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

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## **Minutes of the February 8-9, 2010** **Meeting of the Ohio State Board of Pharmacy**

### **Monday, February 8, 2010**

10:02 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

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

**R-2010-119** Mr. Rowland announced that the following Settlement Agreement with **Daniel Lee Burt**, R.Ph. (03-2-12740) Waterloo, Ohio, had been signed by all parties making it effective.

### **SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-091008-020

*in the matter of:*

**DANIEL LEE BURT, R.Ph.**

3134 County Road 48

Waterloo, Ohio 45688

R.Ph. Number 03-2-12740

This Settlement Agreement is entered into by and between Daniel Lee Burt 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.

Daniel Lee Burt 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. Daniel Lee Burt acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Ohio Revised Code.

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

Whereas, Daniel Lee Burt is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about October 8, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Daniel Lee Burt 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. Daniel Lee Burt requested a hearing; it was scheduled and continued. The October 8, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Daniel Lee Burt was originally licensed in the State of Ohio on February 23, 1979, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Daniel Lee Burt did, on or about October 4, 2008, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Daniel Lee Burt did not renew his license to practice pharmacy, Daniel Lee Burt dispensed RX #0527462 for oxycodone/APAP 7.5/500 mg, and Daniel Lee Burt performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Daniel Lee Burt did, on or about December 3, 2008, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Daniel Lee Burt did not renew his license to practice pharmacy, Daniel Lee Burt dispensed RX #0538912 for Adderall XR 20 mg, and Daniel Lee Burt performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Daniel Lee Burt did, on or about February 4, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Daniel Lee Burt did not renew his license to practice pharmacy, Daniel Lee Burt dispensed RX #0550234 for oxycodone/APAP 10/325 mg, and Daniel Lee Burt performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Daniel Lee Burt did, on or about April 5, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Daniel Lee Burt did not renew his license to practice pharmacy, Daniel Lee Burt dispensed RX #0562462 for methylphenidate 20 mg, and Daniel Lee Burt performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Daniel Lee Burt did, on or about June 17, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Daniel Lee Burt did not renew his license to practice pharmacy, he dispensed RX #0575349 for oxycodone/APAP 5/325 mg, and Daniel Lee Burt performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Daniel Lee Burt neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 8, 2009; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Daniel Lee Burt agrees to the imposition of a monetary penalty of One Thousand Two Hundred and Fifty Dollars (\$1,250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (B) In addition, Daniel Lee Burt must obtain, within one year from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs), which may not also be used for license renewal.

If, in the judgment of the Board, Daniel Lee Burt appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Daniel Lee Burt 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.

Daniel Lee Burt 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. Daniel Lee Burt waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

/s/ Daniel Lee Burt, R.Ph. Date Signed: 01/26/10

*Respondent*

/s/ James J. Leo Date Signed: 01/28/10

*Attorney for Respondent*

/s/ Elizabeth I. Gregg Date Signed: 02/08/10

*President; Ohio State Board of Pharmacy*

/s/ Tracy M. Greuel Date Signed: 02/08/10

*Ohio Assistant Attorney General*

10:05 a.m.

Mr. Kolezynski moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by

Mr. Joyce and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:26 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

11:37 a.m. The meeting resumed.

**R-2010-120** Mr. Joyce moved that the Board summarily suspend the license to practice as a pharmacy intern belonging to **Derek James Rhoades**, Intern (06-0-06710) Bellefontaine, Ohio, pursuant to Ohio Revised Code 3719.121(A). Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 7.

**R-2010-121** Mr. Gahm moved that the settlement offer in the matter of **Jamie Lynn Fitch**, R.Ph. (03-1-27151) Cincinnati, Ohio, be accepted. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

**R-2010-122** The Board considered a request from **Cheryl Hutchins**, R.Ph. (03-2-16453) Cincinnati, Ohio, for additional time to complete the State Board of Pharmacy Examination. After discussion, Mr. Gahm moved that the Board approve Ms. Hutchin's request for additional time. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 6; *Nay* – 1.

