Director Pain Management Svcs. UHHS Geneva & Brown Memorial Hospitals to Agent Pavlich with attachments [08-20-08]
- 10A. Overholt's Pharmacy Patient Profile Printout for Ken V. [01-01-07 to 04-12-08]
- 10B. Medical Expenses printout for Kenneth V. [08-18-09 to 02-03-10]
- 10C. Letter from Peter S. Franklin, MD to Overholt Pharmacy [04-25-08]
- 10D. Copy of RX #974537 [04-02-08]; Copy of RX #974534 [04-02-08]; Copy of RX #971942 [03-18-08]; Copy of RX #971941 [03-18-08]; Copy of RX #971940 [03-18-08]; Copy of RX #971939 [03-18-08]; Copy of RX #968996 [03-03-08]; Copy of RX #968997 [03-03-08]; Copy of RX #966621 [02-19-08]; Copy of RX #966620 [02-19-08]; Copy of RX #966619 [02-19-08]; Copy of RX #966069 [02-15-08]; Copy of RX #966070 [02-15-08]; Copy of RX #964193 [02-06-08]; Copy of RX #961634 [01-23-08]; Copy of RX #961633 [01-23-08]; Copy of RX #961028 [01-18-08]; Copy of RX #960422 [01-16-08]; Copy of RX #959198 [01-10-08]; Copy of RX #957483 [01-02-08]; Copy of RX #956189 [12-24-07]; Copy of RX #956190 [12-24-07]; Copy of RX #956190 [12-24-07]; Copy of RX #956019 [12-21-07]; Copy of RX #956022 [12-21-07]; Copy of RX #956023 [12-21-07]; Copy of RX #953395 [12-08-07]; Copy of RX #951211 [11-27-07]; Copy of RX #951210 [11-27-07]; Copy of RX #951212 [11-27-07]; Copy of RX #951213 [11-27-07]; Copy of RX #948358 [11-10-07]; Copy of RX #947162 [11-05-07]; Copy of RX #945917 [10-29-07]; Copy of RX #944612 [10-20-07]; Copy of RX #944611 [10-20-07]; Copy of RX #943616 [10-16-07]; Copy of RX #943636 [10-16-07]; Copy of RX #941675 [10-05-07]; Copy of RX #941674 [10-05-07]
- 11A. Overholt's Pharmacy Patient Profile Printout for Gary J. [07-01-07 to 07-01-08]
- 11B. Copy of RX #977462 [04-18-08]; Copy of RX #977459 [04-18-08]; Copy of RX #976590 [04-14-08]; Copy of RX #976591 [04-14-08]; Copy of RX #974573 [04-02-08]; Copy of RX #974572 [04-02-08]; Copy of RX #972282 [03-19-08]; Copy of RX #972283 [03-19-08]; Copy of RX #972284 [03-19-08]; Copy of RX #972285 [03-19-08]
- 12A. Overholt's Pharmacy printout for Kayla E. [07-01-07 to 07-01-08]
- 12B. Copy of RX #958549 [01-07-08]; Copy of RX #956414 [12-26-07]; Copy of RX #950591 [11-23-07]; Copy of RX #947394 [11-06-07]; Copy of RX #945767 [10-26-07]; Copy of RX #943432 [10-15-07]; Copy of RX #942014 [10-08-07]
- 13A. Overholt's Pharmacy Patient Profile Printout for Rene T. [07-01-07 to 07-01-08]

- 13B. Copy of RX #932756 [08-18-07]; Copy of RX #932757 [08-18-07];
 Copy of RX #932809 [08-18-07]; Copy of RX #934662 [08-28-07];
 Copy of RX #936465 [09-07-07]; Copy of RX #936467 [09-07-07];
 Copy of RX #940076 [09-26-07]; Copy of RX #940075 [09-26-07];
 Copy of RX #943180 [10-12-07]; Copy of RX #943174 [10-12-07];
 Copy of RX #946310 [no date]
- 14A. Overholt's Pharmacy Patient Profile Printout for Louis M. [01-01-07 to 04-12-08]
- 14B. Copy of RX #947884 [11-08-07]; Copy of RX #946855 [11-02-07];
 Copy of RX #946854 [11-02-07]; Copy of RX #946853 [11-02-07];
 Copy of RX #946207 [10-30-07]; Copy of RX #945365 [10-24-07];
 Copy of RX #944571 [10-19-07]; Copy of RX #944083 [10-18-07];
 Copy of RX #943739 [10-16-07]; Copy of RX #941040 [10-02-07];
 Copy of RX #941045 [10-02-07]; Copy of RX #941044 [10-02-07]
- 15A. Overholt's Pharmacy Patient Profile Printout for Tonya M. [01-01-07 to 04-12-08]
- 15B. Copy of RX #962129 [01-25-08]; Copy of RX #962465 [01-28-08];
 Copy of RX #958694 [01-08-08]; Copy of RX #956787 [12-27-07];
 Copy of RX #956789 [12-27-07]; Copy of RX #954140 [12-12-07];
 Copy of RX #951385 [11-28-07]; Copy of RX #946856 [11-02-07];
 Copy of RX #946866 [11-02-07]
- 16A. Overholt's Pharmacy Patient Profile Printout for Anthony H. [01-01-07 to 04-12-08]
- 16B. Copy of RX #947758 [11-07-07]; Copy of RX #947153 [11-05-07];
 Copy of RX #947157 [11-05-07]; Copy of RX #947158 [11-05-07];
 Copy of RX #947159 [11-05-07]; Copy of RX #947160 [11-05-07];
 Copy of RX #955412 and RX #955411 [12-18-07]
- 17A. Overholt's Pharmacy printout for Perry B., Jr. [01-01-07 to 04-15-08]
- 17B. Copy of RX # 927014 [07-16-07]; Copy of RX #932265 [08-15-07];
 Copy of RX #932264 [08-15-07]; Copy of RX #941456 [10-04-07];
 Copy of RX #946871 [11-02-07]; Copy of RX #952131 [12-03-07];
 Copy of RX #947178 [11-05-07]; Copy of RX #947827 [11-07-07];
 Copy of RX #948398 [11-12-07]; Copy of RX # 949181 [11-15-07];
 Copy of RX #949799 [11-17-07]; Copy of RX #950392 [11-21-07];
 Copy of RX #950916 [11-26-07]; Copy of RX #951722 [11-29-07];
 Copy of RX #952130 [12-03-07]
- 18A. Overholt's Pharmacy Patient Profile Printout for Christine B. [01-01-07 to 04-15-08]
- 18B. Copy of RX #959147 [01-10-08]; Copy of RX #959148 [01-10-08];
 Copy of RX #959146 [01-10-08]; Copy of RX #954804 [12-15-07];
 Copy of RX #954803 [12-15-07]; Copy of RX #954805 [12-15-07];
 Copy of RX #949168 [11-15-07]; Copy of RX #949169 [11-15-07];
 Copy of RX #949167 [11-15-07]; Copy of RX #943285 [10-15-07];
 Copy of RX #943284 [10-15-07]; Copy of RX #943286 [10-15-07];
 Copy of RX #938593 [09-19-07]; Copy of RX #938594 [09-19-07];
 Copy of RX #938592 [09-19-07]; Copy of RX #932901 [08-20-07];
 Copy of RX #932900 [08-20-07]; Copy of RX #932902 [08-20-07];
 Copy of RX #927961 [07-23-07]; Copy of RX #927962 [07-23-07];
 Copy of RX #928063 [07-23-07]; Copy of RX #922887 [06-25-07];
 Copy of RX #922885 [06-25-07]; Copy of RX #922886 [06-25-07]
- 19A. Overholt's Pharmacy Patient Profile Printout for Robert G. [06-01-07 to 12-31-07]
- 19B. Copy of RX #923569 [06-28-07]; Copy of RX #923568 [06-28-07];
 Copy of RX #923567 [06-28-07]; Copy of RX #926908 [07-16-07];
 Copy of RX #926905 [07-16-07]; Copy of RX #926906 [07-16-07];

