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STATE BOARD OF PHARMACY; 77 SOUTH HIGH STREET, ROOM 1702; COLUMBUS, OHIO 43215-6126  
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## **Minutes Of The Meeting**

Ohio State Board of Pharmacy  
August 4, 5, 6, 2003

### **MONDAY, AUGUST 4, 2003**

10:06 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:

Robert P. Giacalone, R.Ph. (President); Lawrence J. Kost, R.Ph. (Vice-President); Diane C. Adelman, R.Ph.; Nathan S. Lipsyc, 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; Robert Cole, Compliance Supervisor; David Rowland, Legal Affairs Administrator; and Sally Ann Steuk, Assistant Attorney General.

A discussion was held regarding the issue of Canadian drugs and the storefront operations that were opening up around the country. There were no issues requiring official action of the Board.

10:24 a.m.

After a review of the draft minutes from the July, 2003 meeting, Mrs. Adelman moved that the July, 2003, minutes be approved. The motion was seconded by Mr. Lipsyc and approved by the Board (Aye-5/Nay-0).

10:25 a.m.

Board Member Gregory Braylock arrived and joined the meeting in progress.

Mr. Kost 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. Adelman and a roll call vote was conducted by President Giacalone as follows: Adelman-Yes, Braylock-Yes, Kost-Yes, Lipsyc-Yes, Teater-Yes, and Turner-Yes.

10:55 a.m.

**R-2004-021** The Executive Session ended and the meeting was opened to the public. Mr. Lipsyc moved that the Board accept the settlement offer as amended by the Board in the matter of K-Mart Pharmacy. The motion was seconded by Mr. Turner and approved by the Board (Aye-5/Nay-0/Abstain-1[Adelman]). The agreement will become final upon the Board president's signature.

*11:00 a.m.*

The Board took a brief recess.

- 11:15 a.m. Mr. Benedict and Mr. Cole began a discussion with the Board members about the process involved in an inspection of a pharmacy by the Board's agents.
- 12:00 p.m. The discussion about the inspection process was continued until later in the meeting. The Board recessed for lunch.
- 1:30 p.m. All members that were present before lunch returned and the meeting resumed.
- 1:37 p.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 Randall Tomko, R.Ph., Hubbard.
- 2:50 p.m. The hearing ended and the record was closed. The Board took a brief recess.
- 3:02 p.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 Robert C. Hershbine, R.Ph., North Royalton.
- 4:46 p.m. The hearing ended and the record was closed. The Board took a brief recess.
- 4:55 p.m. The meeting resumed. Mr. Winsley presented a request that the Board approve the Board of Pharmaceutical Specialties (BPS) certificate in Pharmacotherapy as an additional method of complying with Rule 4729-7-08 (Alternative methods of proving continuing competency). After discussion of the request, Mr. Braylock moved that the BPS certificate in Pharmacotherapy be approved for use in meeting the CPE requirements under Rule 4729-7-08. The motion was seconded by Mrs. Adelman and approved by the Board (Aye-6/Nay-0).
- 5:04 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. Adelman and a roll call vote was conducted by President Giacalone as follows: Adelman-Yes, Braylock-Yes, Kost-Yes, Lipsyc-Yes, Teater-Yes, and Turner-Yes.
- 5:20 p.m. The Executive Session ended and the meeting was opened to the public. Mr. Kost moved that the Board adopt the following Order in the matter of John Randall Tomko, R.Ph.:

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-021119-030)

In The Matter Of:

**JOHN RANDALL TOMKO, R.Ph.**

5812 Watson Street S.E.

Hubbard, Ohio 44425

(R.Ph. No. 03-2-15734)

**INTRODUCTION**

THE MATTER OF JOHN RANDALL TOMKO CAME FOR HEARING ON AUGUST 4, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

JOHN RANDALL TOMKO WAS REPRESENTED BY JOHN F. SHULTZ AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

## SUMMARY OF EVIDENCE

### State's Witnesses

None

### Respondent's Witnesses

1. John Randall Tomko, R.Ph., Respondent
2. Patricia Tomko, R.Ph.
3. Michael Quigley, R.Ph.

### State's Exhibits

1. Reinstatement Hearing Request letter from John F. Shultz [11-18-02]  
1A-1B. Procedurals
2. Copy of Notarized Statement of John R. Tomko [02-28-02]  
2A. Copy of State Board of Pharmacy Order in re John R. Tomko, R.Ph. [9-19-02]
- 3.
- 4.
- 5.
- 6.

### Respondent's Exhibits

- A. Copy of PRO Pharmacist's Recovery Contract for John (Randy) Tomko [10-09-02]
- B. Copy of Treatment Compliance letter from Murphy Lewis, M.Ed., CCDC-III-E [03-31-03];  
Drug Screen Reports [08-12-02 to 03-03-03]
- C. Calendar pages for August 2002 to July 2003; Copy of Support Group Attendance Records  
[08-01-02 to 08-03-03]
- D. Compass Vision Licensee Summary Report [05-16-02 to 07-08-03]; Copy of letter from  
Brian Bizub, Lab Assistant [07-18-03]; Specimen Custody and Control Forms [07-25-02 to  
07-28-03]; Drug Screen Report [07-28-03]
- E.
- F. Copy of State Board of Pharmacy Order in re John R. Tomko, R.Ph. [09-19-02]; Copy of  
Hearing Schedule letter [11-19-02]
- G. Copy of seventeen letters of support [12-03-02 to 08-02-03]
- H. Copy of eighteen pages of Continuing Pharmacy Education attendance summary and  
certificates [10-11-02 to 04-27-03]

## 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 Randall Tomko has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-020307-045, effective September 19, 2002.

## DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-15734, held by John Randall Tomko to practice pharmacy in Ohio and places John Randall Tomko on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) John Randall Tomko 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 submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

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

(b) Results of all drug screens must be negative. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.

(c) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.

(2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.

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

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

(B) John Randall Tomko must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of John Randall Tomko's progress towards recovery and what John Randall Tomko has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that John Randall Tomko's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) John Randall Tomko may not serve as a responsible pharmacist.

(3) John Randall Tomko may not destroy, assist in, or witness the destruction of controlled substances.

(4) John Randall Tomko must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) John Randall Tomko must not violate the drug laws of Ohio, any other state, or the federal government.

(6) John Randall Tomko must abide by the rules of the State Board of Pharmacy.

(7) John Randall Tomko must comply with the terms of this Order.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

If John Randall Tomko's pharmacist identification card to practice pharmacy in Ohio is not issued within three years of the effective date of this Order, John Randall Tomko must also take and pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination accepted by the Board.

John Randall Tomko is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mr. Braylock and approved by the Board (Aye-6/Nay-0).

**R-2004-024** Mr. Braylock then moved that the Board adopt the following Order in the matter of Robert C. Hershbine, R.Ph.:

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-021016-019)

In The Matter Of:

**ROBERT C. HERSHBINE, R.Ph.**

1930 George Drive  
Brunswick, Ohio, Ohio 44212  
(R.Ph. No. 03-1-24680)

**INTRODUCTION**

THE MATTER OF ROBERT C. HERSHBINE CAME FOR HEARING ON AUGUST 4, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE., R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ROBERT C. HERSHBINE WAS REPRESENTED BY PAUL T. KIRNER AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. Lynn Mudra, Ohio State Board of Pharmacy

**Respondent's Witnesses**

1. Robert C. Hershbine, R.Ph., Respondent
2. Michelle Czerniak, R.Ph.

### State's Exhibits

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [10-16-02]
- 1A-1D. Procedurals
- 1E. Copy of Addendum Notice [02-19-03]
- 1F. Procedural
2. Parma Heights Police Incident Report #02-10788 [09-10-02]
3. Parma Heights Police Department Confession Statement [09-10-02]; Case Update Report [09-11-02]
4. Photocopy of drugs #0210788 [09-10-02]
5. Cuyahoga County Coroner Toxicology Laboratory Report [09-11-02]
6. Docket Record, City of Parma vs. Robert C. Hershbine, Case No. 02CRA02895-1-1, Parma Municipal Court [09-11-02 to 02-03-03]
7. Docket Record, City of Parma vs. Robert C. Hershbine, Case No. 02TRC06767-1-2, Parma Municipal Court [11-26-02 to 01-13-03]
8. Copy of letter from Richard Kolezynski, R.Ph. [09-12-02]; DEA Report of Theft or Loss of Controlled Substances [09-12-02]

### Respondent's Exhibits

- A. PRO Pharmacist's Recovery Contract for Robert Hershbine [11-13-02]
- B. Drug Screen Reports [11-13-02 and 12-30-02]
- C. Support Group Attendance Records [11-4-02 to 07-18-03]
- D. Calendar Pages Showing Chronology of Treatment and Rehabilitation [October 2002 to July 2003]
- E. Copy of Glenbeigh Discharge Plan [10-03-02]
- F. Copy of Glenbeigh Certificate of Completion [11-14-02]
- G. Copy of Glenbeigh Progress Reports [11-08-02 to 07-03-03]
- H. Copy of letter from Ruthanne Anderson, MA, LPCC-CCDCIII-E [07-14-03]
- I-P. Copies of eight letters of support [02-12-03 to 07-20-03]
- Q. Docket Record, City of Parma vs. Robert C. Hershbine, Case No. 02CRA02895-1-1, Parma Municipal Court [09-11-02 to 02-03-03]; Docket Record, City of Parma vs. Robert C. Hershbine, Case No. 02TRC06767-1-2, Parma Municipal Court [11-26-02 to 01-13-03]
- R. Copy of letter from R. Discenza [07-21-03]
- S. Copy of ten pages of Continuing Pharmacy Education Attendance Certificates [02-10-02 to 04-27-03]
- T1-T2. Copy of letter from Bradford H. Price, Ph.D., CCDCIII-E [07-30-03]; Copy of fax cover sheet from Thom Walter, Glenbeigh Center of Rocky River [07-31-03]
- U1-U6. Copy of Glenbeigh Hospital Biopsychosocial Assessment Report for Robert Hershbine [10-03-02]
- V1-V2. Copy of Glenbeigh Physician Progress Note [10-04-02]
- W1-W2. Copy of Glenbeigh Hospital Discharge Summary [11-03-02]
- X. Licensee Summary Report of Drug Screens for Robert Hershbine [01-16-03 to 07-28-03]

### 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 Robert C. Hershbine was originally licensed by the State of Ohio as a pharmacist on June 21, 2001, and that his license to practice pharmacy in Ohio was summarily suspended effective October 16, 2002.