**R-2010-123** After discussion, Mr. Gahm moved that the portion of Resolution-1995–007 concerning addendum fees be amended to eliminate the fee. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 7.

Ms. Lange and Mr. Keeley discussed their Technician Exam Status Report with the Board.

Mr. Keeley presented the Legislative Report.

**R-2010-124** Ms. Lange moved that the following Ad Hoc Committee on Rule Review members be appointed. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 7:

**Ohio Society of Health-System Pharmacists:**

- 1) Kathy Donley, R.Ph./Akron General Medical Center
- 2) Margaret "Peg" Huwer, R.Ph./Doctor's Hospital, Columbus
- 3) Steve Smith, R.Ph./Toledo Hospital Family Medicine Residency
- 4) Ben Shaffer, R.Ph./Grady Memorial Hospital, Delaware
- 5) Paul Mosko, R.Ph./Good Samaritan Hospital, Dayton

**Ohio Pharmacists Association:**

- 1) Justin Friesner, R.Ph./Kroger, Westerville
- 2) Pete Ratycz, R.Ph./Discount Drug Mart, Medina
- 3) Joe Sabino, R.Ph./Retired
- 4) Dale Bertke, R.Ph./Schwieterman's Drug Store
- 5) Ron Ward, R.Ph./Giant Eagle, North Canton

**Miscellaneous:**

- 1) Kevin Mitchell, R.Ph./Rite Aid, Marion
- 2) Dawn Marie Dragos, R.Ph./Walgreens, Niles
- 3) Dale English, R.Ph./Northeastern Ohio Universities College of Pharmacy

**Board Members:**

- 1) Don Casar, R.Ph. (Chair)
- 2) Heather Pasquale, R.Ph.

**R-2010-125** After discussion, Mr. Gahm moved that the University of Toledo updated immunization program for students be approved. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 7.

12:23 p.m. The Board recessed for lunch.

1:30 p.m. The meeting resumed with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

1:34 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Michael J. Palladini**, R.Ph., Beaver, Pennsylvania.

2:59 p.m. The hearing ended and the record was closed.

The Board recessed briefly.

3:07 p.m. Mr. Kolezynski moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

3:18 p.m. The Executive Session ended and the meeting was opened to the public.

**R-2010-126** After votes were taken in public session, the Board adopted the following order in the matter of **Michael J. Palladini**, R.Ph. Beaver, Pennsylvania.

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

Docket Number D-091106-027

*in the matter of:*

**MICHAEL J. PALLADINI, R.Ph.**

516 College Avenue

Beaver, Pennsylvania 15009

### **INTRODUCTION**

The matter of Michael J. Palladini came for hearing on February 8, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Donald M. Casar, R.Ph., absent.

Michael J. Palladini was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

### **SUMMARY OF EVIDENCE**

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy  
Michael J. Palladini, R.Ph., Respondent  
Erin Palladini

Respondent's Witness: Michael J. Palladini, R.Ph., Respondent

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [11-06-09]
  - 1A. Amendment Notice [11-10-09]
  - 1B-1C. Procedurals
2. Application for Examination as a Pharmacist for Michael J. Palladini [06-23-09]
3. Copy of Pennsylvania Department of State pharmacist license disciplinary action [07-06-09]
4. Commonwealth of Pennsylvania criminal docket #2003-3084 with attachments for Michael Palladini [03-01-04]
5. Rite Aid Pharmacy #2277 report of theft of drugs [10-25-03]

Respondent's Exhibits:

- A. Curriculum Vitae of Michael Palladini [not dated]
- B. Transcripts of Michael J. Palladini [1979 to 2007]
- C. Four diplomas and certificates for Michael J. Palladini [1983 to 2009]
- D. Beaver County, Pennsylvania Behavioral Health Consensus Document [July 2007]
- E. Pennsylvania Department of Health training schedule and letters of reference [12-04-08 to 07-15-09]
- F. Pennsylvania Certification Board training letter and certificate [02-04-09]
- G. Three Suns Publishing Brochure and Certificate of Completion [not dated]
- H. Lawrence County, Pennsylvania DUI Program Forum Certificate/Letter/Article [12-03-09 to 12-07-09]
- I. Mercer County Community College Spring 2010 Schedule; E-mail message from Kimberlee S. Matthews [01-12-10]
- J. Beaver County Community College class schedule and instructor verification letter [01-14-10]
- K. ExpressMed Annual Compliance Training brochure [2009]
- L. Three letters of recommendation [01-05-10 to 01-07-10]
- M. Continuing education credits and certificates [04-03-04 to 12-07-09]

**FINDINGS OF FACT**

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Michael J. Palladini submitted an application for examination as a pharmacist on or about June 18, 2009.
- (2) Michael J. Palladini was, on or about March 1, 2004, convicted in the Beaver County Court of Common Pleas, Commonwealth of Pennsylvania, of Possession with Intent to Deliver a Controlled Substance in violation of Section 780-113(a)(30) of the Pennsylvania Controlled Substance Act, a felony if committed in the State of Ohio. Accordingly, Michael J. Palladini's license to practice pharmacy in the Commonwealth of Pennsylvania was suspended for a period of ten years. Such conduct is in violation of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Michael J. Palladini did, on or about various dates prior to March 1, 2004, knowingly sell a controlled substance when the conduct was not in

accordance with Chapters 3719, 4729., and 4731. of the Ohio Revised Code, nor otherwise for a legitimate medical purpose within the meaning of Title 21, CFR Section 1306.04, to wit: without a prescription, Michael J. Palladini gave and/or sold approximately 15 tablets of hydrocodone bitartrate/APAP to a relative of a coworker on 10 to 12 occasions knowing he was addicted. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (4) Michael J. Palladini did, on or about various dates prior to March 1, 2004, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: Michael J. Palladini admittedly stole hydrocodone bitartrate/APAP, a Schedule III Controlled Substance, from his employer for the purpose of selling the drugs without prescription. Michael J. Palladini paid Rite Aid \$4,798.80 restitution for his thefts. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Application for Examination As A Pharmacist submitted by Michael J. Palladini on or about November 6, 2009.

Further, Michael J. Palladini may not reappear before the Board to request the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio until he has a successful resolution regarding his Pennsylvania license to practice pharmacy.

Troy Gahm moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0).

Richard Kolezynski moved for Conclusions of Law; Brian Joyce seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-0).

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- 3:26 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Michael John Roller**, R.Ph. (03-1-27568) Cincinnati, Ohio.
- 3:41 p.m. The hearing ended and the record was closed.
- 3:42 p.m. Mr. Kolezynski moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.
- 3:50 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2010-127** After votes were taken in public session, the Board adopted the following order in the matter of **Michael John Roller**, R.Ph. (03-1-27568) Cincinnati, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-091023-025

*in the matter of:*

**MICHAEL JOHN ROLLER, R.Ph.**

18 E. 4th Street, Unit 802  
Cincinnati, Ohio 45202

R.Ph. Number 03-1-27568

**INTRODUCTION**

The matter of Michael John Roller came for consideration on February 8, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Donald M. Casar, R.Ph., absent.

Michael John Roller was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witness: Rick Haun, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [10-23-09]
- 1A. Procedural
2. Ohio State Board of Pharmacy license renewal application for Michael John Roller [09-05-08]
3. Notarized Statement of Michael Roller [06-08-09]
4. Copy of RX #2225243 for morphine extended release 30 mg [09-29-08]
5. Copy of RX #2225263 for Adderall XR 20 mg [10-02-08]
6. Copy of RX #2225899 for oxycodone/APAP 5/325 mg [11-26-08]
7. Copy of RX #4447050 for hydrocodone/APAP 5/500 mg [12-16-08]
8. Copy of RX #2226416 for Adderall XR 20 mg [01-12-09]