- Copy of RX #933375 [08-21-07]; Copy of RX #933376 [08-21-07];
Copy of RX #933365 [08-21-07]
- 20A. Overholt's Pharmacy Patient Profile Printout for Stephanie T. [01-01-07 to 04-12-08]
- 20B. Copy of RX #930193 [08-04-07]; Copy of RX #930194 [08-04-07];
Copy of RX #930195 [08-04-07]; Copy of RX #935677 [09-04-07];
Copy of RX #944085 [10-18-07]; Copy of RX #944087 [10-18-07];
Copy of RX #944086 [10-18-07]; Copy of RX #944088 [10-18-07];
Copy of RX #925435 [07-09-07]; Copy of RX #925425 [07-09-07];
Copy of RX #925426 [07-09-07]; Copy of RX #920832 and 920831
[06-12-07]; Copy of RX #920816 [06-12-07]; Copy of RX #920817
[06-12-07]
- 21A. Overholt's Pharmacy Patient Profile Printout for John C. [01-01-07
to 04-15-08]
- 21B. Copy of RX #938039 [09-17-07]; Copy of RX #938040 [09-17-07];
Copy of RX #941835 [10-06-07]; Copy of RX #943898 [10-17-07];
Copy of RX #943897 [10-17-07]; Copy of RX #947398 [11-06-07];
Copy of RX #947397 [11-06-07]; Copy of RX #949165 [11-15-07];
Copy of RX #921435 [06-15-07]; Copy of RX #921434 [06-15-07];
Copy of RX #922901 [06-25-07]; Copy of RX #922900 [06-25-07];
Copy of RX #925808 [07-10-07]; Copy of RX #925807 [07-10-07];
Copy of RX #927964 [07-23-07]; Copy of RX #927963 [07-23-07]
- 22A. Overholt's Pharmacy Patient Profile Printout for Tiffany J. [01-01-07
to 04-12-08]
- 22B. Copy of RX #909782 [04-10-07]; Copy of RX #911553 [04-20-07];
Copy of RX #929420 [07-31-07]; Copy of RX #932733 [08-17-07];
Copy of RX #938585 [09-19-07]
- 23A. Overholt's Pharmacy Patient Profile Printout for Debbie T. [01-01-
07 to 06-30-07]
- 23B. Copy of RX #892823 [01-03-07]; Copy of RX #893698 [01-08-07];
Copy of RX #895730 [01-19-07]; Copy of RX #895731 [01-19-07];
Copy of RX #896548 [01-24-07]; Copy of RX #896547 [01-24-07];
Copy of RX #898855 [02-06-07]; Copy of RX #898856 [02-06-07];
Copy of RX #899573 [02-10-07]; Copy of RX #899849 [02-12-07];
Copy of RX #905593 [03-16-07]; Copy of RX #905595 [03-16-07];
Copy of RX #908611 [04-03-07]; Copy of RX #908612 [04-03-07]
- 24A. Overholt's Pharmacy Patient Profile Printout for Nathan S. [01-01-
07 to 06-30-07]
- 24B. Copy of RX #893739 [01-09-07]; Copy of RX #893739 [01-09-07];
Copy of RX #898029 [02-02-07]; Copy of RX #902935 [03-02-07];
Copy of RX #906978 [date illegible]; Copy of RX #906979 [03-26-
07]; Copy of RX #912110 [04-24-07]; Copy of RX #912109 [04-24-
07]; Copy of RX #916085 [05-16-07]; Copy of RX #917288 [05-23-
07]; Copy of RX #922835 [06-23-07]
25. Finding On Guilty Plea to a Bill Of Information, State of Ohio, -vs-
Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull
County, Ohio Common Pleas Court [03-17-11]; Journal Entry, State
of Ohio, -vs- Kenneth M. Overholt Jr., Case No. 2011-CR-134-A,
Trumbull County, Ohio Common Pleas Court [03-17-11] Waiver of
Prosecution, State of Ohio-vs- Kenneth M. Overholt Jr., Case No.
2011-CR-134-A, Trumbull County, Ohio Common Pleas Court [03-
17-11]; Bill of Information, The State of Ohio Trumbull... County,
ss. Case No. 2011-CR-134-A, Court of Common Pleas [03-17-11];
Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy,
by and Through its Agent Kenneth M. Overholt Jr., Case No. 2011-
CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11];

- Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Waiver of Prosecution, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Bill of Information, The State of Ohio Trumbull...County, ss., Case No. 2011-CR-135-A, Court of Common Pleas [03-17-11]
26. Journal Entry, State of Ohio v Andrea R. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Andrea R. Luchette, Case No. 11-CR-104, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Andrea Re. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [03-04-11]
27. Docket Search, State of Ohio -vs- Gaves, Robert J ADL, Case No. 2011 CR 00103 [02-17-11 to 03-25-11]; Journal Entry, State of Ohio v Robert J. Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Robert Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Court of Common Pleas [03-04-11]

Respondent's Exhibits:

- A. Three newspaper articles [03-05-11 to 04-27-11]
- B. Letter from Kenneth M. Overholt, R.Ph., Overholt's Champion Pharmacy, Inc. to The Ohio State Board of Pharmacy [05-01-08]; New Rules for RX's [05-01-08]
- C. Ohio Department of Job and Family Services Office of Unemployment Compensation Notice of Eligibility Issue [05-07-09]
- D. Docket Search, State of Ohio -vs- Gaves, Robert J Adl, Case No. 2011 CR 00103 [02-17-11 to 05-17-11]
- E. Nine letters of support [04-09-11 to 09-30-11]

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 Robert James Gaves was originally licensed in the State of Ohio on February 23, 1979, pursuant to examination, and Robert James Gaves' license to practice pharmacy in the State of Ohio was Summarily Suspended effective March 22, 2011.

- (2) Robert James Gaves did, on or about February 23, 2011, plead and was found guilty in the Common Pleas Court of Trumbull County, Ohio, of felony drug abuse offenses in violation of Sections 2923.03 (A) and (F) and 2925.22 (A) and (B)(2) of the Ohio Revised Code, felonies of the fifth degree. State of Ohio vs. Robert Gaves, Case No. 11-CR-103-A, Trumbull County Common Pleas Court.
- (3) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Joseph H. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-11-2008:

RX #959626	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX #959607	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX #959611	methadone 10 mg	#960 tablets	Bulk 15 tabs
RX #959623	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX #959608	amphetamine 10 mg	#60 tablets	Bulk 180 tabs

Dispensed on 12-12-2007:

RX #954175	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX #954183	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX #954176	methadose 40 mg	#240 tablets	Bulk 15 tabs
RX 954184	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX #954179	amphetamine 10 mg	#60 tablets	Bulk 180 tabs
RX #954177	diazepam 10 mg	#90 tablets	Bulk 120 tabs

Dispensed on 10-20-2007:

RX #944617	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX #944619	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX #944620	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX #944618	Adderall XR 30 mg	#60 capsules	Bulk 60 caps

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (4) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Ken V. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 4-2-2008:

RX #974534	fentanyl 100 mcg	#56 patches	Bulk 1 patch
------------	------------------	-------------	--------------

Dispensed on 2-15-2008:

RX #966069	fentanyl 25 mcg	#56 patches	Bulk 3 patches
RX #966070	Opana 10 mg	#60 tablets	Bulk 60 tablets

Dispensed on 1-18-2008:

RX #961028	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
------------	-----------------	--------------	--------------

Dispensed on 1-16-2008:

RX #960422	methadone 10 mg	#120 tablets	Bulk 15 tabs
------------	-----------------	--------------	--------------

Dispensed on 1-2-2008:

RX #957483	fentanyl 100 mcg	#56 patches	Bulk 1 patch
------------	------------------	-------------	--------------

Dispensed on 12-21-2007:

RX #956019	methadone 10 mg	#120 tablets	Bulk 15 tabs
RX #956022	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX #956023	fentanyl 25 mcg	#56 patches	Bulk 3 patches

Dispensed on 11-5-2007:

RX #947162	fentanyl 50 mcg	#56 patches	Bulk 2 patches
------------	-----------------	-------------	----------------

Dispensed on 10-29-2007:

RX #945917	fentanyl 75 mcg	#56 patches	Bulk 1 patch
------------	-----------------	-------------	--------------

Dispensed on 10-20-2007:

RX #944612	methadone 10 mg	#120 tablets	Bulk 15 tabs
RX #944611	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (5) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Gary J. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 04-02-2008:

RX #974573	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX #974572	oxycodone 30 mg	#60 tablets	Bulk 15 tabs

