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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

Minutes of the November 1-3, 2010 **Meeting of the Ohio State Board of Pharmacy**

Monday, November 1, 2010

10:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

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

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

R-2011-094

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100616-127

in the matter of:

TRACY J. SOBONYA, R.Ph.

8717 Harvest Home Drive
Mentor, Ohio 44060

R.Ph. Number 03-2-26327

This Settlement Agreement is entered into by and between Tracy J. Sobonya 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.

Tracy J. Sobonya voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Tracy J. Sobonya acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

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

Whereas, Tracy J. Sobonya is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 16, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Tracy J. Sobonya was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Tracy J. Sobonya requested a hearing; it was scheduled and continued. The June 16, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Tracy J. Sobonya was originally licensed in the State of Ohio on July 12, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Tracy J. Sobonya did, on or about September 19, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #854555 for 30 fluoxetine 20 mg tablets, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Tracy J. Sobonya did, on or about November 1, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #854555 for 30 fluoxetine 20 mg tablets, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Tracy J. Sobonya did, on or about November 5, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #854555 for 30 fluoxetine 20 mg tablets, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Tracy J. Sobonya did, on or about September 19, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #855664 for 20 cefdinir 300 mg tablets, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Tracy J. Sobonya did, on or about November 2, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #858194 for 30 bupropion HCL XL 150 mg, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Tracy J. Sobonya did, on or about December 15, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #858194

for 30 bupropion HCL XL 150 mg, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (8) Tracy J. Sobonya did, on or about November 1, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, by deception, to wit: Tracy J. Sobonya took pursuant to RX #861448 for 250 ml of cetirizine HCL 1 mg/ml syrup, after altering the price to zero and not paying for the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) Tracy J. Sobonya did, from September 1, 2009, through December 15, 2009, knowing that she had no privilege to do so, and with purpose to defraud or knowing that she was facilitating a fraud, alter CVS computer records, to wit: Tracy J. Sobonya altered prescription prices for the following prescriptions to reflect zero cost:

Date	RX #	Drug Name
09/19/2009	854555	30 fluoxetine 20 mg
11/01/2009	854555	30 fluoxetine 20 mg
11/05/2009	854555	30 fluoxetine 20 mg
09/19/2009	855664	20 cefdinir 300 mg
11/02/2009	858194	30 bupropion HCL XL 150 mg
12/15/2009	858194	30 bupropion HCL XL 150 mg
11/01/2009	861448	250 ml cetirizine HCL 1 mg/syrup

Such conduct is in violation of Section 2913.42 of the Ohio Revised.

Tracy J. Sobonya neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 16, 2010; 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, Tracy J. Sobonya knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Tracy J. Sobonya agrees to the imposition of a monetary penalty of six thousand dollars (\$6,000.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) In addition, Tracy J. Sobonya must obtain, within one year from the effective date of this Agreement, six hours of approved continuing pharmacy education in Jurisprudence or Ethics (0.6 CEUs), which may not also be used for license renewal.

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

Tracy J. Sobonya acknowledges that she has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked

have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

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

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

<u>s/ Tracy J. Sobonya, R.Ph.</u> <i>Respondent</i>	Date Signed: 10/13/2010
<u>/s/ Celeste Manway</u> <i>Attorney for Respondent</i>	Date Signed: 10/13/2010
<u>/s/ Richard F. Kolezynski</u> <i>President; Ohio State Board of Pharmacy</i>	Date Signed: 11/01/2010
<u>/s/ Tracy Marie Greuel</u> <i>Ohio Assistant Attorney General</i>	Date Signed: 10/28/2010

R-2011-095

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100311-107

in the matter of:

RICHARD ALAN MADER, R.Ph.
454 Sycamore Street
Tiffin, Ohio 44883

R.Ph. Number 03-3-10260

This Settlement Agreement is entered into by and between Richard Alan Mader 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.