(2) Robert C. Hershbine is addicted to liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Robert C. Hershbine admitted to a Board agent that he is addicted to drugs. Such conduct indicates that Robert C. Hershbine falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

(3) On September 10, 2002, Robert C. Hershbine was involved in a motor vehicle accident and was arrested for driving under the influence of alcohol and/or drugs of

abuse in violation of Section 4511.19 of the Ohio Revised Code.

(4) Robert C. Hershbine did, on or about September 10, 2002, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: while conducting an inventory of Robert C. Hershbine's vehicle, a police officer found seventy-four Adipex-P tablets, and fourteen partial Adipex tablets. Such conduct violates Section 2925.11 of the Ohio Revised Code.

(5) Robert C. Hershbine did, on or about September 10, 2002, knowingly possess a dangerous drug when not in accordance with Chapters 4729., and 4731. of the Ohio Revised Code, to wit: while conducting an inventory of Robert C. Hershbine's vehicle, a police officer found one Carisoprodol tablet. Such conduct violates Section 4729.51(C) of the Ohio Revised Code

(6) Robert C. Hershbine did, on or about October 3, 2002, and dates prior thereto, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy #3322 by deception, to wit: Robert C. Hershbine admitted to a Board agent that he stole Hydrocodone 5/500, Carisoprodol, and Diazepam. Such conduct violates Section 2913.02 of the Ohio Revised Code.

(7) On December 2, 2002, Robert C. Hershbine pled guilty to Possession of Drugs, a misdemeanor of the third degree under Parma Heights Ordinance 620.03. City of Parma vs. Robert C. Hershbine, Case No. 02CRA02895-1-1, Parma Municipal Court.

(8) On December 2, 2002, Robert C. Hershbine pled guilty to Reckless Operation under Parma Heights Ordinance 333.02, a misdemeanor of the third degree. City of Parma vs. Robert C. Hershbine, Case No. 02TRC06767-1-2, Parma Municipal Court.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (4) through (8) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (4) through (6) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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

(4) The State Board of Pharmacy concludes that paragraphs (7) and (8) of the Findings of Fact constitute being convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

(5) The State Board of Pharmacy concludes that paragraphs (4) and (5) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. or 4729. 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 C. Hershbine on October 16, 2002.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-24680, held by Robert C. Hershbine and such suspension is effective as of the date of the mailing of this Order.

(A) Robert C. Hershbine, 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) Robert C. Hershbine, 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 November 30, 2004, the Board will consider any petition filed by Robert C. Hershbine 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) Robert C. Hershbine 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, mail a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

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

(b) Alcohol must be added to the standard urine drug screen and documentation provided to show inclusion in the test panel. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.

(c) Results of all drug and alcohol screens must be negative. 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.

(d) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate 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 meeting.

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

(B) Robert C. Hershbine must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) Robert C. Hershbine 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 and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements as 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 (i.e.-CEUs must be obtained during the three years immediately preceding the petition hearing);

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Robert C. Hershbine must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Adelman and approved by the Board (Aye-6/Nay-0).

5:25 p.m.

The Board meeting recessed until Tuesday, August 5, 2003.

## **TUESDAY, AUGUST 5, 2003**

8:30 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:

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

**R-2004-025** Mr. McMillen presented a request from Riverfront Pharmacy (02-0030950) for an exemption to Rule 4729-5-10 (Pick-up station) so that patient-specific prescriptions could be prepared at Riverfront Pharmacy and delivered to Mercy Hospital Clermont Pharmacy (02-0034050), Mercy Hospital Anderson Pharmacy (02-0384850), Mercy Hospital Fairfield Pharmacy (02-0039000), Mercy Franciscan Hospital Mt. Airy Pharmacy (02-0038050), and Mercy Franciscan Hospital Western Hills Pharmacy (02-0041150) for distribution to the patients. After discussion, Mrs. Gregg moved that the Board approve the request due to the need for involvement by a health care professional in the patient's drug therapy [OAC Rule 4729-5-10(B)(5)(b)]. The motion was seconded by Ms. Eastman and approved by the Board (Aye-8/Nay-0).

Mr. McMillen discussed his licensing report with the Board.

Mr. Keeley discussed his legislative report with the Board.

Mr. Keeley discussed his budget report with the Board.

10:05 a.m.

The Board took a brief recess.

10:22 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of creating a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of S.M.S. Inc., c/o Winfred S. White; Forest Park.

10:35 a.m.

The record was closed.

10:48 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 Raymond Frederick Strahley, Jr., R.Ph., Hartville.

12:23 p.m.

The hearing was recessed for lunch.

1:30 p.m.

With all members present, 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.

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.