Dispensed on 03-19-2008:

RX # 972282	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
RX # 972283	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 972284	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
RX # 972285	Suboxone 2 mg. sl.	#30 tablets	Bulk 40 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (6) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Kayla E. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-07-2008:

RX # 958549	Suboxone 8 mg. sl.	#120 tablets	Bulk 40 tabs
-------------	--------------------	--------------	--------------

Dispensed on 12-26-2007:

RX # 956414	OxyContin 40 mg	#90 tablets	Bulk 12 tabs
-------------	-----------------	-------------	--------------

Dispensed on 11-23-2007:

RX # 950591 OxyContin 40 mg #90 tablets Bulk 12 tabs

Dispensed on 10-26-2007:

RX # 945767 OxyContin 40 mg #90 tablets Bulk 12 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (7) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Rene T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 08-28-2007:

RX # 934662 OxyContin 80 mg #120 tablets Bulk 6 tabs

Dispensed on 09-07-2007:

RX # 936465 OxyContin 80 mg #120 tablets Bulk 6 tabs

Dispensed on 09-26-2007:

RX # 940076 OxyContin 80 mg #120 tablets Bulk 6 tabs
RX # 940075 oxycodone 30 mg #120 tablets Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (8) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Tonya M. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-25-2008:

RX # 962129 OxyContin 40 mg #60 tablets Bulk 12 tabs

Dispensed on 12-12-2007:

RX # 954140 OxyContin 40 mg #60 tablets Bulk 12 tabs

Dispensed on 11-28-2007:

RX # 951385 OxyContin 40 mg #60 tablets Bulk 12 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (9) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Anthony H. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 11-07-2007:

RX # 947758 morphine IMM. REL. 15 mg #120 tablets Bulk 60 tabs

Dispensed on 11-05-2007:

RX # 947153 morphine Sul. ER 200 mg #125 tablets Bulk 5 tabs
RX # 947157 methadose 40 mg #240 tablets Bulk 4 tabs
RX # 947158 Duragesic 75 mcg/h > #30 patches Bulk 1 patch
RX # 947159 oxycodone 30 mg #120 tablets Bulk 15 tabs
RX # 947160 Duragesic 100 mcg/h > #10 patches Bulk 1 patch

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (10) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Perry B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 11-7-2007:

RX # 947827 OxyContin 40 mg #49 tablets Bulk 12 tabs

Dispensed on 11-12-2007:

RX # 948398 OxyContin 40 mg #49 tablets Bulk 12 tabs

Dispensed on 11-17-2007:

RX # 949799 OxyContin 40 mg #49 tablets Bulk 12 tabs

Dispensed on 11-21-2007:

RX # 950392 OxyContin 80 mg #49 tablets Bulk 6 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (11) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Christine B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-10-2008:

RX # 959147 OxyContin 80 mg #120 tablets Bulk 6 tabs
RX # 959148 methadone 10 mg #90 tablets Bulk 15 tabs
RX # 959146 oxycodone 30 mg #120 tablets Bulk 15 tabs

Dispensed on 12-15-2007:

RX # 954804 OxyContin 80 mg #120 tablets Bulk 6 tabs
RX # 954803 methadone 10 mg #90 tablets Bulk 15 tabs
RX # 954805 oxycodone 30 mg #120 tablets Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (12) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient Stephanie T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 09-04-2007:

RX # 935677 OxyContin 80 mg #180 tablets Bulk 6 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (13) Robert James Gaves did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Robert James Gaves sold the following controlled substances to patient John C. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 10-17-2007:

RX # 943898 OxyContin 80 mg #90 tablets Bulk 6 tabs
RX # 943897 methadose 40 mg #120 tablets Bulk 4 tabs

Dispensed on 11-15-2007:

RX # 949165 OxyContin 80 mg #90 tablets Bulk 6 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (14) Robert James Gaves did, during calendar years 2007 and 2008, continuously fail to perform prospective drug utilization review, to wit: when dispensing medications to the patients listed above as set forth in the paragraphs above, Robert James Gaves failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

The Board also finds that the aforementioned prescriptions in each of the foregoing paragraphs were not issued for a legitimate medical purpose or for a bonafide medical purpose.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (13) of the Findings of Fact constitute being guilty of a felony and/or 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 (3) through (14) 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.
- (3) The State Board of Pharmacy concludes that paragraph (3) through (13) of the Findings of Fact constitute being guilty of willfully

violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Robert James Gaves on March 22, 2011.

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 Robert James Gaves as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12746, held by Robert James Gaves effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12746, held by Robert James Gaves effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12746, held by Robert James Gaves effective as of the date of the mailing of this Order.

Robert James Gaves, 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.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Deborah Lange moved for Conclusions of Law; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Edward Cain moved for Action of the Board; Kevin Mitchell seconded the motion. Motion passed (Aye-4/Nay-1).

R-2012-077 After votes were taken in public session, the Board adopted the following order in the matter of **Kenneth M. Overholt**, R.Ph. (03-2-13266) Warren, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110728-198

in the matter of:

KENNETH M. OVERHOLT, R.Ph.

5041 Pierce Road
Warren, Ohio 44481

R.Ph. Number 03-2-13266

INTRODUCTION

The matter of Kenneth M. Overholt came for consideration on October 3, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Brian M. Joyce, R.Ph., Board Vice-President, Recused. Michael A. Moné, R.Ph., Board Member, Absent.

Kenneth M. Overholt was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
Joann Predina, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: Andrea Rene Luchette, R.Ph., Respondent
Robert James Gaves, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter for Kenneth M. Overholt, R.Ph. [07-28-11]
- 1A. Procedural for Kenneth M. Overholt, R.Ph.
- 2-2F. Procedurals for Robert James Gaves, R.Ph.
- 3-3F. Procedurals for Andrea Rene Luchette, R.Ph.
- 4A. Lake County Adult Detention Facilities Inmate Medical Screening Report [12-14-07]; Lake County Adult Detention Facilities Medications Release form [12-17-07]; Lake County Adult Detention Facilities Physician's Orders/Progress Notes [12-14-07 to 12-17-07]
- 4B. Overholt's Pharmacy Patient Profile Printout for Joseph H. [01-01-07 to 04-12-08]
- 4C. Notarized written statement of Joseph Harrington [03-04-09]
- 4D. Copy of RX #964733 [02-08-08]; Copy of RX #964735 [02-08-08];
Copy of RX #964736 [02-08-08]; Copy of RX #964737 [02-08-08];
Copy of RX #964734 [02-08-08]; Copy of RX #959626 [01-11-08];
Copy of RX #959607 [01-11-08]; Copy of RX #959611 [01-11-08];
Copy of RX #959623 [01-11-08]; Copy of RX #959608 [01-11-08];
Copy of RX #954175 [12-12-07]; Copy of RX #954183 [12-12-07];
Copy of RX #954176 [12-12-07]; Copy of RX #954184 [12-12-07];
Copy of RX #954179 [12-12-07]; Copy of RX #954177 [12-12-07];

