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STATE BOARD OF PHARMACY; 77 SOUTH HIGH STREET, ROOM 1702; COLUMBUS, OHIO 43215-6126
Tel: 614/466-4143 Fax: 614/752-4836 Email: exec@bop.state.oh.us

Minutes Of The Meeting
Ohio State Board of Pharmacy
February 7, 8, 9, 2005

MONDAY, FEBRUARY 7, 2005

10:00 a.m. ROLL CALL

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

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

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

Mr. Rowland announced that the following settlement agreements had been signed by all parties and were now effective:

R-2005-121

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

In The Matter Of:

Morton H. Pierce, R.Ph.
Rt. 422, P.O. Box 483
Chagrin Falls, Ohio 44022
(R.Ph. No. 03-2-07454)

This Settlement Agreement is entered into by and between Morton H. Pierce 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.

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

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Morton H. Pierce neither admits nor denies the allegations pending in the Board's Notice of Opportunity for Hearing; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code, and has issued formal action pursuant to Chapter 119. of the Ohio Revised Code.
- (C) Morton H. Pierce acknowledges that he has been made aware of the investigation and has cooperated in said investigation. Morton H. Pierce further acknowledges that he has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges have been filed in the discretion of the appropriate prosecuting attorney(s) and/or grand jury(ies); further, this Agreement does not affect, nor is affected by, said proceedings.
- (D) Morton H. Pierce has filed an Affidavit of Resignation with the Board indicating that his current (identification card) expired on September 15, 2002, he has not engaged in the professional field as a pharmacist, and he has not undertaken any current continuing educational requirements since the expiration of said identification card. Morton H. Pierce has indicated that he desires to retire and he has no further intentions of practicing pharmacy or undertaking continuing education.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of proceeding with formal ADMINISTRATIVE charges and a 119. hearing, Morton H. Pierce knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.**

Morton H. Pierce 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.

Morton H. Pierce 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. Morton H. Pierce 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/ Morton H. Pierce</u> Morton H. Pierce, R.Ph.	<u>/d/ 2/1/2005</u> Date of Signature
<u>/s/ Donald N. Jaffe</u> Donald N. Jaffe, Attorney at Law	<u>/d/ 2/1/2005</u> Date of Signature
<u>/s/ Lawrence J. Kost</u> Lawrence J. Kost, President, Ohio State Board of Pharmacy	<u>/d/ 2/7/05</u> Date of Signature
<u>/s/ Sally Ann Steuk</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/ 1-7-05</u> Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. D-040511-070)

In The Matter Of:

Dennis W. White, R.Ph.
2484 Coldsprings Drive
Beavercreek, Ohio 45434
(R.Ph. No. 03-2-09201)

This Settlement Agreement is entered into by and between Dennis W. White 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.

Dennis W. White 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. Dennis W. White acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Dennis W. White is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 11, 2004, pursuant to Chapter 119. of the Ohio Revised Code, Dennis W. White 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. Dennis W. White requested a hearing; it was scheduled and continued. The May 11, 2004 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Dennis W. White was originally licensed in the State of Ohio on February 18, 1969 pursuant to examination and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Dennis W. White was the Responsible Pharmacist at CVS Pharmacy #3458, 1331 North Fairfield Road, Beavercreek, 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) Dennis W. White did, on or about November 7, 2002, misbrand a drug, to wit: when Dennis W. White received a prescription for rifampin 150 mg, Rx #164799, he dispensed rifampin 300 mg, which had not been prescribed by the physician. The patient subsequently developed hepatotoxicity. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Dennis W. White did, on or about November 7, 2002, and dates subsequent, fail to maintain a prescription in the pharmacy for a period of three years, to wit: after dispensing Rx #164799, Dennis W. White did not file or otherwise keep the prescription record on file at CVS Pharmacy. Such conduct is in violation of Section 4729.37 of the Ohio Revised Code and Rule 4729-5-09(C) of the Ohio Administrative Code.
- (4) Dennis W. White did, on or about November 7, 2002, and dates subsequent, fail to keep the counseling dispensing log readily available and produced promptly for inspection by the Board, to wit: the daily counseling log is no longer maintained in the pharmacy for said date; however, other dates are available. Such conduct is in violation of Rule 4729-5-27(H) of the Ohio Administrative Code.