9. Copy of RX #2267116 for oxycodone 5 mg [03-01-09]
10. Copy of RX #2267474 for oxycodone/APAP 5/325 mg [04-01-09]
11. Copy of RX #2267899 for Concerta 36 mg [05-06-09]

Respondent's Exhibits: None

### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the State Board of Pharmacy indicate that Michael John Roller was originally licensed in the State of Ohio on August 10, 2006 pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Michael John Roller did, on or about September 29, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2225243 for morphine extended release 30 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Michael John Roller did, on or about October 2, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2225263 for Adderall XR 20 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Michael John Roller did, on or about November 26, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2225899 for oxycodone/APAP 5/325 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Michael John Roller did, on or about December 16, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #4447050 for hydrocodone/APAP 5/500 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Michael John Roller did, on or about January 12, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2226416 for Adderall XR 20 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (7) Michael John Roller did, on or about March 1, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2267116 for oxycodone 5 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (8) Michael John Roller did, on or about April 1, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2267474 for oxycodone/APAP 5/325 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) Michael John Roller did, on or about May 6, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Michael John Roller did not renew his license to practice pharmacy, Michael John Roller dispensed RX #2267899 for Concerta 36 mg and Michael John Roller performed other pharmacy tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

#### **CONCLUSIONS OF LAW**

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (9) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (9) 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 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 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand dollars (\$2,000.00) on Michael John Roller and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Jerome Wiesenbahn moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Action of the Board; Brian Joyce seconded the motion. Motion passed (Aye-7/Nay-0).

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Ms. Pasquale gave a summary report on her participation as a member of the National Association of Boards of Pharmacy (NABP) Legislative and Law Enforcement Committee meeting, January 26<sup>th</sup> and 27<sup>th</sup>.

**R-2010-128** A request to be registered as a Continuing Pharmacy Education provider was received from **The Breathing Association**, Columbus, Ohio. After discussion, Mr. Kolezynski moved that the request be approved. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 7.

Mrs. Droz presented the Ohio Automated Prescription Reporting System update.

Ms. Lange said there was no Medical Board's Physician-Assistant Policy Committee for January and February.

There was no report on the Nursing Board's Committee on Prescriptive Governance due to Mr. Casar's absence.

4:07 p.m. Mr. Gahm moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

4:28 p.m. The Executive Session ended and the meeting was opened to the public.

**R-2010-129** Mr. Gahm moved that the annual dues to the NABP be paid. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 7.

After discussion, the Board agreed that Mrs. Gregg would serve as the Board's voting delegate at the NABP's 106<sup>th</sup> Annual meeting, May 22 – 25, 2010, with Mr. Kolezynski serving as the alternate.

Mrs. Gregg appointed Mr. Kolezynski to be the Board's representative to the Accreditation Council for Pharmacy Education survey of the University of Findlay College of Pharmacy on April 6 – 8, 2010.

4:47 p.m. The Board recessed for the day.

## **Tuesday, February 9, 2010**

8:32 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

**R-2010-130** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **William Carroll**, R.Ph. (03-3-11842) Amelia, Ohio, be permitted to be the responsible person for the following sites:

<b>Mercy Hospital Anderson</b> , Cincinnati, Ohio	(02-0384850)
<b>Mercy Anderson Outpatient Pharmacy</b> , Cincinnati, Ohio	(02-1992150)

After discussion, Mr. Gahm moved that the Board approve the request for one year. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 7.