- Copy of RX #950132 [11-20-07]; Copy of RX #950120 [11-20-07];
Copy of RX #950129 [11-20-07]; Copy of RX #950122 [11-20-07];
Copy of RX #950123 [11-20-07]; Copy of RX #944617 [10-20-07];
Copy of RX #944619 [10-20-07]; Copy of RX #944620 [10-20-07];
Copy of RX #944618 [10-20-07]; Copy of RX #939398 [09-24-07];
Copy of RX #939396 [09-24-07]; Copy of RX #939395 [09-24-07];
Copy of RX #939397 [09-24-07]; Copy of RX #939393 [09-24-07];
Copy of RX #933899 [08-23-07]; Copy of RX #933897 [08-23-07];
Copy of RX #933898 [08-23-07]; Copy of RX #933896 [08-23-07];
Copy of RX #933900 [08-23-07]; Copy of RX #928417 [07-24-07];
Copy of RX #928419 [07-24-07]; Copy of RX #928418 [07-24-07];
Copy of RX #928420 [07-24-07]; Note RX #928415 missing from
original file [not dated]; Copy of RX #928416 [07-24-07]; Copy of
RX #922881 [06-25-07]; Copy of RX #922880 [06-25-07]; Copy of RX
#922883 [06-25-07]; Copy of RX #922884 [06-25-07]; Copy of RX
#922882 [06-25-07]; Copy of RX #922775 [06-22-07]; Copy of RX
#917883 [05-25-07]; Copy of RX #917865 [05-25-07]; Copy of RX
#917862 [05-25-07]; Copy of RX #917861 [05-25-07]; Copy of RX
#917860 [05-25-07]; Copy of RX #917864 [05-25-07]; Copy of RX
#912725 [04-27-07]; Copy of RX #912727 [04-27-07]; Copy of RX
#912728 [04-27-07]; Copy of RX #912729 [04-27-07]; Copy of RX
#911040 [04-17-07]; Copy of RX #908913 [04-05-07]; Copy of RX
#908912 [04-05-07]; Copy of RX #908916 [04-05-07]; Copy of RX
#908915 [04-05-07]; Copy of RX #893215 [01-05-07]; Copy of RX
#897613 [01-31-07]; Copy of RX #898052 [date illegible]
5. Daily log signature documentation [04-05-07 to 02-08-08]
 6. Letter from Peter S. Franklin, MD [12-17-07]
 7. Dangerous Drug Distributor Inspection Report for Overholt's
Champion Pharmacy Inc. [04-15-08]; Letter from Kenneth M.
Overholt, R.Ph., Overholt's Champion Pharmacy, Inc. [05-01-08];
Copy of New Rules for RX's [05-01-08]
 8. Copy of nine photographs of Overholt's Champion Pharmacy, Inc.
[not dated]
 9. Expert letter from Bruce A. Pizsel, MD, Medical Director Pain
Management Svcs. UHHS Geneva & Brown Memorial Hospitals to
Agent Pavlich with attachments [08-20-08]
 - 10A. Overholt's Pharmacy Patient Profile Printout for Ken V. [01-01-07 to
04-12-08]
 - 10B. Medical Expenses printout for Kenneth V. [08-18-09 to 02-03-10]
 - 10C. Letter from Peter S. Franklin, MD to Overholt Pharmacy [04-25-08]
 - 10D. Copy of RX #974537 [04-02-08]; Copy of RX #974534 [04-02-08];
Copy of RX #971942 [03-18-08]; Copy of RX #971941 [03-18-08];
Copy of RX #971940 [03-18-08]; Copy of RX #971939 [03-18-08];
Copy of RX #968996 [03-03-08]; Copy of RX #968997 [03-03-08];
Copy of RX #966621 [02-19-08]; Copy of RX #966620 [02-19-08];
Copy of RX #966619 [02-19-08]; Copy of RX #966069 [02-15-08];
Copy of RX #966070 [02-15-08]; Copy of RX #964193 [02-06-08];
Copy of RX #961634 [01-23-08]; Copy of RX #961633 [01-23-08];
Copy of RX #961028 [01-18-08]; Copy of RX #960422 [01-16-08];
Copy of RX #959198 [01-10-08]; Copy of RX #957483 [01-02-08];
Copy of RX #956189 [12-24-07]; Copy of RX #956190 [12-24-07];
Copy of RX #956190 [12-24-07]; Copy of RX #956019 [12-21-07];
Copy of RX #956022 [12-21-07]; Copy of RX #956023 [12-21-07];
Copy of RX #953395 [12-08-07]; Copy of RX #951211 [11-27-07];
Copy of RX #951210 [11-27-07]; Copy of RX #951212 [11-27-07];
Copy of RX #951213 [11-27-07]; Copy of RX #948358 [11-10-07];

- Copy of RX #947162 [11-05-07]; Copy of RX #945917 [10-29-07];
Copy of RX #944612 [10-20-07]; Copy of RX #944611 [10-20-07];
Copy of RX #943616 [10-16-07]; Copy of RX #943636 [10-16-07];
Copy of RX #941675 [10-05-07]; Copy of RX #941674 [10-05-07]
- 11A. Overholt's Pharmacy Patient Profile Printout for Gary J. [07-01-07 to 07-01-08]
- 11B. Copy of RX #977462 [04-18-08]; Copy of RX #977459 [04-18-08];
Copy of RX #976590 [04-14-08]; Copy of RX #976591 [04-14-08];
Copy of RX #974573 [04-02-08]; Copy of RX #974572 [04-02-08];
Copy of RX #972282 [03-19-08]; Copy of RX #972283 [03-19-08];
Copy of RX #972284 [03-19-08]; Copy of RX #972285 [03-19-08]
- 12A. Overholt's Pharmacy printout for Kayla E. [07-01-07 to 07-01-08]
- 12B. Copy of RX #958549 [01-07-08]; Copy of RX #956414 [12-26-07];
Copy of RX #950591 [11-23-07]; Copy of RX #947394 [11-06-07];
Copy of RX #945767 [10-26-07]; Copy of RX #943432 [10-15-07];
Copy of RX #942014 [10-08-07]
- 13A. Overholt's Pharmacy Patient Profile Printout for Rene T. [07-01-07 to 07-01-08]
- 13B. Copy of RX #932756 [08-18-07]; Copy of RX #932757 [08-18-07];
Copy of RX #932809 [08-18-07]; Copy of RX #934662 [08-28-07];
Copy of RX #936465 [09-07-07]; Copy of RX #936467 [09-07-07];
Copy of RX #940076 [09-26-07]; Copy of RX #940075 [09-26-07];
Copy of RX #943180 [10-12-07]; Copy of RX #943174 [10-12-07];
Copy of RX #946310 [no date]
- 14A. Overholt's Pharmacy Patient Profile Printout for Louis M. [01-01-07 to 04-12-08]
- 14B. Copy of RX #947884 [11-08-07]; Copy of RX #946855 [11-02-07];
Copy of RX #946854 [11-02-07]; Copy of RX #946853 [11-02-07];
Copy of RX #946207 [10-30-07]; Copy of RX #945365 [10-24-07];
Copy of RX #944571 [10-19-07]; Copy of RX #944083 [10-18-07];
Copy of RX #943739 [10-16-07]; Copy of RX #941040 [10-02-07];
Copy of RX #941045 [10-02-07]; Copy of RX #941044 [10-02-07]
- 15A. Overholt's Pharmacy Patient Profile Printout for Tonya M. [01-01-07 to 04-12-08]
- 15B. Copy of RX #962129 [01-25-08]; Copy of RX #962465 [01-28-08];
Copy of RX #958694 [01-08-08]; Copy of RX #956787 [12-27-07];
Copy of RX #956789 [12-27-07]; Copy of RX #954140 [12-12-07];
Copy of RX #951385 [11-28-07]; Copy of RX #946856 [11-02-07];
Copy of RX #946866 [11-02-07]
- 16A. Overholt's Pharmacy Patient Profile Printout for Anthony H. [01-01-07 to 04-12-08]
- 16B. Copy of RX #947758 [11-07-07]; Copy of RX #947153 [11-05-07];
Copy of RX #947157 [11-05-07]; Copy of RX #947158 [11-05-07];
Copy of RX #947159 [11-05-07]; Copy of RX #947160 [11-05-07];
Copy of RX #955412 and RX #955411 [12-18-07]
- 17A. Overholt's Pharmacy printout for Perry B., Jr. [01-01-07 to 04-15-08]
- 17B. Copy of RX # 927014 [07-16-07]; Copy of RX #932265 [08-15-07];
Copy of RX #932264 [08-15-07]; Copy of RX #941456 [10-04-07];
Copy of RX #946871 [11-02-07]; Copy of RX #952131 [12-03-07];
Copy of RX #947178 [11-05-07]; Copy of RX #947827 [11-07-07];
Copy of RX #948398 [11-12-07]; Copy of RX # 949181 [11-15-07];
Copy of RX #949799 [11-17-07]; Copy of RX #950392 [11-21-07];
Copy of RX #950916 [11-26-07]; Copy of RX #951722 [11-29-07];
Copy of RX #952130 [12-03-07]
- 18A. Overholt's Pharmacy Patient Profile Printout for Christine B. [01-01-07 to 04-15-08]