**R-2004-026**

TIMOTHY ALAN CANDY	03-1-25907	NEBRASKA
RHONDA G. ELDRIDGE	03-1-25728	INDIANA
JENNIFER SUZANNE FISHER	03-1-25921	MARYLAND
AMY ANNE HIRSCH	03-1-25945	NEW YORK
QUOVADIS JANEENE MCKENZIE	03-1-25910	GEORGIA
KARLA MICHELLE MILLER	03-1-25942	MARYLAND
DANIELLE DAO NGUYEN	03-1-25890	TEXAS
MICHELLE LYNN SCOTT	03-1-25842	INDIANA
TIMOTHY L. SIZEMORE	03-1-25939	ARIZONA
ROBBIN ANN SIZEMORE	03-1-25939	ARIZONA
JEFFERY T. STEINER	03-1-25933	PENNSYLVANIA
MICHAEL N. WERT	03-1-25930	PENNSYLVANIA
ANNE VIRGINIA ZICHTERMAN	03-1-25949	MARYLAND

1:57 p.m.

The Board members returned to Room East B and the hearing in the matter of Raymond Frederick Strahley, Jr., R.Ph. resumed.

2:50 p.m.

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

3:03 p.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 Thomas Allan Scott, R.Ph., Portsmouth.

4:04 p.m.

The hearing ended and the record was closed.

4:11 p.m.

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

5:05 p.m.

**R-2004-027** The Executive Session ended and the meeting was opened to the public. Mr. Turner moved that the Board accept the settlement offer as amended by the Board in the matter of David Leo Rieder, R.Ph. The motion was seconded by Mr. Kost and approved by the Board (Aye-6/Nay-2). The agreement will become final upon the Board president's signature.

**R-2004-028** Mr. Braylock then moved that the Board adopt the following Order in the matter of Thomas Allan Scott, R.Ph.:

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-030107-048)

In The Matter Of:

**THOMAS ALLAN SCOTT, R.Ph.**

2738 Hillview Drive  
Portsmouth, Ohio 45662  
R.Ph. No. 03-3-16170

**INTRODUCTION**

THE MATTER OF THOMAS ALLAN SCOTT CAME FOR HEARING ON AUGUST 5, 2003 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

THOMAS ALLAN SCOTT WAS REPRESENTED BY ERIC J. PLINKE AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. Todd Zevchik, R.Ph., Ohio State Board of Pharmacy

**Respondent's Witnesses**

1. Thomas Allan Scott, R.Ph., Respondent

**State's Exhibits**

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing [01-07-03] 1A-1C. Procedurals
2. Notarized Statement of Thomas A. Scott, R.Ph. [12-18-02]
3. Notarized Statement of Rory Phillips, R.Ph. [01-02-03]; Spreadsheet of Drugs Found At The Residence of Thomas Scott, R.Ph. [12-18-02]
4. Twenty-six pages of IDENTIDEX Imprint Identification Documents [not dated]
5. Envelope containing controlled substances [not dated]
6. Envelope containing dangerous drugs [not dated]
7. Patient Profile re: Thomas A. Scott [04-04-02 to 11-08-02]
8. Bill of Information [03-26-03], Defendant's Motion for Intervention in Lieu of Conviction [04-10-03], and Entry [04-10-03], State of Ohio vs. Thomas A. Scott, Case No.03-CR-284, Scioto County Common Pleas Court

Respondent's Exhibits

- A. List of AA/NA and Caduceus Meetings; Seven pages of Support Group Attendance Records [12-31-02 to 07-31-03]
- B. Three pages of Client Monitoring Sheets [12-28-02 to 07-27-03]
- C. List of Advocates and Sponsors; letter from Michael M. Fraulini [07-29-03]; letter from Joel Siegfried, R.Ph. [not dated]; letter from Rory Phillips, R.Ph. [08-01-03]
- D. PRO Pharmacist's Recovery Contract for Thomas A. Scott [05-20-03]
- E. Specimen Custody and Control Forms for Thomas Scott [07-08-03 and 07-28-03]
- F. Recovery Progress letter from Thomas A. Marsh MSW, LSW, CCDCIII [07-03-03]; Information Disclosure Form for Thomas A. Scott [05-27-03]
- G. Judgment Entry, State of Ohio vs. Thomas A. Scott, Case No. 03-CR-284, Scioto County Common Pleas Court [07-24-03]

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 Thomas Allan Scott was originally licensed by the State of Ohio as a pharmacist on August 2, 1985, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective January 7, 2003.

(2) Thomas Allan Scott is addicted to the use of controlled substances, to wit: Thomas Allan Scott has admitted stealing controlled substances and dangerous drugs to Board agents; Thomas Allan Scott is dependent upon sedation by controlled substances and dangerous drugs "to aid him in getting to sleep at night and to control anxiety." Such conduct indicates that Mr. Scott falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

(3) Thomas Allan Scott did, on or about late 1998 through December, 2002, while employed as a pharmacist at Southern Ohio Medical Center, with purpose to deprive knowingly obtain or exert control over dangerous drugs, beyond the express or implied consent of the owner, to wit: Thomas Allan Scott has admittedly stolen between five to twenty tablets of various controlled substances and dangerous drugs, two to three times per week, on a random basis. Such conduct violates Section 2913.02 of the Ohio Revised Code.