**R-2010-131** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Amy Myers**, R.Ph. (03-1-20444) Pandora, Ohio, be permitted to be the responsible person for the following sites:

**Riley Creek Pharmacy**, Pandora, Ohio (02-2023650)  
**Pharmacy Solutions**, Pandora, Ohio (02-2023900)

After discussion, Ms. Pasquale moved that the Board approve the request for one year. The motion was seconded by Mr. Gahm and approved by the Board: *Aye – 7.*

**R-2010-132** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Buderer Drug/Sandusky**, Sandusky, Ohio (02-1106900)  
**Buderer Drug/Perrysburg**, Sandusky, Ohio (02-1198400)  
**Toledo Hospital Pharmacy**, Toledo, Ohio (02-0031900)

After discussion, Mr. Kolezynski moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Joyce and approved by the Board: *Aye – 7.*

**R-2010-133** The Board reviewed a request from **Sharps Compliance, Inc.**, Houston, Texas, concerning a drug collection system. After discussion, Mr. Joyce moved that the request be denied. Mr. Gahm seconded the motion and it was approved by the Board: *Aye – 7.*

Mr. Benedict presented the Medical Board Prescribing Committee Report.

**R-2010-134** After discussion, Mr. Kolezynski moved that the Board minutes of January 4-6, 2010, be approved as amended. Mr. Cain seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2010-135** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Walgreens OptionCare**, Cincinnati (02-0932850)  
**Innovative Pain Solutions**, Stephen D. Watson, M.D., PhD, Springfield (02-1727900)  
**Greater Cincinnati Pain Management. Center**, Blue Ash (02-1939200)

After discussion, Mr. Kolezynski moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Gahm and approved by the Board: *Aye – 7.*

**R-2010-136** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**MedCentral Health System**, Mansfield (02-0031050)  
**Central Admixture Pharmacy Services**, Valley View (02-1312700)

After discussion, Mr. Wiesenhahn moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 7.*

**R-2010-137** The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**MedCentral Health System/Shelby Hospital**, Shelby (02-0891550)  
**Central Admixture Pharmacy Services**, Valley View (02-1312700)

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

**R-2010-138**

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

<b>Life Line Hospital</b> , Wintersville	(02-1996500)
<b>Central Admixture Pharmacy Services</b> , Valley View	(02-1312700)

After discussion, Ms. Pasquale moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 7.

**R-2010-139**

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

<b>St. Vincent Medical Center Ambulatory Care Pharmacy</b> , Toledo	(02-0441550)
<b>Neighborhood Health Association</b> , Toledo	(no TDD required)

After discussion, Mr. Joyce moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 7.

**R-2010-140**

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

<b>University Optioncare</b> , Columbus	(02-1543600)
<b>Ohio State University Neuroscience L.L.C.</b> , Gahanna	(02-1845050)

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Cain and approved by the Board: *Aye* – 7.

There was a discussion of licensing issues concerning **InstyMeds** and the consensus of the Board was that no TDD license was required for InstyMeds as long as confidentiality matters were handled appropriately by InstyMeds and the hospital.

9:29 a.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Martin Barron**, R.Ph. (03-2-05416) University Heights, Ohio.

10:40 a.m. The hearing ended and the record was closed.

The Board recessed briefly.

10:49 a.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Justin David Yingling**, Intern Applicant, Beachwood, Ohio.

11:38 a.m. The hearing ended and the record was closed.

11:39 a.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Cain and a roll – call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:56 a.m. The Executive Session ended and the meeting was opened to the public.

**R-2010-141** After votes were taken in public session, the Board adopted the following order in the matter of **Justin David Yingling**, Intern Applicant, Beachwood, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-091222-036

*in the matter of:*

**JUSTIN DAVID YINGLING**

27060 Cedar Road, Apt. 811

Beachwood, Ohio 44122

**INTRODUCTION**

The matter of Justin David Yingling came for hearing on February 9, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Donald M. Casar, R.Ph., absent.