- 18B. Copy of RX #959147 [01-10-08]; Copy of RX #959148 [01-10-08];
 Copy of RX #959146 [01-10-08]; Copy of RX #954804 [12-15-07];
 Copy of RX #954803 [12-15-07]; Copy of RX #954805 [12-15-07];
 Copy of RX #949168 [11-15-07]; Copy of RX #949169 [11-15-07];
 Copy of RX #949167 [11-15-07]; Copy of RX #943285 [10-15-07];
 Copy of RX #943284 [10-15-07]; Copy of RX #943286 [10-15-07];
 Copy of RX #938593 [09-19-07]; Copy of RX #938594 [09-19-07];
 Copy of RX #938592 [09-19-07]; Copy of RX #932901 [08-20-07];
 Copy of RX #932900 [08-20-07]; Copy of RX #932902 [08-20-07];
 Copy of RX #927961 [07-23-07]; Copy of RX #927962 [07-23-07];
 Copy of RX #928063 [07-23-07]; Copy of RX #922887 [06-25-07];
 Copy of RX #922885 [06-25-07]; Copy of RX #922886 [06-25-07]
- 19A. Overholt's Pharmacy Patient Profile Printout for Robert G. [06-01-07 to 12-31-07]
- 19B. Copy of RX #923569 [06-28-07]; Copy of RX #923568 [06-28-07];
 Copy of RX #923567 [06-28-07]; Copy of RX #926908 [07-16-07];
 Copy of RX #926905 [07-16-07]; Copy of RX #926906 [07-16-07];
 Copy of RX #933375 [08-21-07]; Copy of RX #933376 [08-21-07];
 Copy of RX #933365 [08-21-07]
- 20A. Overholt's Pharmacy Patient Profile Printout for Stephanie T. [01-01-07 to 04-12-08]
- 20B. Copy of RX #930193 [08-04-07]; Copy of RX #930194 [08-04-07];
 Copy of RX #930195 [08-04-07]; Copy of RX #935677 [09-04-07];
 Copy of RX #944085 [10-18-07]; Copy of RX #944087 [10-18-07];
 Copy of RX #944086 [10-18-07]; Copy of RX #944088 [10-18-07];
 Copy of RX #925435 [07-09-07]; Copy of RX #925425 [07-09-07];
 Copy of RX #925426 [07-09-07]; Copy of RX #920832 and 920831
 [06-12-07]; Copy of RX #920816 [06-12-07]; Copy of RX #920817
 [06-12-07]
- 21A. Overholt's Pharmacy Patient Profile Printout for John C. [01-01-07 to 04-15-08]
- 21B. Copy of RX #938039 [09-17-07]; Copy of RX #938040 [09-17-07];
 Copy of RX #941835 [10-06-07]; Copy of RX #943898 [10-17-07];
 Copy of RX #943897 [10-17-07]; Copy of RX #947398 [11-06-07];
 Copy of RX #947397 [11-06-07]; Copy of RX #949165 [11-15-07];
 Copy of RX #921435 [06-15-07]; Copy of RX #921434 [06-15-07];
 Copy of RX #922901 [06-25-07]; Copy of RX #922900 [06-25-07];
 Copy of RX #925808 [07-10-07]; Copy of RX #925807 [07-10-07];
 Copy of RX #927964 [07-23-07]; Copy of RX #927963 [07-23-07]
- 22A. Overholt's Pharmacy Patient Profile Printout for Tiffany J. [01-01-07 to 04-12-08]
- 22B. Copy of RX #909782 [04-10-07]; Copy of RX #911553 [04-20-07];
 Copy of RX #929420 [07-31-07]; Copy of RX #932733 [08-17-07];
 Copy of RX #938585 [09-19-07]
- 23A. Overholt's Pharmacy Patient Profile Printout for Debbie T. [01-01-07 to 06-30-07]
- 23B. Copy of RX #892823 [01-03-07]; Copy of RX #893698 [01-08-07];
 Copy of RX #895730 [01-19-07]; Copy of RX #895731 [01-19-07];
 Copy of RX #896548 [01-24-07]; Copy of RX #896547 [01-24-07];
 Copy of RX #898855 [02-06-07]; Copy of RX #898856 [02-06-07];
 Copy of RX #899573 [02-10-07]; Copy of RX #899849 [02-12-07];
 Copy of RX #905593 [03-16-07]; Copy of RX #905595 [03-16-07];
 Copy of RX #908611 [04-03-07]; Copy of RX #908612 [04-03-07]
- 24A. Overholt's Pharmacy Patient Profile Printout for Nathan S. [01-01-07 to 06-30-07]

- 24B. Copy of RX #893739 [01-09-07]; Copy of RX #893739 [01-09-07]; Copy of RX #898029 [02-02-07]; Copy of RX #902935 [03-02-07]; Copy of RX #906978 [date illegible]; Copy of RX #906979 [03-26-07]; Copy of RX #912110 [04-24-07]; Copy of RX #912109 [04-24-07]; Copy of RX #916085 [05-16-07]; Copy of RX #917288 [05-23-07]; Copy of RX #922835 [06-23-07]
25. Finding On Guilty Plea to a Bill Of Information, State of Ohio, -vs- Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Journal Entry, State of Ohio, -vs- Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull County, Ohio Common Pleas Court [03-17-11] Waiver of Prosecution, State of Ohio-vs- Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Bill of Information, The State of Ohio Trumbull... County, ss. Case No. 2011-CR-134-A, Court of Common Pleas [03-17-11]; Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy, by and Through its Agent Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Journal Entry, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Waiver of Prosecution, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Overholt's Champion Pharmacy Inc. by and Through it's Agent: Kenneth M. Overholt Jr., Case No. 2011-CR-135-A, Trumbull County, Ohio Common Pleas Court [03-17-11]; Bill of Information, The State of Ohio Trumbull...County, ss., Case No. 2011-CR-135-A, Court of Common Pleas [03-17-11]
26. Journal Entry, State of Ohio v Andrea R. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Andrea R. Luchette, Case No. 11-CR-104, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Andrea Re. Luchette, Case No. 11-CR-104-A, Trumbull County, Ohio Common Pleas Court [03-04-11]
27. Docket Search, State of Ohio -vs- Gaves, Robert J ADL, Case No. 2011 CR 00103 [02-17-11 to 03-25-11]; Journal Entry, State of Ohio v Robert J. Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [05-13-11]; Finding on Guilty Plea to a Bill of Information, State of Ohio -vs- Robert Gaves, Case No. 11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Common Pleas Court [03-04-11]; Addendum to Plea Agreement Pursuant to Ohio Rules of Criminal Procedure 11 (F), State of Ohio -vs- Robert Gaves, Case No. :11-CR-103-A, Trumbull County, Ohio Court of Common Pleas [03-04-11]

Respondent's Exhibits: None

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 Kenneth M. Overholt was originally licensed in the State of Ohio on August 9, 1978, pursuant to examination, and Kenneth M. Overholt's license to practice pharmacy in the State of Ohio lapsed on September 15, 2010. Records further reflect during the relevant time periods stated herein, Kenneth M. Overholt was the Responsible Pharmacist at Overholt's Champion Pharmacy, Inc., 4619 Mahoning Avenue, NW, Warren, 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) Kenneth M. Overholt did, on or about March 17, 2011, plead and was found guilty in the Common Pleas Court of Trumbull County, Ohio, of felony drug abuse offenses in violation of Sections 2925.03 (A)(1) and (C)(1)(a) of the Ohio Revised Code, felonies of the fourth degree. State of Ohio vs. Kenneth M. Overholt Jr., Case No. 2011-CR-134-A, Trumbull County Common Pleas Court.
- (3) Kenneth M. Overholt did, on or about the following dates, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Joseph H. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 08-23-2007:

RX # 933899	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 933897	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 933898	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 933896	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 933900	diazepam 10 mg	#60 tablets	Bulk 120 tabs

Dispensed on 07-24-2007:

RX # 928417	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 928419	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 928418	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 928420	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 928416	diazepam 10 mg	#60 tablets	Bulk 120 tabs

Dispensed on 06-25-2007:

RX # 922881	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 922880	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 922883	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 922884	amphetamine 10mg	#60 tablets	Bulk 180 tabs
RX # 922882	diazepam 10 mg	#60 tablets	Bulk 120 tabs

Dispensed on 06-22-2007:

RX # 922775	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
-------------	-----------------	--------------	--------------

Dispensed on 04-27-2007:

RX # 912725	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 912727	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 912728	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 912729	amphetamine 10mg	#60 tablets	Bulk 180 tabs

Dispensed on 04-05-2007:

RX # 908913	hydromorphone 8 mg	#900 tablets	Bulk 15 tabs
RX # 908912	methadose 40 mg	#240 tablets	Bulk 4 tabs
RX # 908916	Adderall XR 30 mg	#60 capsules	Bulk 60 caps
RX # 908915	amphetamine 10mg	#60 tablets	Bulk 180 tabs

Dispensed on 01-05-2007:

RX # 893215	methadose 40 mg	#120 tablets	Bulk 4 tabs
-------------	-----------------	--------------	-------------

Dispensed on 02-02-2007:

RX # 898052	methadose 40 mg	#240 tablets	Bulk 4 tabs
-------------	-----------------	--------------	-------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (4) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Ken V. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 4-2-2008:

RX # 974537	methadone 10 mg	#120 tablets	Bulk 15 tabs
-------------	-----------------	--------------	--------------

Dispensed on 10-5-2007:

RX # 941675	fentanyl 75 mcg	#56 patches	Bulk 1 patch
RX # 941674	fentanyl 50 mcg	#56 patches	Bulk 2 patches

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (5) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Gary J. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 04-18-2008:

RX # 977462	OxyContin 40 mg	#60 tablets	Bulk 12 tabs
RX # 977459	Suboxone 2 mg sl	#30 tablets	Bulk 40 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (6) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to

patient Rene T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 08-18-2007:

RX # 932756	OxyContin 80 mg	#80 tablets	Bulk 6 tabs
RX # 932757	oxycodone 30 mg	#80 tablets	Bulk 15 tabs
RX # 932809	Suboxone 8 mg sl	#90 tablets	Bulk 40 tabs

Dispensed on 09-07-2007:

RX # 936467	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
-------------	-----------------	--------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (7) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Louis M. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 10-19-2007:

RX # 944571	methadose 40 mg	#240 tablets	Bulk 4 tabs
-------------	-----------------	--------------	-------------

Dispensed on 10-02-2007:

RX # 941045	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 941044	methadose 40 mg	#240 tablets	Bulk 4 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (8) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Perry B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 7-16-2007:

RX # 927014	methylphenidate 20 mg	#30 tablets	Bulk 90 tabs
-------------	-----------------------	-------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (9) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Christine B. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 08-20-2007:

RX # 932901	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 932900	methadone 10 mg	#90 tablets	Bulk 15 tabs
RX # 932902	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 07-23-2007:

RX # 927961	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 927962	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 06-25-2007:

RX # 922887	OxyContin 80 mg	#120 tablets	Bulk 6 tabs
RX # 922885	methadone 10 mg	#60 tablets	Bulk 15 tabs
RX # 922886	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (10) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Robert G. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 06-28-2007:

RX # 923569	OxyContin 80 mg	#150 tablets	Bulk 6 tabs
RX # 923568	methadose 40 mg	#90 tablets	Bulk 4 tabs
RX # 923567	oxycodone 30 mg	#150 tablets	Bulk 15 tabs

Dispensed on 07-16-2007:

RX # 926908	OxyContin 80 mg	#150 tablets	Bulk 6 tabs
RX # 926905	methadose 40 mg	#90 tablets	Bulk 4 tabs
RX # 926906	oxycodone 30 mg	#150 tablets	Bulk 15 tabs

Dispensed on 08-21-2007:

RX # 933375	OxyContin 80 mg	#150 tablets	Bulk 6 tabs
RX # 933376	methadose 40 mg	#90 tablets	Bulk 4 tabs
RX # 933365	oxycodone 30 mg	#150 tablets	Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (11) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Stephanie T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 07-09-2007:

RX # 925426	methadose 40 mg	#120 tablets	Bulk 4 tabs
RX # 925425	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Dispensed on 06-12-2007:

RX # 920832	oxycodone ER 80 mg	#30 tablets	Bulk 6 tabs
RX # 920831	oxycodone ER 80 mg	#150 tablets	Bulk 6 tabs
RX # 920816	methadose 40 mg	#120 tablets	Bulk 4 tabs
RX # 920817	oxycodone 30 mg	#120 tablets	Bulk 15 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (12) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient John C. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 09-17-2007:

RX # 938039	OxyContin 80 mg	#90 tablets	Bulk 6 tabs
RX # 938040	methadose 40 mg	#120 tablets	Bulk 4 tabs

Dispensed on 10-06-2007:

RX # 941834	OxyContin 80 mg	#30 tablets	Bulk 6 tabs
RX # 941835	methadose 40 mg	#60 tablets	Bulk 4 tabs

Dispensed on 06-25-2007:

RX # 922901	OxyContin 80 mg	#90 tablets	Bulk 6 tabs
RX # 922900	methadose 40 mg	#120 tablets	Bulk 4 tabs

Dispensed on 07-10-2007:

RX # 925808	OxyContin 80 mg	#30 tablets	Bulk 6 tabs
RX # 925807	methadose 40 mg	#30 tablets	Bulk 4 tabs

Dispensed on 07-23-2007:

RX # 927964	OxyContin 80 mg	#90 tablets	Bulk 6 tabs
RX # 927963	methadose 40 mg	#120 tablets	Bulk 4 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (13) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Tiffany J. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 04-10-2007:

RX # 909782	amphetamine 30 mg	#60 tablets	Bulk 60 tabs
-------------	-------------------	-------------	--------------

Dispensed on 07-31-2007:

RX # 929420	amphetamine 30 mg	#60 tablets	Bulk 60 tabs
-------------	-------------------	-------------	--------------

Dispensed on 08-17-2007:

RX # 932733	amphetamine 30 mg	#60 tablets	Bulk 60 tabs
-------------	-------------------	-------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (14) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Debbie T. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 01-19-2007:

RX # 895730	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
RX # 895731	morphine CR 100 mg	#60 tablets	Bulk 9 tabs

Dispensed on 01-24-2007:

RX # 896548	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
RX # 896547	morphine CR 100 mg	#60 tablets	Bulk 9 tabs

Dispensed on 02-06-2007:

RX # 898855	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
RX # 898856	morphine CR 100 mg	#60 tablets	Bulk 9 tabs

Dispensed on 02-10-2007:

RX # 899573	oxycodone 30 mg	#60 tablets	Bulk 15 tabs
-------------	-----------------	-------------	--------------

Dispensed on 03-16-2007:

RX # 905593	oxycodone 30 mg	#120 tablets	Bulk 15 tabs
RX # 905595	morphine ER 100 mg	#120 tablets	Bulk 9 tabs

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (15) Kenneth M. Overholt did, on or about the following dates, knowingly sell, aid and abet the sale, and/or conspire to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Kenneth M. Overholt sold the following controlled substances to patient Nathan S. pursuant to documents purporting to be prescriptions not written for a legitimate medical purpose:

Dispensed on 02-02-2007:

RX # 898029	oxycodone ER 20 mg	#120 tablets	Bulk 23 tabs
-------------	--------------------	--------------	--------------

Dispensed on 03-02-2007:

RX # 902935	oxycodone ER 40 mg	#120 tablets	Bulk 12 tabs
-------------	--------------------	--------------	--------------

Dispensed on 03-26-2007:

RX # 906978	oxycodone ER 40 mg	#120 tablets	Bulk 12 tabs
RX # 906979	methadone 10 mg	#120 tablets	Bulk 15 tabs

Dispensed on 04-24-2007:

RX # 912110	oxycodone ER 40 mg	#60 tablets	Bulk 12 tabs
RX # 912109	methadone 10 mg	#60 tablets	Bulk 15 tabs

Dispensed on 06-23-2007:

RX # 922835	oxycodone ER 40 mg	#120 tablets	Bulk 12 tabs
-------------	--------------------	--------------	--------------

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (16) Kenneth M. Overholt did, during calendar years 2007 and 2008, continuously fail to perform prospective drug utilization review, to wit: when dispensing medications to the patients listed as set forth in the paragraphs above, Kenneth M. Overholt failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

The Board also finds that the aforementioned prescriptions in each of the foregoing paragraphs were not issued for a legitimate medical purpose or for a bonafide medical purpose.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (15) of the Findings of Fact constitute being guilty of a felony and/or 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 (3) through (16) of the Findings of Fact constitute being guilty of dishonesty and/or 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 paragraphs (3) through (15) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 Kenneth M. Overholt as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13266, held by Kenneth M. Overholt effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13266, held by Kenneth M. Overholt effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13266, held by Kenneth M. Overholt effective as of the date of the mailing of this Order.