Whereas, 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, Dennis W. White knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Dennis W. White agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) relating to paragraph two, five hundred dollars (\$500.00) relating to paragraph three and five hundred dollars (\$500.00) relating to paragraph four, for a total monetary penalty of \$1,250.00, and payment of the monetary penalty is due and owing within thirty (30) 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, 17th Floor, Columbus, Ohio 43215-6126.
- (B) In addition to any and all other continuing education requirements, Dennis W. White agrees to attend, within six months of the effective date of this agreement, one additional hour (0.1CEU) of Board-approved continuing pharmacy education relating to errors in dispensing.

If, in the judgment of the Board, Dennis W. White 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 probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board 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.

Dennis W. White 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.

Dennis W. White 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. Dennis W. White waives any rights to 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/ Dennis W. White</u>	<u>/d/ Nov 22, 04</u>
Dennis W. White, Respondent	Date of Signature
<u>/s/ David W. Grauer</u>	<u>/d/ 11-28-04</u>
David W. Grauer, Attorney for Respondent	Date of Signature
<u>/s/ Lawrence J. Kost</u>	<u>/d/ 2-7-05</u>
Lawrence J. Kost, President, Ohio State Board of Pharmacy	Date of Signature
<u>/s/ Sally Ann Steuk</u>	<u>/d/ 2-7-05</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

R-2005-123

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Docket No. 040512-071)

In the Matter of:

CVS/PHARMACY #3458
c/o Dennis W. White, R.Ph.
1331 North Fairfield Road
Beavercreek, Ohio 45432
(Terminal Distributor No. 02-0140700)

This settlement agreement is entered into by and between CVS/PHARMACY #3458 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.

CVS/PHARMACY #3458 enters into this agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, the right to appeal. CVS/PHARMACY #3458 acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

WHEREAS, CVS/PHARMACY #3458 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about May 12, 2004, pursuant to Chapter 119. of the Ohio Revised Code, CVS/PHARMACY #3458 was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Further, a hearing was scheduled. The May 12, 2004, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that CVS/Pharmacy #3458, 1331 North Fairfield Road, Beavercreek, Ohio, is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Dennis W. White is the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) CVS/Pharmacy #3458 did, on or about November 7, 2002, and dates subsequent, fail to maintain a prescription in the pharmacy for a period of three years, to wit: after dispensing Rx #164799, CVS/Pharmacy #3458 did not file or otherwise keep the prescription record on file at the pharmacy. Such conduct is in violation of Section 4729.37 of the Ohio Revised Code and Rule 4729-5-09(C) of the Ohio Administrative Code.
- (3) CVS/Pharmacy #3458 did, on or about November 7, 2002, and dates subsequent, fail to keep the daily counseling log readily available and produced promptly for inspection by the Board, to wit: the daily counseling log is no longer maintained in the pharmacy for said date; however, other dates are available. Such conduct is in violation of Rule 4729-5-27(H) of the Ohio Administrative Code, and constitutes violating a rule of the Board within the meaning of Section 4729.57 of the Ohio Revised Code.

Whereas, 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, CVS/PHARMACY #3458 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) CVS/PHARMACY #3458 agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) relating to paragraph two and one thousand dollars (\$1,000.00) relating to paragraph three, for a total monetary penalty of \$2,000.00, and payment of the monetary penalty is due and owing within thirty (30) days of 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 S. High Street, 17th Floor, Columbus, Ohio 43215-6126.

CVS/PHARMACY #3458 acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

CVS/PHARMACY #3458 waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. CVS/PHARMACY #3458 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

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/ Dennis W. White RPh</u>	<u>/d/ Jan 12, 05</u>
Dennis W. White, R.Ph. for CVS/PHARMACY #3458	Date of Signature
<u>/s/ David W. Grauer</u>	<u>/d/ 1-13-05</u>
David W. Grauer, Attorney	Date of Signature
<u>/s/ Lawrence J. Kost</u>	<u>/d/ 02/07/05</u>
Lawrence J. Kost, President, Ohio State Board of Pharmacy	Date of Signature
<u>/s/ Sally Ann Steuk</u>	<u>/d/ 02-07-05</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

10:12 a.m.

Mr. Turner 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 Revised Code and for the purpose of conferring with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Revised Code. The motion was seconded by Mrs. Gregg and a roll call vote was conducted by President Kost as follows: Eastman-Yes, Giacalone-Yes, Gregg-Yes, Lipsyc-Yes, Mitchell-Yes, Teater-Yes, and Turner-Yes.