Justin David Yingling was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witnesses: William Trey Edwards, Ohio State Board of Pharmacy  
Justin David Yingling, Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [12-22-09]
- 1A-1C. Procedurals
2. Pharmacy Intern Registration Application for Justin David Yingling with attachment [07-06-09]
3. Order, Commonwealth of Pennsylvania vs. Justin David Yingling, Case No. 06-32-CA, Huntingdon County, Pennsylvania, Court of Common Pleas [03-06-06]; Motion for Nolle Prose, Commonwealth of Pennsylvania vs. Justin David Yingling, Case No. CR-32-2006, Huntingdon County, Pennsylvania, Court of Common Pleas [05-11-07]
4. Order, Commonwealth of Pennsylvania vs. Justin David Yingling, Case No. 2255-2008, Blair County, Pennsylvania, Court of Common Pleas [02-17-09]
5. Commonwealth of Pennsylvania Personal Data Sheet from the Bureau of Professional and Occupational Affairs [03-14-09]
6. S.A.R.P.H. Monitoring/Treatment Contract [03-16-09]

Respondent's Exhibits:

- A. Reference Letter from George J. Dowd, M.S., L.P.C., C.A.C., C.C.D.P. Diplomate [02-01-10]
- B. Reference Letter from Scott A. Chludzinski [01-30-10]
- C. Reference Letter from Nancy Spencer, R.Ph., Pharmacy Manager, Quality Markets [01-29-09]

- D. Reference Letter from Kathie Simpson, Executive S.A.R.P.H. Director of Operations [02-24-10]

### **FINDINGS OF FACT**

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Justin David Yingling applied to the Board for registration as an intern in the State of Ohio on July 16, 2009.
- (2) Justin David Yingling has indicated to Board agents that he is addicted to alcohol. Justin David Yingling was, on or about December 4, 2005, arrested for Driving Under the Influence (B.A.C. 0.171%). Justin David Yingling received an Accelerated Rehabilitative Disposition consisting of 12.5 hours of an alcohol highway safety program, 5 hours of drug and alcohol therapy, 90 days suspension of driving privileges, 1 year probation and approximately \$1500 in program costs and fines. Justin David Yingling was, on or about July 18, 2008, arrested for Driving Under the Influence (B.A.C. 0.247%). Justin David Yingling received 20 days in jail, 70 days of house arrest, 1 year probation, 12.5 hours of an alcohol highway safety program, 18 months suspension of driving privileges, and a \$4000 fine. Such admission indicates that Justin David Yingling falls within the ambit of Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code.

### **CONCLUSIONS OF LAW**

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

### **DECISION OF THE BOARD**

Pursuant to Section 4729.11 of the Ohio Revised Code, and the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Justin David Yingling with the following conditions:

- (A) Justin David Yingling must continue with his current S.A.R.P.H. contract.
- (B) Further, Justin David Yingling must personally appear before the Ohio State Board of Pharmacy if he chooses to seek an Ohio pharmacist license.

Deborah Lange moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Conclusions of Law; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-7/Nay-0).

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- 12:04 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Patrick Hiram Lucas**, R.Ph. (03-3-19848) Columbus, Ohio.
- 12:53 p.m. The hearing ended and the record was closed. The Board took a brief recess.
- 12:58 p.m. The meeting resumed. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.
- 1:06 p.m. Mr. Gahm recused himself from the Executive Session.
- 1:16 p.m. Mr. Gahm returned to the meeting in progress.
- 1:26 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2010-142** After votes were taken in public session, the Board adopted the following order in the matter of **Martin Barron**, R.Ph. (03-2-05416) University Heights, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-090915-018

*in the matter of:*

**MARTIN BARRON, R.Ph.**

2430 Claver Road  
University Heights, Ohio 44118

R.Ph. Number 03-2-05416

**INTRODUCTION**

The matter of Martin Barron came for consideration on February 9, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Donald M. Casar, R.Ph., absent.

Martin Barron was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witnesses: Lynn Mudra, Ohio State Board of Pharmacy  
John Whittington, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [09-15-09]



- 1A. Procedural
2. Dangerous Drug Distributor Inspection Report at Collingwood Health Cnt. Pharm. [09-09-09]
3. Prescription Room Barricade Inspection Report [09-09-09]
4. Mini-Mental State Examination Sheet for Martin Barron [09-09-09]
5. Correspondence from Martin Barron [01-27-10]
6. Ohio State Board of Pharmacy Order in re Martin Barron, R.Ph. [02-11-98]
7. Ohio State Board of Pharmacy Order in re Martin Barron, R.Ph. [07-17-00]