(4) Thomas Allan Scott did, on or about December 18, 2002, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: agents of the Board found the following controlled substances at Thomas Allan Scott's residence when he did not have a prescription or legitimate medical purpose for the drugs:

<u>Drug</u>	<u>Strength</u>	<u>Qty</u>
APAP/Codeine	30/300 mg	13
APAP/Codeine	60/300 mg	2
hydrocodone/apap	7.5/500 mg	6
hydrocodone/apap	10/500 mg	2
hydrocodone/apap	10/325 mg	1
pentazocine/naloxone	50/0.5 mg	1
propoxy/apap	100/650 mg	7
Vicodin	5/500 mg	1
Vicoprofen	7.5/200 mg	1

Such conduct violates Section 2925.11 of the Ohio Revised Code.

(5) Thomas Allan Scott did, on or about December 18, 2002, knowingly possess or use a dangerous drug when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: agents of the Board found the following dangerous drugs at Thomas Allan Scott's residence when he did not have a prescription or legitimate medical purpose for the drugs:

<u>Drug</u>	<u>Strength</u>	<u>Qty</u>
atenolol	50 mg	1
baclofen	10 mg	3
carisoprodol	350 mg	11
chlorpromazine	25 mg	3
chlorzoxazone	500 mg	10
cyclobenzaprine	10 mg	11
Demadex	20 mg	3
furosemide	80 mg	2
methocarbamol	750 mg	9
methocarbamol	500 mg	11
Prinivil	5 mg	6
Skelaxin	500 mg	3
Zanaflex	4 mg	5

Such conduct violates Section 4729.51(C)(3) of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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

(4) The State Board of Pharmacy concludes that paragraphs (4) through (5) 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. or 4729. 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 Thomas Allan Scott on January 7, 2003.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-16170, held by Thomas Allan Scott and such suspension is effective as of the date of the mailing of this Order.

(A) Thomas Allan Scott, 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) Thomas Allan Scott, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Thomas Allan Scott 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) Thomas Allan Scott 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, mail a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

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

(b) Results of all drug screens must be negative. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicates a violation of the contract.

(c) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate 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 meeting.

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

(B) Thomas Allan Scott must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) Thomas Allan Scott must provide, at the reinstatement petition hearing, documentation of the following:

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

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

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Thomas Allan Scott must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.

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

MOTION CARRIED.

SO ORDERED.

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

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-030423-071)

In The Matter Of:

**S. M. S., INC.**

c/o Winfred S. White, President/CEO  
11240 Sebring Drive  
Forest Park, Ohio 45240

**INTRODUCTION**

THE MATTER OF S. M. S., INC. CAME FOR CONSIDERATION ON AUGUST 5, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

S. M. S., INC. WAS NOT PRESENT, NOR WAS IT REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

**SUMMARY OF EVIDENCE**

**State's Witnesses**

1. Jesse Wimberly, Ohio State Board of Pharmacy

**Respondent's Witnesses**

None

**State's Exhibits**

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing [04-23-03]
2. Application for Registration as a Wholesale Distributor of Dangerous Drugs [10-02-02]
3. Copy of Articles of Incorporation of Spotless Maintenance Systems, Inc., State of Ohio Secretary of State [12-19-96]
4. Copy of Letter from Winfred S. White [10-02-02]
5. Copy of Letter to Winfred S. White from William F. McMillen, Ohio State Board of Pharmacy [11-12-02]
6. Copy of Letter from Winfred S. White [11-19-02]

**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) On April 23, 2003, Winfred S. White was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by return receipt dated April 24, 2003, Winfred S. White received the letter of April 23, 2003, informing him of the Board's proposal to deny his Application For Registration As A Wholesale Distributor Of Dangerous Drugs, and his rights.
- (3) Winfred S. White has not responded in any manner to the letter of April 23, 2003, and has not requested a hearing in this matter.
- (4) Records of the Ohio Board of Pharmacy indicate that on or about October 2,

2002, Winfred S. White was the President and C.E.O. for S. M. S., Inc., 11240 Sebring Drive, Forest Park, Ohio, and that on October 2, 2002, S. M. S., Inc. applied for registration as a Wholesale Distributor of Dangerous Drugs. On or about November 12, 2002, Winfred S. White was notified by letter that required information was missing and the application could not be processed. The Board received the required application information on November 21, 2002.

(5) S. M. S., Inc., and its owners or would-be operators, have not shown that their past experience in the manufacture or distribution of dangerous drugs is acceptable to the Board.

(6) S. M. S., Inc. does not have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions, nor does it have an adequate or Board-approved security alarm system to detect unauthorized entry to its facility as required by Rule 4729-9-16 of the Ohio Administrative Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (5) and (6) of the Findings of Fact constitute failure to meet the qualifications set forth in Section 4729.53(A) of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (5) and (6) of the Findings of Fact constitute failure to furnish satisfactory proof to the Board that granting a registration certificate to S. M. S., Inc. is in the public interest as provided in Section 4729.53(B) of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.52(A) of the Ohio Revised Code, the State Board of Pharmacy hereby refuses to register S. M. S., Inc. and, therefore, denies the Application for Registration as a Wholesale Distributor of Dangerous Drugs submitted by S. M. S., Inc.