Richard Alan Mader 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. Richard Alan Mader acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

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

Whereas, Richard Alan Mader is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 11, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Richard Alan Mader 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. Richard Alan Mader requested a hearing; it was

scheduled and continued. The March 11, 2010 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Richard Alan Mader was originally licensed in the State of Ohio on July 20, 1972 pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Richard Alan Mader did, on or about January 19, 2009, misbrand a drug, to wit: when Richard Alan Mader received a prescription for dextromethorphan 10 mg/5ml, RX #6390217, Richard Alan Mader dispensed dextromethorphan 7 mg/ml, which had not been specifically prescribed by the physician. As well, the wrong prescriber's name was printed on the label. The patient subsequently was harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Richard Alan Mader did, on or about January 19, 2009, fail to keep a record of dispensing for RX #6390217, to wit: when Richard Alan Mader dispensed the drug, Richard Alan Mader omitted the prescription information from the patient profile and Richard Alan Mader did not keep a record in the pharmacy's computer system that was capable of providing immediate retrieval. Richard Alan Mader indicated to a Board agent that he did not know how to do this function. Also, Richard Alan Mader did not keep a log of all changes made to that prescription after the January 19 dispensing. Such conduct is in violation of Rule 4729-5-27(G)(7) and (M) of the Ohio Administrative Code.

Richard Alan Mader neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 11, 2010; 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, Richard Alan Mader knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Richard Alan Mader agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) In addition, Richard Alan Mader must obtain, within one year from the effective date of this Agreement, ten hours of approved continuing pharmacy education (1.0 CEUs) in compounding and/or medication errors, which may not also be used for license renewal.

Richard Alan Mader 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.

Richard Alan Mader 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. Richard Alan Mader 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/ Richard Alan Mader, R.Ph. Date Signed: 10/11/2010
Respondent

/s/ R. William Meeks Date Signed: 10/11/2010
Attorney for Respondent

/s/ Richard F. Kolezynski Date Signed: 11/01/2010
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 11/28/2010
Ohio Assistant Attorney General

10:01 a.m. Mr. Casar moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Moné – *yes*; Lange – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

10:12 a.m. The Executive Session ended and the Board recessed briefly.

11:00 a.m. Mr. Casar left the meeting temporarily for personal reasons.

R-2011-096 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Center for Medication Management Pharmacy, Findlay, Ohio (02-1534600)
Caughman Health Center Charitable Pharmacy, Findlay, Ohio (pending)

After discussion, Mr. Moné 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* – 6.

R-2011-097 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Mark J. Johannigman**, R.Ph. (03-2-25231) Findlay, Ohio be permitted to be the responsible person for the following sites:

Blanchard Valley Hospital, Findlay, Ohio (02- 0850100)
Caughman Health Center Charitable Pharmacy, Findlay, Ohio (pending)

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

R-2011-098 After discussion, Ms. Lange moved that a request from the **Aultman College of Nursing and Health Sciences**, Canton, Ohio, concerning its course, "Pharmacists Immunizing the Community," be approved. Ms. Woodson seconded the motion and it was approved by the Board: *Aye* – 6.

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

Mr. Keeley and Ms. Lange reported on the current status of the pharmacy technician exams.

Mr. Keeley presented the Legislative Report.

Mr. Benedict said there was no Medical Board Prescribing Committee Report this month.

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

11:42 a.m. The Board recessed for lunch.

1:30 p.m. The public hearing concerning the proposed new and amended rules began in Room South A, 31st Floor of the Riffe Center, with the following members in attendance:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph.; and Lori L. Woodson, R.Ph. Also attending were *Legislative Affairs Administrator*, Mark Keeley; *Executive Director*, William Winsley; and *Assistant Attorney General*, Tracy Greuel.

1:54 p.m. The public rules hearing ended.

2:05 p.m. The Board meeting reconvened in Room East B.

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 **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio.

3:05 p.m. The hearing ended and the record was closed.

3:06 p.m. Mr. Casar 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. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

3:15 p.m. The Executive Session ended and the meeting was opened to the public.

3:17 p.m.

R-2011-099 After votes were taken in public session, the Board adopted the following order in the matter of **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100120-038

in the matter of:

LEIGH ANN YATES, R.Ph.

12917 Lakeside Drive
Greenfield, Ohio 45123

R.Ph. Number 03-1-20616

INTRODUCTION

The matter of Leigh Ann Yates came for hearing on November 1, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Troy A. Gahm, R.Ph., absent.

Leigh Ann Yates was represented by Daniel D. Connor. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witnesses: Leigh Ann Yates, R.Ph., Respondent
Donnie Yates
Thelma Rotonda, R.Ph.