Kenneth M. Overholt, 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.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

Edward Cain moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

6:32 p.m. The Board recessed for the day.

Tuesday, October 4, 2011

9:00 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:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Kevin J. Mitchell, R.Ph.

R-2012-078 After discussion, Mr. Gahm moved that the new and amended rules be approved for filing. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 6.

R-2012-079 Mr. Mitchell moved that the effective date for the rule changes be October 17, 2011. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 6.

R-2012-080 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:

Central Admixture Pharmacy , Valley View, Ohio	(02-2162500)
Trinity Medical Center West , Steubenville, Ohio	(02-0035900)

After discussion, Mr. Joyce 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.

9:12 a.m. The Board was joined by Assistant Attorney General Tracy Nave to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Henry B. Rutland**, R.Ph., (03-3-09291) Columbus, Ohio. Mr. Casar recused himself from this hearing. Mr. Joyce assumed the Chair.

9:40 a.m. The hearing ended and the record was closed.

9:42 a.m. The Board was joined by Assistant Attorney General Tracy Nave to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **George Warren Mock**, R.Ph., (03-2-06610). Mr. Kolezynski recused himself from this hearing.

10:05 a.m. The hearing ended and the record was closed.

10:06 a.m. Ms. Lange 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. Gahm and a roll-

call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *recused*; Lange – *yes*; Mitchell – *yes*.

10:20 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-081 After votes were taken in public session, the Board adopted the following order in the matter of **Henry B. Rutland**, R.Ph., (03-3-09291) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110630-192

in the matter of:

HENRY B. RUTLAND, R.Ph.

202 W. Dominion Boulevard
Columbus, Ohio 43215

R.Ph. Number 03-3-09291

INTRODUCTION

The matter of Henry B. Rutland came for consideration on October 4, 2011, before the following members of the Board: Brian M. Joyce, R.Ph., (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Donald M. Casar, R.Ph., Board President, Recused.

Michael A. Moné, R.Ph., Board Member, Absent.

Henry B. Rutland was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Eric Griffin, Ohio State Board of Pharmacy

Respondent's Witness: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-30-11]
- 1A. Procedural
2. State Board of Pharmacy Order in re Henry B. Rutland, II, R.Ph. [02-26-85]
- 2A. Bill of Information, UNITED STATES OF AMERICA, vs. HENRY B. RUTLAND, CASE No. 2:09-cr-245, United States District Court for the Southern District of Ohio Eastern Division [10-14-09]
3. Plea Agreement, UNITED STATES OF AMERICA, vs. HENRY B. RUTLAND, CASE No. 2:09-cr-245, United States District Court for the Southern District of Ohio Eastern Division [10-14-09]
4. Judgment, United States of America v. Henry B. Rutland, CASE NUMBER: 2:09-cr 245, United States District Court Southern District of Ohio [04-16-10]
5. Correspondence from Henry B. Rutland, R.Ph. [not dated]

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 Henry B. Rutland was originally licensed in the State of Ohio on August 4, 1969, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Henry B. Rutland was, on or about April 16, 2010, convicted of Accessing with Intent to View Child Pornography in violation of 18 U.S.C. 2252A(a)(5)(B), a felony, in the United States District Court, Southern District of Ohio. Henry B. Rutland was sentenced to one year and one day, followed by 10 years supervised release. Henry B. Rutland is required to be registered as a tier 2 sex offender in the State of Ohio for 25 years.

CONCLUSIONS OF LAW

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

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 Henry B. Rutland, R.Ph. as follows:

- (1) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the Pharmacist identification card, No. 03-3-09291, held by Henry B. Rutland effective as of the date of the mailing of this Order.

Henry B. Rutland, 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.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

Troy Gahm moved for Conclusions of Law; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

Kevin Mitchell moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

R-2012-082 President Casar resumed the Chair. After votes were taken in public session, the Board adopted the following order in the matter of **George Warren Mock, R.Ph.**, (03-2-06610) Strongsville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110630-192

in the matter of:

GEORGE WARREN MOCK, R.Ph.

17128 Ridge Creek Drive
Strongsville, Ohio 44136

R.Ph. Number 03-2-06610

INTRODUCTION

The matter of George Warren Mock came for consideration on October 4, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Richard F. Kolezynski, R.Ph., Board Member, Recused.
Michael A. Moné, R.Ph., Board Member, Absent.

George Warren Mock was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witness: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-30-11]
- 1A. Procedural
2. Letter from George Warren Mock [07-12-11]
3. Copy of RX #C 450212 [04-21-10]
4. Patient Profile of Ernie Reed [04-21-10 to 05-21-10]
5. Copy of RX #N 443883 [11-23-09 and 12-04-09]
6. Marc's Pharmacy 23 Pharmacist's Statement for Dennis P. [01-01-00 to 05-25-10]
7. Copy of RX #N 439225 [08-27-09]
8. Marc's Pharmacy 23 Pharmacist's Statement for Michael C. [01-01-00 to 05-25-10]

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 George Warren Mock was originally licensed in the State of Ohio on November 5, 1957, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) George Warren Mock did, on or about May 11, 2010, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: George Warren Mock sold a refill of 120 tablets of hydrocodone 7.5 mg with APAP 750 mg pursuant to RX #C450212 ten days prior to the legitimate date for refill. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (3) George Warren Mock did, on or about May 21, 2010, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: George Warren Mock sold a refill of 120 tablets of hydrocodone 7.5 mg with APAP 750 mg pursuant to RX C450212 twenty days prior to the legitimate date for refill. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (4) George Warren Mock did, on or about December 4, 2009, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: George Warren Mock sold 80 tablets of OxyContin 80 mg pursuant to RX #443883 eleven days prior to the legitimate date for dispensing. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (5) George Warren Mock did, on or about August 27, 2009, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: George Warren Mock sold 120 tablets of oxycodone 10 mg with APAP 325 mg pursuant to RX #439225 seventeen days prior to the legitimate date for dispensing. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (6) George Warren Mock did, on or about April 21, 2010, when dispensing RX #C450212, fail to offer to counsel the patient or caregiver. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.
- (7) George Warren Mock did, on or about May 11, 2010, when dispensing RX #C450212, fail to offer to counsel the patient or caregiver. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.
- (8) George Warren Mock did, on or about May 21, 2010, when dispensing RX #C450212, fail to offer to counsel the patient or caregiver. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.
- (9) George Warren Mock did, on or about May 11, 2010, prior to dispensing RX #C450212, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: George Warren Mock failed to review the patient profile for over-

utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

- (10) George Warren Mock did, on or about May 21, 2010, prior to dispensing RX #C450212, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: George Warren Mock failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. 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) through (10) 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 paragraphs (2) through (10) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. 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 hereby suspends for five years the pharmacist identification card, No. 03-2-06610, held by George Warren Mock and such suspension is effective as of the date of the mailing of this Order.

- (A) George Warren Mock, 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) George Warren Mock, 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 five years from the effective date of this Order, the Board will reinstate George Warren Mock's license to practice pharmacy in Ohio only if the following conditions have been met:

- (A) George Warren Mock must show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE) prior to returning to the practice of pharmacy.

(B) 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.

(C) Compliance with the terms of this Order.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-4/Nay-1).

10:23 a.m. The Board recessed briefly.

R-2012-083 Mr. Joyce moved that the Conference Call minutes of August 29, 2001, be approved as amended. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 6.*

R-2012-084 Mr. Mitchell moved that the September minutes be approved as amended. Mr. Joyce seconded the motion and it was approved by the Board: *Aye – 6.*

R-2012-085 The Board considered a request from **James Kamau Mwangi**, pharmacy intern (06-0-09351) for permission to extend his internship by one additional year due to extraordinary circumstances. After discussion, Mr. Joyce moved that **Mr. Mwangi's** request be approved. The motion was seconded by Mr. Gahm and approved by the Board: *Aye – 6.*

R-2012-086 The Board considered a request from **Rani Mahmoud El-Hinnawi**, pharmacy intern (06-0-09945) for permission to extend his internship by one additional year due to extraordinary circumstances. After discussion, Mr. Joyce moved that **Mr. El-Hinnawi's** request be approved. The motion was seconded by Mr. Cain and approved by the Board: *Aye – 4; Nay – 3.* President Casar cast the tie-breaking vote.