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

MOTION CARRIED.

SO ORDERED.

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

**R-2004-030** Mr. Braylock moved that the Board adopt the following Order in the matter of Raymond Frederick Strahley, Jr., R.Ph.:

#### ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-020827-005)

In The Matter Of:

**RAYMOND FREDERICK STRAHLEY, JR., R.Ph.**

205 Jefferson Street, S.E.

Hartville, Ohio 44632

(R.Ph. No. 03-1-20621)

#### INTRODUCTION

THE MATTER OF RAYMOND FREDERICK STRAHLEY, JR. CAME FOR HEARING ON AUGUST 5, 2003, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

RAYMOND FREDERICK STRAHLEY, JR. WAS REPRESENTED BY JEFFREY W. LARGENT AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

## SUMMARY OF EVIDENCE

### State's Witnesses

None

### Respondent's Witnesses

1. Raymond F. Strahley, Jr., R.Ph., Respondent
2. Thomas Foti, R.Ph.
3. Wayne Miller, R.Ph.
4. Bernadette Charles
5. James Martin
6. Darrell Timar

### State's Exhibits

1. Reinstatement Hearing Request letter from Jeffrey W. Largent [08-26-02]
- 1A-1D. Procedurals
2. Copy of State Board of Pharmacy Order in re Raymond Frederick Strahley, Jr., R.Ph. [09-11-00]
3. Marcs Pharmacy Alliance Patient Profile for Ray Strahley, Jr. [01-97 to 01-00]
4. Marcs Pharmacy Hartville Patient Profile for Raymond Strahley [01-99 to 12-99]
5. R.Ph. Strahley's Medications report [10-21-98 to 12-18-99]
6. R.Ph. Strahley's Exempt Sales report [10-21-98 to 11-29-99]
7. Copy of Notarized Statement of Michael J. Esber [12-20-99]
8. Copy of Notarized Statement of Jonita A. Baker [12-20-99]
9. Copy of Notarized Statement of Almetrias R. Thomas [12-20-99]
10. Copy of Notarized Statement of Hassan Tabrizi, M.D. [12-01-99]
11. Copy of Notarized Statement of Ruben Nepomuceno, M.D. [01-05-00]
12. Copy of Notarized Statement of Francis M. Turocy, M.D. [02-07-00]
13. Eleven Drug Audit Accountability Sheets for Marc's Pharmacy, Alliance [02-09-00 to 02-17-00]

### Respondent's Exhibits

- A. Witness List [not dated]
- B. Copy of letter from Bernadette Charles, LISW CCDCIII-E [03-21-03]
- C. Copy of letter from John R. Tomko (Randy) [03-21-03]
- D. Copy of letter from Kimberly S. Bray, LISW [03-27-03]
- E. Copy of letter from Maria Braucher [not dated]
- F. Copy of Dr. Deramo Medical Records for Raymond Strahley [09-11-00 to 11-10-00]
- G. Copy of Konstantine Pantelides, D.D.S. Medical Records for Raymond Strahley [01-24-03 to 04-02-03]
- H. Copy of Francis M. Turocy, M.D. Medical Records for Raymond Strahley [09-11-00 to 03-18-03]
- I. Rx #000427 [04-08-02]; Rx #000428 [04-08-02]; Rx #000432 [not dated]
- J. Copy of Mercy Medical Center Medical Records for Raymond Strahley [06-18-01 to 03-02-03]
- K. Copy of Mercy Medical Center Chemical Dependency Program Medical Records for Raymond Strahley [03-02-00 to 08-04-00]
- L. Copy of Aultman Hospital Medical Records for Raymond Strahley [11-30-02 to 03-25-03]
- M. Impact Program Calendar [03-00 to 04-03]
- N. Support Group Attendance Records [08-21-00 to 03-28-03]
- O. Continuing Pharmaceutical Education Credits and Certificates [12-28-00 to 09-17-01]
- P. Certificates of Appreciation [12-05-01 to 06-13-02]
- Q. Drug Screen Reports [01-23-01 02-11-03]
- R. Letter from Michael D. Quigley, R.Ph. [07-11-03]; Copy of PRO Pharmacist's Recovery Contract for Raymond F. Strahley, Jr. [10-16-00]
- S. Letter from Janice Kellogg [07-16-03]; Drug Screen Reports [01-28-02 to 07-08-03]
- T. Impact Program Calendar [03-03 to 07-03]
- U. Certificate of Appreciation [04-16-03]
- V. Two Continuing Pharmaceutical Education Certificates [04-28-02 and 04-27-03]
- W. Copy of Letter from Francis M. Turocy, M.D. [07-15-03]

- X. Copy of Letter from Agatha Chukwumerije, M.D. [07-14-03]
- Y. Copy of Rx for Panlor SS for Raymond Strahley [03-29-03]
- Z. Copy of letter from Robert F. Tschinkel [07-21-03]
- AA. Copy of Mercy Health Center Medical Record for Carrie Strahley [04-21-03]
- BB. Support Group Attendance Records [02-17-03 to 07-30-03]
- CC. Drug Screen Report [07-29-03]
- DD. Specimen Custody and Control Form [08-04-03]

#### 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 Raymond Frederick Strahley, Jr. has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-991214-037, effective September 11, 2000.

#### DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-20621, held by Raymond Frederick Strahley, Jr. to practice pharmacy in Ohio and places Raymond Frederick Strahley, Jr. on probation for five years beginning on the effective date of this Order with the following conditions:

(A) Raymond Frederick Strahley, Jr. 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 submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

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

(b) Results of all drug screens must be negative. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.

(c) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.

(2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.

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

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

(B) Raymond Frederick Strahley, Jr. must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
- (2) A written description of Raymond Frederick Strahley, Jr.'s progress towards recovery and what Raymond Frederick Strahley, Jr. has been doing during the previous three months.

(C) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Raymond Frederick Strahley, Jr.'s pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) Raymond Frederick Strahley, Jr. may not serve as a responsible pharmacist.
- (3) Raymond Frederick Strahley, Jr. may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Raymond Frederick Strahley, Jr. must, during the first twelve months of practice, work only with a pharmacist whose license is in good standing.
- (5) Raymond Frederick Strahley, Jr. may not work in a pharmacy more than 40 hours per week during the first twelve months of practice.
- (6) Raymond Frederick Strahley, Jr. must report his continuing education hours to the Board.
- (7) Raymond Frederick Strahley, Jr. must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
- (8) Raymond Frederick Strahley, Jr. must not violate the drug laws of Ohio, any other state, or the federal government.
- (9) Raymond Frederick Strahley, Jr. must abide by the rules of the State Board of Pharmacy.
- (10) Raymond Frederick Strahley, Jr. must comply with the terms of this Order.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Raymond Frederick Strahley, Jr. is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Teater and approved by the Board (Aye-6/Nay-2).

5:15 p.m.

The meeting was recessed until Wednesday, August 6, 2003.

**WEDNESDAY, AUGUST 6, 2003**

8:30 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:

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

8:40 a.m.

Mrs. Adelman and Mr. Braylock arrived and joined the meeting in progress.

**R-2004-031** Mr. Winsley next presented a request from the Cleveland Clinic Foundation Family Health Centers that they be permitted to utilize ADDS technology to fill prescriptions for employees and patients at each Family Health Center (FHC). There are not pharmacies or pharmacists at every FHC, so this would allow prescriptions to be filled without a final check of the finished product by a pharmacist. After discussion of this request, Mrs. Gregg moved that the Board deny this request. The motion was seconded by Mr. Lipsyc and approved by the Board (Aye-8/Nay-0).

**R-2004-032** Mr. Benedict and Mr. Keeley next presented a request from Kroger for Board approval of an electronic prescription transmission program that would entail sending prescriptions from the prescriber's office directly to the Kroger pharmacy computer system. After discussion, Mr. Braylock moved that the Board consider this system to be approvable pending final inspection upon implementation. The motion was seconded by Mr. Kost and approved by the Board (Aye-8/Nay-0).

9:07 a.m.

The Board took a brief recess.

9:14 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 Mrs. Adelman and a roll call vote was conducted by President Giacalone as follows: Adelman-Yes, Braylock-Yes, Eastman-Yes, Gregg-Yes, Kost-Yes, Lipsyc-Yes, Teater-Yes, and Turner-Yes.

9:40 a.m.

**R-2004-033** The Executive Session ended and the meeting was opened to the public. Mr. Lipsyc moved that the Board accept the settlement offer in the matter of Maynard D. Turner, R.Ph. The motion was seconded by Mr. Kost and approved by the Board (Aye-7/Nay-1). The agreement will become final upon the Board president's signature.

9:41 a.m.

The Board took a brief recess.

9:55 a.m.

Mr. Keeley presented a request from Alteer Electronic Prescription Transmission Systems for approval of their electronic prescribing system. After discussion, the matter was tabled pending receipt of further information.

**R-2004-034** Mr. McMillen presented a request for approval as a provider of continuing pharmacy education (CPE) from Pharmco/Gloria Garber, R.Ph. After discussion, Mrs. Gregg moved that Pharmco be approved as a provider of CPE. The motion was seconded by Mr. Turner and approved by the Board (Aye-8/Nay-0).

Mr. Braylock reported that the Nursing Board's CPG committee had not met.

Mr. Benedict and Mr. Cole continued their discussion with the Board members about the process involved in an inspection of a pharmacy by the Board's agents.

*11:33 a.m.*

The Board recessed for lunch.

2:12 p.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 Melanie A. Beckemeyer, R.Ph., West Chester.

3:48 p.m.

The hearing ended and the record was closed.

3:55 p.m.

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

4:22 p.m.