State's Exhibits:

1. Reinstatement hearing request letter [01-14-10]
- 1A.-1E. Procedurals
2. State Board of Pharmacy Order in re Leigh Ann Yates, R.Ph. [05-15-09]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Leigh Yates [06-16-09]
- B. Cornerstone of Recovery aftercare report for Leigh Yates [05-12-10]
- C. FirstLab Test History Report [12-27-08 to 05-29-10]; Drug Testing Panels [updated 10-11-06]
- D. Calendars of drug test dates [December 2009 to May 2010]
- E. Correspondence from Leigh Yates to Mike Quigley of PRO [12-01-09]
- F. Support group attendance records [04-10-09 to 06-06-10]
- G. Meeting attendance calendars [April 2009 to April 2010]
- H. Restitution documentation [10-22-09]
- I. Continuing pharmacy education credits and certificates [11-08-07 to 02-26-10]
- J. Seven letters of support [05-10-10 to 05-22-10]
- K. Letter from Todd B. Feasel of Cornerstone of Recovery [10-25-10]
- L. FirstLab Test History Report [12-27-08 to 10-09-10]; Test report donor copy [06-07-10]; Correspondence from Amanda Morrison of FirstLab to Daniel Connor [11-01-10]
- M. Urine drop calendars [May 2010 to December 2010]
- N. Support group attendance records [05-26-10 to 10-31-10]
- O. Support group meeting calendars [May 2010 to October 2010]
- P. Entry, State of Ohio vs. Leigh A. Yates, Case No. 09CR119, Highland County Court of Common Pleas [10-06-10]

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 Leigh Ann Yates has complied with the terms set forth in the Order with the State Board of Pharmacy, Docket No. D-081105-029, effective May 15, 2009.

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. 03-1-20616, held by Leigh Ann Yates to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Leigh Ann Yates must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved 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 her 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. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), 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) Leigh Ann Yates 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 Leigh Ann Yates' progress towards recovery and what Leigh Ann Yates 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 Leigh Ann Yates' 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) Leigh Ann Yates may not serve as a responsible pharmacist.
 - (3) Leigh Ann Yates may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Leigh Ann Yates must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Leigh Ann Yates must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Leigh Ann Yates must abide by the rules of the State Board of Pharmacy.
 - (7) Leigh Ann Yates must comply with the terms of this Order.
 - (8) Leigh Ann Yates' license is deemed not in good standing until successful completion of the probationary period.
- (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.

Leigh Ann Yates 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.

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

3:38 p.m. Mr. Casar presented the report from the meeting of the Nursing Board Committee on Prescriptive Governance.

3:45 p.m. The Board recessed for the day.

Tuesday, November 2, 2010

8:49 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

R-2011-100 After discussion, Mr. Casar moved that no changes be made in the proposed amended and new rules as filed with Joint Committee on Agency Rule Review. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 8.

9:02 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 **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio.

- 9:13 a.m. Mr. Casar 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. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.
- 9:19 a.m. The Executive Session ended.
- 9:20 a.m. The hearing in the matter of **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio continued.
- 10:03 a.m. The hearing ended and the record was closed.
- 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 Mr. Moné and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.
- 10:14 a.m. The Executive Session ended and the meeting was opened to the public.
- R-2011-101** After votes were taken in public session, the Board adopted the following order in the matter of **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100715-137

in the matter of:

RISA JO GETHERS, R.Ph.

5287 Fieldstone Court
West Chester, Ohio 45069

R.Ph. Numbers 03-3-27085

INTRODUCTION

The matter of Risa Jo Gethers came for hearing on November 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Risa Jo Gethers was represented by Harry B. Plotnick. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Risa Jo Gethers, R.Ph., Respondent
Kevin Bowers, R.Ph.