11:07 a.m. The Board recessed for lunch.

1:30 p.m. The following candidates for licensure by reciprocity met in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts. They introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator.

Baffour Agyare	<i>West Virginia</i>
Ibtisam Bendjilali	<i>Pennsylvania</i>
Amy L. Blommel	<i>Pennsylvania</i>
Marvin Blaine Byard	<i>West Virginia</i>
Kassie Dawn Castranova	<i>West Virginia</i>
Dawn Marie Delaney-Swain	<i>Pennsylvania</i>
Ahmed Elakabawy	<i>Virginia</i>
Lori Gray	<i>Tennessee</i>
Elizabeth Ann Haas	<i>Michigan</i>
Brett Robert Kritzberger	<i>New Jersey</i>
Anthony J. Mangiapanello	<i>Missouri</i>

Priyanka Marfatia	<i>Michigan</i>
Lindsay Michelle Miller	<i>Kentucky</i>
Sherin Jacob Padinjar	<i>Alabama</i>
Adrienne Nicole Paris	<i>South Carolina</i>
Bhavesh Pankaj Patel	<i>Illinois</i>
Matthew David Roesch	<i>Virginia</i>
Katherine C. Suskevich	<i>New Jersey</i>
Emily Ryan Tschop	<i>Kentucky</i>
James Edward Ziolkowski	<i>New Mexico</i>

- 2:52 p.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 the following members present:
- Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Kevin J. Mitchell, R.Ph.
- 2:52 p.m. The Board was joined by Assistant Attorney General Tracy Nave to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Caroline Mutheu Nzongi**, Columbus, Ohio.
- 3:25 p.m. The hearing ended and the record was closed.
- 3:25 p.m. Mr. Kolezynski 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. Joyce and a roll-call vote was conducted by President Casar as follows:
- 3:29 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2012-087** After votes were taken in public session, the Board adopted the following order in the matter of **Caroline Mutheu Nzongi**, Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110630-191

in the matter of:

CAROLINE MUTHEU NZONGI

1351 Dublin Road, Apt. 31
Columbus, Ohio 43215

INTRODUCTION

The matter of Caroline Mutheu Nzongi came for consideration on October 4, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Michael A. Moné, R.Ph., Board Member, Absent.

Caroline Mutheu Nzongi was not present nor was she represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [06-30-11]
- 1A. Procedural
2. Pharmacy Intern Registration Application submitted by Caroline Mutheu Nzongi with attachments [09-21-10]
3. Notarized Statement of Caroline Nzongi [01-21-11]
4. Plea Agreement, UNITED STATES OF AMERICA, vs. CAROLINE NZONGI, No. 08-00254-03-CR-W-ODS, United States District Court, Western District of Missouri, Western Division [02-06-09]

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 Board of Pharmacy indicate that Caroline Mutheu Nzongi applied to the Board for registration as an intern in the State of Ohio on September 21, 2010.
- (2) Caroline Mutheu Nzongi did, on or about February 5, 2009, plead guilty to Conspiracy to Commit Marriage Fraud, a Class D felony, in the United States District Court for the Western District of Missouri. Such conduct indicates that Caroline Mutheu Nzongi falls within the meaning of paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Caroline Mutheu Nzongi did, on or about September 29, 2010, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Caroline Mutheu Nzongi indicated on her pharmacy intern application that she "has always been a law-abiding citizen brought up with good morals and character . . ." and that Caroline Mutheu Nzongi was "totally unaware of the fraudulent nature of her (Mary Gitiha's) marriage." However, such is untrue. Such conduct indicates that Caroline Mutheu Nzongi falls within the meaning of paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) Caroline Mutheu Nzongi did, on or about January 21, 2011, knowingly make a false statement with purpose to secure the

issuance of a license or registration, to wit: Caroline Mutheu Nzongi indicated to Board agents that she “did not participate, nor gain from any tax fraud in any way.” However, such is untrue. Such conduct indicates that Caroline Mutheu Nzongi falls within the meaning of paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been convicted of a felony as provided in paragraph (A) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (3) and (4) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Section 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 pharmacy intern in Ohio and, therefore, denies the Pharmacy Intern Registration Application submitted by Caroline Mutheu Nzongi on or about September 21, 2010.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

Troy Gahm moved for Conclusions of Law; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

Kevin Mitchell moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

- 3:31 p.m. The Board recessed briefly.
- 3:39 p.m. After discussion, Ms. Lange moved that the effective date for the new and amended rules be changed to October 24, 2011. Mr. Kolezynski seconded the motion and it was approved: *Aye* – 6.
- 3:40 p.m. The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Daniel Kane Cherry**, R.Ph. (03-1-24728) Grove City, Ohio.
- 3:53 p.m. The hearing ended and the meeting was opened to the public.
- 3:55 p.m. Mr. Kolezynski 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. Cain and a roll-

call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*.

3:39 p.m. The Executive Session ended and the meeting was opened to the public.

R-2012-088 After votes were taken in public session, the Board adopted the following order in the matter of **Daniel Kane Cherry**, R.Ph. (03-1-24728) Grove City, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110816-204

in the matter of:

DANIEL KANE CHERRY, R.Ph.

5007 Roecklein Ct.

Grove City, Ohio 43123

R.Ph. Number 03-1-24728

INTRODUCTION

The matter of Daniel Kane Cherry came for hearing on October 4, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Michael A. Moné, R.Ph., Board Member, Absent.

Daniel Kane Cherry was not present nor was he represented by counsel. Daniel Kane Cherry submitted his contentions in writing. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [08-16-11]
1A-1B. Procedurals
2. Daniel Kane Cherry's contentions in writing letter [08-18-11];
Continuing education credits and certificates [11-11-09 to 03-29-10]
3. Continuing education audit documentation for Daniel Kane Cherry [08-20-10 to 10-27-10]; Continuing education credits and certificates [05-07-07 to 03-29-10]

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 Daniel Kane Cherry was originally licensed in the State of Ohio on July 11, 2001, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Daniel Kane Cherry did, on or about or prior to May 15, 2010, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Daniel Kane Cherry was short one continuing education hour (0.1 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

CONCLUSION OF LAW

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 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 adjudicates the matter of Daniel Kane Cherry as follows:

- (A) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes on Daniel Kane Cherry a monetary penalty of two hundred and fifty dollars (\$250.00) due and owing within thirty days of the mailing 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) Daniel Kane Cherry must obtain, within six months from the effective date of this Order, three hours of continuing pharmacy education (0.3 CEUs) in board approved Jurisprudence, which may not also be used for license renewal.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-6/Nay-0).

Brian Joyce moved for Action of the Board; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

4:00 p.m. The Board recessed for the day.

Wednesday, October 5, 2011

9:00 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:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Kevin J. Mitchell, R.Ph.

9:02 a.m. Ms. Lange 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. Mitchell and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*.

10:57 a.m. The Executive Session ended and the meeting was opened to the public.

The Board discussed issues concerning the Ohio Automated Prescription Drug Monitoring Program.

11:09 a.m. Ms. Lange moved that the Board receive Per Diem as follows:

PER DIEM	09/19	09/21	10/03	10/04	10/05	Total
Cain	-	-	1	1	1	3
Casar	1	1	1	1	1	5
Gahm	-	1	1	1	1	4
Joyce	-	-	1	1	1	3
Lange	-	-	1	1	1	3
Kolezynski	-	-	1	1	1	3
Mitchell	-	-	1	1	1	3
Moné	-	-	-	-	-	-

Mr. Mitchell seconded the motion and it was approved by the Board: *Aye* – 6.

The Board discussed matters not requiring official actions.

11:10 a.m. Ms. Lange 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. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*.

11:55 a.m. The Executive Session ended and the meeting was opened to the public.

11:56 a.m. Ms. Lange moved that the meeting be adjourned. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

**The Ohio State Board of Pharmacy
approved these Minutes November 1, 2011**