10:13 a.m.

Mr. Giacalone left the Executive Session while the Board discussed a matter relating to a hearing from which he had been recused.

10:33 a.m.

Board member Gregory Braylock arrived and joined the Executive Session in progress. Mr. Giacalone returned to the Executive Session.

10:50 a.m.

R-2005-124

The Executive Session ended and the meeting was opened to the public. Mr. Giacalone moved that the Board accept the settlement offer presented in the matter of Stephen Bonfiglio, R.Ph. The motion was seconded by Mr. Mitchell and approved by the Board (Aye-6/Nay-1/Abstain-1[Braylock]).

R-2005-125

Mrs. Gregg then moved that the Board deny the settlement offer presented in the matter of Barberton Citizen's Hospital. The motion was seconded by Ms. Eastman and approved by the Board (Aye-5/Nay-1/Abstain-2[Braylock, Giacalone]).

R-2005-126

Mr. Braylock moved that the Board summarily suspend the license to practice pharmacy belonging to Robert William Reeves, R.Ph. (03-1-13039) due to the fact that a continuation of his professional practice presents a danger of immediate and serious harm to others. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

Mr. Winsley distributed a letter that he had received from the Drug Enforcement Administration (DEA) as a reply to his letter of December 16, 2004, regarding policy statements made by DEA in a Federal Register document published in November. The Board requested that the letters be posted on the Board's Web site.

The Board then discussed the proposed consolidation and reorganization of 27 Boards and Commissions that was contained in the Executive Budget (HB66). The Board discussed ways that the Board's concerns with this proposal could be addressed.

11:53 a.m.

The Board recessed for lunch.

1:00 p.m.

The Board reconvened in Room East-B, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

The Board met with Attorney David Grauer and representatives of Rite Aid and CVS to continue the discussion regarding issues of mutual concern that had begun at the November 8, 2004 Board meeting.

2:30 p.m.

The meeting with Attorney David Grauer and representatives of Rite Aid and CVS ended. The Board took a brief recess.

2:44 p.m.

The Board meeting resumed. Mr. McMillen discussed his Licensing Report with the Board.

Mr. Keeley presented his Legislative Report to the Board.

Mr. Keeley then presented his Financial Report to the Board.

Mr. Benedict reported that the Medical Board's Prescribing Committee had not met since the last Board meeting.

R-2005-127

Mr. Keeley announced that the revision to proposed Rule 4729-21-06, which had been authorized by the Board in January, had cleared JCARR and was now ready for the Board to determine an effective date. After discussion, Mrs. Gregg moved that the Board approve for final filing the revised proposed new Administrative Code Rule 4729-21-06 as follows and set the effective date as March 1, 2005. The motion was seconded by Mrs. Teater and approved by the Board (Aye-8/Nay-0).

4729-21-06 Sales of medical oxygen to S.C.U.B.A. divers.

(A) S.C.U.B.A. divers who hold a valid certificate in the following nationally recognized S.C.U.B.A. diving certifying organization programs may purchase, possess, and use medical oxygen for the purpose of emergency care or treatment at the scene of a diving emergency pursuant to divisions (B)(1)(i) and (C)(4) of section 4729.51 of the Revised Code:

(1) Diver Alert Network (DAN): Oxygen First Aid for Scuba Diving Injuries;

(2) International Association of Nitrox and Technical Divers: Oxygen Provider Course;

(3) Professional Association of Diving Instructors (PADI): Emergency First Response;

(4) PADI: PADI Oxygen First Aid;

(5) PADI: Rescue Diver Course;

(6) PADI: Tec Deep Diver;

(7) Scuba Schools International: Medic First Aid Emergency Oxygen Administration;

(8) Technical Diving International-S.C.U.B.A. Diving International: Diver Advanced Development Program as a CPROX Administrator.

(9) YMCA: Slam Rescue.

(B) Any subsequent revisions to a course after the initial approval must be submitted to the state board of pharmacy for approval.