Respondent's Exhibits: None

### **FINDINGS OF FACT**

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Martin Barron was originally licensed in the State of Ohio on August 4, 1953, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended effective September 15, 2009.
- (2) Martin Barron is impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Martin Barron was observed on or about September 9, 2009, practicing pharmacy while mentally and/or physically impaired. Martin Barron was observed by Board agents to be exhibiting symptoms of confusion and dementia. His actions were uncommonly slow and he appeared disheveled. Martin Barron was poorly oriented to date and place of his location; Martin Barron was unable to tell the agents the day, date, month, year, or season. When given a Mini-Mental Status Examination by a physician, Martin Barron scored 13 of 30 (normal scores are 24 or above for college-educated persons 80 years or older; the median score is 27). Martin Barron's condition indicates that he is unfit to practice pharmacy under the provisions of Sections 3719.121(B) and 4729.16(A)(3) of the Ohio Revised Code.

### **CONCLUSIONS OF LAW**

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

### **DECISION OF THE BOARD**

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Martin Barron on September 15, 2009.

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

On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-05416, held by Martin Barron effective as of the date of the mailing of this Order.

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

Deborah Lange moved for Findings of Fact; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Brian Joyce moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-6/Nay-1).

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**R-2010-143** After votes were taken in public session, the Board adopted the following order in the matter of **Patrick Hiram Lucas**, R.Ph. (03-3-19848) Columbus, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-091006-018

*in the matter of:*

**PATRICK HIRAM LUCAS, R.Ph.**

580 E. Town Street, Apt. 118

Columbus, Ohio 43215

R.Ph. Number 03-3-19848

**INTRODUCTION**

The matter of Patrick Hiram Lucas came for consideration on February 9, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Donald M. Casar, R.Ph., absent.

Patrick Hiram Lucas was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [10-06-09]
  - 1A. Procedural
2. Notarized statement of Tina McLean [08-24-09]
3. Notarized statement of Noah Evans [08-24-09]
4. Notarized statement of Andrew Swope [08-25-09]

5. Copies of labels for RX #1702648 and RX #1702649 [08-24-09]
6. Rx profile for "Tim Byron" from Medical Center Pharmacy [08-25-09]
7. Insert and label information for RX #1702648 [08-25-09]
8. Insert and label information for RX #1702649 [08-25-09]
9. Rx Profile for "Tim Byron" from People's Pharmacy [09-03-09]
10. Copy of RX #C4115977 [05-21-09]
11. Copy of RX #C4102090 [10-01-08]
12. Copy of RX #689015 [10-01-08]
13. Copies of RX #688954 and RX #688955 [10-01-08]
14. Signature log pages from People's Pharmacy [10-16-08 to 08-17-09]
15. Notarized statement of Brant Holtameier, D.O. [09-16-09]
16. Notarized statement of Terry Dragash [08-26-09]; Signature Log & Acknowledgment
17. Notarized statement of Jamar Williams, M.D. [09-01-09]
18. Notarized statement of Bonnie C. May [09-09-09]
19. State of Arizona Driver License / Identification Card Application for Timothy Byron Thomas [04-07-08]
20. Copies of photographs of Timothy B. Thomas [not dated]
21. Copies of Loving Realtors apartment lease agreement for Timothy B. Thomas [03-04-09]

Respondent's Exhibits: None

#### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Board of Pharmacy indicate that Patrick Hiram Lucas was originally licensed in the State of Ohio on July 28, 1993 pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended on October 6, 2009.
- (2) The continuation of Patrick Hiram Lucas' professional practice and/or his method of furnishing controlled substances presents a danger of immediate and serious harm to others, to wit: from September 19, 2008 to August 25, 2009 Patrick Hiram Lucas illegally processed drug documents and distributed controlled substances into the community without a legitimate medical purpose. Such conduct indicates that Patrick Hiram Lucas is within the ambit of Sections 3719.121 of the Ohio Revised Code.
- (3) Patrick Hiram Lucas did, on or about August 25, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #1702648 for 240 hydrocodone with acetaminophen 10/325 mg tablets, a schedule III controlled substance, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (4) Patrick Hiram Lucas did, on or about August 25, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #1702649 for 84 ibuprofen 800 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (5) Patrick Hiram Lucas did, on or about May 21, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick

Hiram Lucas created RX #4115977 for 180 hydrocodone with acetaminophen 10/325 mg tablets, a schedule III controlled substance, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (6) Patrick Hiram Lucas did, on or about March 17, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #709933 for 60 Nexium 40 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (7) Patrick Hiram Lucas did, on or about October 1, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #4102090 for 480 milliliters of promethazine with codeine syrup, a schedule V controlled substance, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Patrick Hiram Lucas did, on or about October 1, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #689015 for 1 Zithromax 250 mg Z-Pak, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (9) Patrick Hiram Lucas did, on or about October 1, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #688955 for 90 sertraline 100 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (10) Patrick Hiram Lucas did, on or about October 1, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #688954 for 90 lisinopril 40 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (11) Patrick Hiram Lucas did, on or about September 16, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #4101219 for 240 hydrocodone with acetaminophen 10/325 mg tablets, a schedule III controlled substance, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (12) Patrick Hiram Lucas did, on or about September 16, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #4101218 for 240 alprazolam 2 mg tablets, a schedule IV controlled substance, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (13) Patrick Hiram Lucas did, on or about September 16, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #687138 for 240 carisoprodol 350 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (14) Patrick Hiram Lucas did, on or about September 16, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Patrick Hiram Lucas created RX #687137 for 60 Nexium 40 mg tablets, using false patient and physician names so as to cover his theft. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

#### **CONCLUSIONS OF LAW**

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (14) 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 (3) through (14) 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 paragraphs (3) through (14) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### **DECISION OF THE BOARD**

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Patrick Hiram Lucas on October 6, 2009.

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

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-19848, held by Patrick Hiram Lucas effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-19848, held by Patrick Hiram Lucas effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-19848, held by Patrick Hiram Lucas effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-19848, held by Patrick Hiram Lucas effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Patrick Hiram Lucas 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.

Troy Gahm moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Brian Joyce moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

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**R-2010-144** Mr. Joyce moved that the settlement agreement as amended, in the matter of **Troy Gahm, R.Ph.** (03-2-19421) Lucasville, Ohio, be accepted. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 6.

Having previously discussed a potential conflict between the November, 2010 Board meeting and the District IV NABP/AACP meeting, the Board members agreed to change the November, 2010 meeting dates to November 1, 2, and 3.

1:30 p.m.

**R-2010-145** The following candidates for licensure by reciprocity met with Mr. Parker in Room South A, 31<sup>st</sup> Floor of the Vern Riffe Center. The candidates introduced themselves and then participated in a discussion of pharmacy laws and rules.

Jean M. Courtney	<i>Kentucky</i>
Nancy G. Craig	<i>Pennsylvania</i>
Sara Tagelsir Elbadawi	<i>Maryland</i>
Emad Ebed Naom Ghally	<i>Florida</i>
Gurudas Hampapuram	<i>Kentucky</i>
Vijay Janardhan	<i>Michigan</i>
Chandra Sekhar Rao Kadiyala	<i>Washington</i>

Mr. Wiesenhahn moved that the Board receive Per Diem as follows:

<b>PER DIEM</b>	<b>02/08</b>	<b>02/09</b>	<b>Total</b>
Cain	1	1	2
Casar	-	-	-
Gahm	1	1	2
Gregg	1	1	2
Joyce	1	1	2
Kolezynski	1	1	2
Lange	1	1	2
Pasquale	1	1	2
Wiesenhahn	1	1	2

Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 7.

1:30 p.m.

Mr. Gahm moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

<p style="text-align: center;"><b>The Ohio State Board of Pharmacy approved these Minutes March 8, 2010</b></p>
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