**R-2004-035**

The Executive Session ended and the meeting was opened to the public. Mr. Lipsyc moved that the Board adopt the following Order in the matter of Melanie A. Beckemeyer, R.Ph.:

#### **ORDER OF THE STATE BOARD OF PHARMACY**

(Docket No. D-030610-079)

In The Matter Of:

**MELANIE A. BECKEMEYER**

8030 Kingfisher Lane  
West Chester, Ohio 45069  
R.Ph. No. 03-2-18118

#### **INTRODUCTION**

THE MATTER OF MELANIE A. BECKEMEYER CAME FOR HEARING ON AUGUST 6, 2003 BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT P. GIACALONE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ELIZABETH I. GREGG, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

MELANIE A. BECKEMEYER WAS REPRESENTED BY LAWRENCE T. BENNETT AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

#### **SUMMARY OF EVIDENCE**

##### **State's Witnesses**

None

##### **Respondent's Witnesses**

1. Melanie A. Beckemeyer, R.Ph., Respondent

##### **State's Exhibits**

1. Reinstatement Hearing Request letter from Lawrence T. Bennett [02-11-03]  
1A-1B. Procedurals
2. Copy of State Board of Pharmacy Order in re Melanie A. Beckemeyer, R.Ph. [10-30-95]  
2A. Copy of State Board of Pharmacy Order in re Melanie A. Beckemeyer, R.Ph. [12-05-02]
3. Springdale Police Department Arrest and Investigation Report No. 95AN713 [04-25-95]
4. Indictment [05-30-95]; Entry Finding Defendant Eligible for Treatment in Lieu of Conviction, Staying Proceedings, and Ordering Period of Rehabilitation [07-19-95]; and Entry Terminating Period of Rehabilitation and Dismissing Indictment [11-14-96] State of Ohio vs. Melanie Beckemeyer, Case No. B9504454, Hamilton County Common Pleas Court
5. Rx #4045295 [04-25-95]
6. Copy of Notarized Statement of Robert Chait, M.D. [08-15-95]
7. Copy of Statement of Specialist George Rudemiller, Cinti Police Division [04-26-95]
8. Findings of Fact and Order, State of Indiana v. Melanie A. Beckemeyer, R.Ph., Cause No. 96-IBP-007, before the Indiana State Board of Pharmacy [07-26-96]

9. Copy of Letter from Mary Ellen McCabe, Esq. [09-15-95]
10. Checks/Refunds Search Report for Melanie Beckemeyer [01-01-95 thru 11-05-02]
11. Letter from Charles R. Young, R.Ph., Executive Director, Massachusetts Board of Registration in Pharmacy [06-25-03]
12. Criminal Complaint, Commonwealth of Kentucky vs. Melanie Beckemeyer, Case No. 95-237, Campbell County District Court [05-11-95]
13. Agreed Order, Commonwealth of Kentucky vs. Melanie Beckemeyer, Case No. 95-CR-213, Campbell Circuit Court Division Two [11-20-95]
14. Investigation Report, Kentucky State Police [05-15-95]
16. RADP-Alexandria Park Patient Profile for Melanie Beckemeyer [09-16-94 to 03-20-95]

#### Respondent's Exhibits

- A1. Copy of Letter from Pamela Gregg, R.N.C. [07-21-03]; Copy of seventeen Drug Screen Reports [04-09-02 to 07-16-03]
- A2-A7. Copy of six Letters of Support [07-15-03 to 07-17-03]
- A8. Copy of Letter from Cathy Jo Veroni, MA, LPC, CCDCIII-E [02-27-02]
- A9. Copy of Letter from Lawrence T. Bennett [06-28-01]

#### FINDING 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 that Melanie A. Beckemeyer has substantially complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. 020503-053, effective December 5, 2002.

#### DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-18118, held by Melanie A. Beckemeyer to practice pharmacy in Ohio and places Melanie A. Beckemeyer on probation for five years effective from the date her pharmacist identification card is issued, with the following conditions:

(A) Melanie A. Beckemeyer must take and pass both the NAPLEX examination or an equivalent examination acceptable to the Board and the MPJE or an equivalent examination acceptable to the Board before her pharmacist identification card will be issued.

(B) Melanie A. Beckemeyer must fulfill the continuing pharmacy education requirements as set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Melanie A. Beckemeyer's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Melanie A. Beckemeyer may not serve as a responsible pharmacist.

(3) Melanie A. Beckemeyer may not destroy, assist in, or witness the destruction of controlled substances.

(4) Melanie A. Beckemeyer must not violate the drug laws of Ohio, any other state, or the federal government.

(5) Melanie A. Beckemeyer must abide by the rules of the State Board of Pharmacy.

(6) Melanie A. Beckemeyer must comply with the terms of this Order.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Melanie A. Beckemeyer is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

MOTION CARRIED.

SO ORDERED.

The motion was seconded by Mrs. Teater and approved by the Board (Aye-7/Nay-1).

4:24 p.m.

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

PER DIEM	<u>8/4</u>	<u>8/5</u>	<u>8/6</u>	<u>Total</u>
Adelman	1	1	1	3
Braylock	1	1	1	3
Eastman	-	1	1	2
Giacalone	1	1	1	3
Gregg	-	1	1	2
Lipsyc	1	1	1	3
Kost	1	1	1	3
Teater	1	1	1	3
Turner	1	1	1	3

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

4:25 p.m.

Mrs. Adelman moved that the meeting be adjourned. The motion was seconded by Mrs. Gregg and approved by the Board (Aye-8/Nay-0).

<p style="text-align: center;"><b>THE BOARD APPROVED THESE MINUTES SEPTEMBER 9, 2003</b></p>
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