R-2005-128 Mr. Keeley submitted a list of proposed members for the Board's annual Ad Hoc Committee on Rule Review. After discussion, Mr. Turner moved that the following people be appointed as members. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

Lou Barone, R.Ph.	Stephanie Peshek, R.Ph.
Todd Boyer, R.Ph., J.D.	Jan Scaglione, R.Ph.
Kathy Donley, R.Ph.	Robert Wagonblott, R.Ph.
Troy Gahm, R.Ph.	Board Members:
Debbie Lange, R.Ph.	Robert Giacalone, R.Ph., Chair
Sharon Moneysmith, R.Ph.	Elizabeth Gregg, R.Ph.

R-2005-129 Mr. Lipsyc moved that the Board give its approval to continue the Board's membership in the National Association of Boards of Pharmacy (NABP) and to pay the annual dues of \$250. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

The Board next determined the voting Delegate and Alternate to the NABP Annual Meeting to be held in May, 2005. After discussion, it was determined that President Kost would be the Board's Voting Delegate and Vice-President Eastman would be the Alternate.

3:32 p.m.

The Board meeting was recessed until Tuesday, February 8, 2005.

TUESDAY, FEBRUARY 8, 2005

9:03 a.m. ROLL CALL

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

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

R-2005-130 Mr. Winsley presented information received about the vial filling process of the ForHealth Technologies, Inc. *IntelliFill i.v.* robot. Previously, the Board had approved this system for batch filling of flush syringes only. The Board had stated that approval would need to be given by the Board before vial mode could be implemented. After discussion of the information provided regarding the Board's concerns about total dissolution of the medication and about the cleaning of the vial tops by the machine, Mr. Braylock moved that the Board find the ForHealth *IntelliFill i.v.* robot approvable to be used for vial mode after a final inspection that showed that the concerns had been addressed as documented in the information provided. The motion was seconded by Mr. Giacalone and approved by the Board (Aye-8/Nay-0).

R-2005-131 After a discussion regarding further information available about individuals nominated to serve on the Board's Ad Hoc Committee to review the rules about positive identification and institutional issues, Mr. Turner moved that the following individuals be accepted as members of that committee. The motion was seconded by Mrs. Teater and approved by the Board (Aye-8/Nay-0).

Louis Barone, Pharm.D., R.Ph.
Charline Catt, M.S., R.N.
John Hanna, M.B.A., R.Ph.
John Hingl, M.B.A., R.Ph.
Greg Kall, CPHIMS
George Massar, M.H.A.
Denny McLean
Joseph Melucci, M.B.A., R.Ph.

Alicia Miller, R.Ph.
Stephanie Peshek, Pharm.D., R.Ph.
Bob Parsons, R.Ph.
Jean Scholz, M.S., R.N.
Andrew Thomas, M.B.A., M.D.
Board Members:
Elizabeth Gregg, R.Ph., Chair
Robert Giacalone, R.Ph.

9:48 a.m.

Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Mr. Braylock and a roll call vote was conducted by President Kost as follows: Braylock-Yes, Eastman-Yes, Giacalone-Yes, Gregg-Yes, Lipsyc-Yes, Mitchell-Yes, Teater-Yes, and Turner-Yes.

10:18 a.m.

The Executive Session ended and the meeting was opened to the public. The Board took a brief recess.

10:30 a.m.

The meeting resumed. Mr. Braylock reported that there had been no meeting of the Nursing Board's Committee on Prescriptive Governance since the January, 2005 Board meeting.

After a discussion of the draft minutes of the January 3-5, 2005, meeting, Mrs. Gregg moved that the minutes be approved as amended. The motion was seconded by Ms. Eastman and approved by the Board (Aye-7/Nay-0/Abstain-1[Giacalone]).

R-2005-132 The Board next considered a request for an exemption from OAC Rule 4729-5-10 (Pick-up station) received from the following sites:

Aultman Hospital Pharmacy (02-0029050)
Central Admixture Pharmacy Services (02-1312700)

After discussion, Mr. Braylock moved that the Board approve the request. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

R-2005-133 The Board then considered a request for an exemption from OAC Rule 4729-5-10 (Pick-up station) received from the following sites:

Script-Wise Pharmacy/Westerville (02-1238700)
Script-Wise Pharmacy/Worthington (Pending)

After discussion, Ms. Eastman moved that the Board approve the request subject to a final inspection after delivery of the Worthington license. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

11:00 a.m.

At 10:30 a.m., the Board had been joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Patrica Flack, R.Ph., Springfield. Since Mrs. Flack did not appear for her reinstatement hearing, the hearing was cancelled. It will be necessary for Mrs. Flack to request another hearing date.

11:05 a.m.

The Board recessed for lunch.

1:30 p.m.

The Board convened in Room South-A, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, for the purpose of meeting with the candidates for licensure by reciprocity with the following members present:

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

R-2005-134 Following presentations by Board members and self-introductions by the candidates for licensure by reciprocity, the following candidates participated in a discussion of pharmacy laws and rules with Mr. McMillen and were then presented with their pharmacist identification cards.

AMI AMIN	03-2-26575	TEXAS
LINDA ANNOBIL	03-2-26598	NEW JERSEY
THOMAS DANIEL COONEY, JR.	03-2-26591	MARYLAND
DANNY JOHN HACKETT	03-2-26595	WEST VIRGINIA
ALISON DEANNE PAWLUS	03-2-26601	INDIANA
SANDRA ANN PURDY	03-2-26597	CONNECTICUT
GAIL LYNN STITT	03-2-26580	VIRGINIA
MARLYSE TSANGUE	03-2-26593	MASSACHUSETTS

1:44 p.m.

The Board reconvened in Room East-B. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Ms. Eastman and a roll call vote was conducted by President Kost as follows: Braylock-Yes, Eastman-Yes, Giacalone-Yes, Gregg-Yes, Lipsyc-Yes, Mitchell-Yes, Teater-Yes, and Turner-Yes.

4:25 p.m.

The Executive Session ended and the meeting was opened to the public.

R-2005-135 Mr. Turner moved that the Board summarily suspend the license to practice pharmacy belonging to John Shell, R.Ph. (03-2-18094) due to the fact that a continuation of his professional practice presents a danger of immediate and serious harm to others. The motion was seconded by Mr. Braylock and approved by the Board (Aye-8/Nay-0).

4:30 p.m.

The meeting was recessed until Wednesday, February 9, 2005.

WEDNESDAY, FEBRUARY 9, 2005

9:05 a.m. ROLL CALL

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

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

9:06 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of John J. Sholtis, R.Ph., Steubenville.

10:06 a.m.

The hearing ended and the record was closed. The Board took a brief recess.

10:15 a.m.

The meeting resumed. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Mr. Braylock and a roll call vote was conducted by President Kost as follows: Braylock-Yes, Eastman-Yes, Giacalone-Yes, Gregg-Yes, Lipsyc-Yes, Mitchell-Yes, Teater-Yes, and Turner-Yes.

10:42 a.m.

R-2005-136

The Executive Session ended and the meeting was opened to the public. Mr. Braylock moved that the Board adopt the following order in the matter of John J. Sholtis, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-040916-023)

In The Matter Of:

JOHN J. SHOLTIS, R.Ph.
471 Lauretta Drive
Steubenville, Ohio 43952
(R.Ph. No. 03-1-17295)

INTRODUCTION

THE MATTER OF JOHN J. SHOLTIS CAME FOR HEARING ON FEBRUARY 9, 2005, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: LAWRENCE J. KOST, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; KEVIN J. MITCHELL, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JOHN J. SHOLTIS WAS NOT REPRESENTED BY COUNSEL AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses

1. George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses

1. John J. Sholtis, R.Ph., Respondent

State's Exhibits

1. Reinstatement Hearing Request letter from John J. Sholtis [09-13-04]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re John J. Sholtis, R.Ph. [12-10-03]
3. Indictment [10-01-03] and Judgment Entry of Sentence [04-01-04], State of Ohio vs. John Sholtis, Case No. 03-CR-211, Jefferson County Common Pleas Court
4. Notarized Statement of John J. Sholtis [09-02-03]; Drug Audit Report, Case No. 03-1921 [not dated]; Notarized Statement of John J. Sholtis [09-10-03]
5. Law Enforcement Task Force Consent to Search for John J. Sholtis and Inventory of Items Removed [09-02-03]

Respondent's Exhibits

- A1-A4. Four Letters of Support [01-25-05 to 02-07-05]
- B1. Treatment Letter from Otilia J. Asuncion, M.D. [03-30-04]
- B2. Treatment Letter from Otilia J. Asuncion, M.D. [not dated]
- C1-C2. Judgment Entry of Sentence, State of Ohio vs John Sholtis, Case No. 03CR211, Jefferson County Common Pleas Court [04-01-04]; Copy of restitution check No. 360, payable to Steubenville Pharmacy [03-29-04]

- D1-D2. Gateway Rehabilitation Center Interdisciplinary Initial Treatment Plan Detox for John Sholtis [10-13-03]; Admission and Discharge Medication Instruction Sheet [10-13-03]
E1-E3. University of Pittsburgh Electronic Medical Records of John J. Sholtis [12-31-02 to 01-05-03]

FINDING 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 that John J. Sholtis has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-030909-005, effective December 10, 2003.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-17295, held by John J. Sholtis and such suspension is effective as of the date of the mailing of this Order.

Further, after six months from the effective date of this Order, the Board will consider any petition filed by John J. Sholtis for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) John J. Sholtis must enter into a contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens, blood tests, or other acceptable method of detection, shall be conducted at least once each month.

(a) The drug screens must be given within twelve hours of notification. The drug screens must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) OxyContin, oxycodone, and hydrocodone must be added to the standard drug screen.

(c) Results of all drug screens must be negative. Refusals of drug screens or diluted drug screens are equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings.

(3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) John J. Sholtis must provide, at the reinstatement petition hearing, documentation of the following:

(1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

Upon such time as the Board may consider reinstatement, John J. Sholtis will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Mitchell and approved by the Board (Aye-8/Nay-0).

R-2005-137 Mrs. Gregg then moved that the Board summarily suspend the license to practice pharmacy belonging to Andrea L. Holstein, R.Ph. (03-3-25659) due to the fact that a continuation of her professional practice presents a danger of immediate and serious harm to others. The motion was seconded by Ms. Eastman and approved by the Board (Aye-8/Nay-0).

10:47 a.m.

The Board recessed for lunch.

1:20 p.m.

The Board reconvened in Room East-B, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Lawrence J. Kost, R.Ph. (President); Suzanne R. Eastman, R.Ph. (Vice-President); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

R-2005-138 The Board considered a request for an exemption from Rule 4729-5-10 (Pick-up station) received from the following sites:

Alliance Apothecary (02-0986450)
RXCrossroads Pharmacy (02-1289850)

After discussion, Mr. Turner moved that the Board approve the request. The motion was seconded by Ms. Eastman and approved by the Board (Aye-8/Nay-0).

R-2005-139 The Board next considered a request for an exemption from Rule 4729-5-10 (Pick-up station) received from the following sites:

CVS Pharmacy #3246(02-0930450)
Mount St. Joseph Health Center (02-0957950)

After discussion, Mrs. Gregg moved that the Board approve the request. The motion was seconded by Ms. Eastman and approved by the Board (Aye-8/Nay-0).

R-2005-140 The Board next considered a request for an exemption from Rule 4729-5-10 (Pick-up station) received from the following sites:

CVS Pharmacy #6126 (02-0485800)
Xavier University Health Center (02-0260400)

After discussion, Mr. Braylock moved that the Board approve the request. The motion was seconded by Mr. Lipsyc and approved by the Board (Aye-8/Nay-0).

1:42 p.m.

The Board was joined by members of the Board of Directors of the Ohio Society of Health-System Pharmacists (OSHP) for a discussion of items of mutual interest and concern.

2:34 p.m.

The meeting with the OSHP Board of Directors ended.

2:39 p.m.

Mrs. Gregg moved that the Board receive Per Diem as follows:

PER DIEM	<u>2/4</u>	<u>2/7</u>	<u>2/8</u>	<u>2/9</u>	<u>Total</u>
Braylock	-	1	1	1	3
Eastman	-	1	1	1	3
Giacalone	-	1	1	1	3
Gregg	-	1	1	1	3
Kost	1	1	1	1	4
Lipsyc	-	1	1	1	3
Mitchell	-	1	1	1	3
Teater	-	1	1	1	3
Turner	-	1	1	1	3

The motion was seconded by Mr. Lipsyc and approved by the Board (Aye-8/Nay-0).

2:40 p.m.

Mr. Braylock moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Mrs. Gregg and a roll call vote was conducted by President Kost as follows: Braylock-Yes, Eastman-Yes, Giacalone-Yes, Gregg-Yes, Lipsyc-Yes, Mitchell-Yes, Teater-Yes, and Turner-Yes.

3:04 p.m.

The Executive Session ended and the meeting was opened to the public. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Braylock and approved by the Board (Aye-8/Nay-0).

<p>THE BOARD APPROVED THESE MINUTES MARCH 8, 2005</p>
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