State's Exhibits:

1. Reinstatement hearing request letter [07-13-10]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Risa Jo Gethers, R.Ph. [04-09-09]

Respondent's Exhibits:

- A. State Board of Pharmacy Order in re Risa Jo Gethers, R.Ph. [04-09-09]
- B. Pharmacists Rehabilitation Organization Inc. Assessment Evaluation Contract for Risa Gethers [02-10-09]; PRO Pharmacist's Recovery Contract for Risa Gethers with attachment [02-10-09]; Letter from Harry B. Plotnick to William T. Winsley in re Risa Jo Gethers [08-07-09]; PRO Pharmacist's Recovery Contract for Risa Gethers [07-09-09]
- C. Support group attendance records [02-11-09 to 10-30-10]
- D. FirstLab Test History Report [04-24-09 to 10-08-10]
- E. Two Continuing Care Program Progress Reports from New Direction Treatment Services for Risa J Gethers [04-26-10 and 09-08-10]; Certificate of Intensive outpatient program (IOP) for Risa Gethers [06-06-10]
- F. Continuing Pharmacy Education Credits & Certificates [03-21-08 to 10-19-10]
- G. Dismissal Entry, State of Ohio vs. Risa Gethers, Case No. CRI2008-5338, Clinton County Court of Common Pleas [07-06-10]
- H. Copy of prescription from Edward P. Drohan, M.D. for Risa Gethers [05-28-09]
- I. Letter from James F. Liebetrau, R.Ph., Vice President PRO to Ohio State Board of Pharmacy in re Risa Gethers [10-31-10]

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 Risa Jo Gethers has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-081020-026, effective April 9, 2009.

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. 03-3-27085, held by Risa Jo Gethers to practice pharmacy in Ohio subject to a period of probation for ten years beginning on the effective date of this Order, with the following conditions:

- (A) Risa Jo Gethers must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than ten years and submit a copy of the signed contract to the Board office before her 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 two years and then at least once every three months for the remaining eight 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. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

- (2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting for ten years with quarterly attendance reports submitted to the Board.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Risa Jo Gethers 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 Risa Jo Gethers' progress towards recovery and what Risa Jo Gethers 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 Risa Jo Gethers' 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) Risa Jo Gethers may not serve as a responsible pharmacist.
 - (3) Risa Jo Gethers may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Risa Jo Gethers must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Risa Jo Gethers must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Risa Jo Gethers must abide by the rules of the State Board of Pharmacy.
 - (7) Risa Jo Gethers must comply with the terms of this Order.
 - (8) Risa Jo Gethers' license is deemed not in good standing until successful completion of the probationary period.
- (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.

Risa Jo Gethers 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.

Brian Joyce moved for Action of the Board; Edward Cain seconded the motion.
Motion passed (Aye-8/Nay-0).

The Board recessed briefly.

10:30 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 **Henry F. Kozik**, R.Ph. (03-1-10962) Strongsville, Ohio.

12:41 p.m. The hearing ended and the record was closed; the Board recessed for lunch.

1:30 p.m.

R-2011-102

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

Julie Ann Metz	<i>Indiana</i>
Kelsey Rose Gold	<i>Pennsylvania</i>
Melanie Lynn Pflug	<i>Kentucky</i>
Kimberly Ann Walker	<i>Virginia</i>
Ronilee Lindsey Bennett	<i>Pennsylvania</i>
Richard Robert Gober	<i>West Virginia</i>
Carrie Porterfield Neal	<i>South Carolina</i>
Wanda I. Malave-Melendez	<i>Puerto Rico</i>
Adanna Chinwe Chukwunyere	<i>Texas</i>
Amanda Dawn Travis	<i>West Virginia</i>
Edward Charles Clapper	<i>Pennsylvania</i>
Matthew Craig Jobson	<i>South Carolina</i>
William David Wright	<i>West Virginia</i>

1:43 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. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

2:05 p.m. The Executive Session ended and the meeting was opened to the public

2:06 p.m.

R-2011-103

After votes were taken in public session, the Board adopted the following order in the matter of **Henry F. Kozik**, R.Ph. (03-1-10962) Strongsville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100621-134

in the matter of:

HENRY F. KOZIK, R.Ph.
16537 N. White Oaks Drive
Strongsville, Ohio 44136

R.Ph. Number 03-1-10962

INTRODUCTION

The matter of Henry F. Kozik came for hearing on November 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*);

Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Henry F. Kozik was represented by James Lindon. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Henry F. Kozik, R.Ph., Respondent
Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witness: Henry F. Kozik, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-21-10]
- 1A-1B. Procedurals
- 1C. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [09-01-10]
- 1D. Procedural
2. Notarized statement of Henry F. Kozik [06-08-07]
3. Rite Aid Corporation Letter of Explanation of Henry Kozik [06-08-07]
4. Notarized statement of Patricia A. Mendenhall [06-25-07]
5. Nine Drug Accountability Statements at Rite Aid #1924 for alprazolam 0.5mg; alprazolam 1 mg; Ambien 10 mg; hydrocodone/APAP 5/500; hydrocodone/APAP 7.5/750; hydrocodone/APAP 10/500; hydrocodone/APAP 10/650; hydrocodone/APAP 10/660; Vicodin ES 7.5/750 [08-08-08]
6. Court of Common Pleas County of Summit, Ohio Direct Indictment Case No. 2010-04-1078
7. Prescription labels and register receipt [06-02-07]

Respondent's Exhibits:

- A. Letter to James Lindon from Albert P. Klubert, of Strongsville Psychological Services in re Henry Kozik [10-11-10]
- B. Letter from Patricia Pfander of Summit County Court of Common Pleas to James Lindon [10-27-10]

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 State Board of Pharmacy indicate that Henry F. Kozik was originally licensed in the State of Ohio on July 30, 1974, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended on September 1, 2010.
- (2) Henry F. Kozik did, on or about June 2, 2007, with purpose to deprive, knowingly obtain control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: Henry F. Kozik admittedly stole 33 tablets of hydrocodone with APAP 5/500 mg, 43 tablets of hydrocodone with APAP 7.5/750 mg, and 22 tablets of alprazolam 1mg from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (3) Henry F. Kozik did, on or about June 8, 2007, with purpose to deprive, knowingly obtain control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: Henry F. Kozik admittedly stole 61 tablets of hydrocodone with APAP 5/500 mg from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Henry F. Kozik did, from May 1, 2006, through June 8, 2007, with purpose to deprive, knowingly obtain control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: Henry F. Kozik stole the following controlled substances from his employer:

Drug
hydrocodone/APAP 5/500 mg
hydrocodone/APAP 7.5/750 mg
hydrocodone/APAP 10/500 mg
hydrocodone/APAP 10/650 mg
hydrocodone/APAP 10/660 mg
Vicodin ES 7.5/750 mg

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Henry F. Kozik did, on or about June 2, 2007, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Henry F. Kozik gave a female at least 33 hydrocodone/APAP 5/500 tablets and at least 43 tablets of hydrocodone/APAP 7.5/750 without a valid prescription from a prescriber and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (6) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Summit County, Ohio, Henry F. Kozik submitted to this Board information which indicates that on July 15, 2010, Henry F. Kozik was found eligible for, and granted Intervention in Lieu of Conviction in the Common Pleas Court of Summit County, Ohio, State of Ohio vs. Henry F. Kozik, Case No. CR 2010 04 1078, Summit County Common Pleas Court.

The Board further finds:

Henry F. Kozik was not forthcoming giving testimony to this Board. Henry F. Kozik gave drugs to a person without a prescription and when not under the care or supervision of a physician or other prescriber. When Henry F. Kozik knew the individual was “taking too much” of the controlled substance, Henry F. Kozik continued to give the individual the drugs.

Also: the fact that the individual to whom Henry F. Kozik gave drugs had prior prescriptions is irrelevant: controlled substances cannot be given without a current, valid prescription. Henry F. Kozik admitted he did so.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) 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 (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 (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. 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 Henry F. Kozik on September 1, 2010.

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

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-10962, held by Henry F. Kozik effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-10962, held by Henry F. Kozik effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-10962, held by Henry F. Kozik effective as of the date of the mailing of this Order.

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

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-8/Nay-0).

Brian Joyce moved for Action of the Board; Ed Cain seconded the motion. Motion passed (Aye-5/Nay-3).

The Board recessed briefly.

2:18 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 **Betsy Jean Carnevale**, R.Ph. (03-2-21040) Fairborn, Ohio.

2:35 p.m. The hearing ended and the record was closed.

2:36 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

2:40 p.m. The Executive Session ended and the meeting was opened to the public.

2:41 p.m.

R-2011-104 After votes were taken in public session, the Board adopted the following order in the matter of **Betsy Jean Carnevale**, R.Ph. (03-2-21040) Fairborn, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100614-126

in the matter of:

BETSY JEAN CARNEVALE, R.Ph.

436 White Ash Court
Fairborn, Ohio 45324

R.Ph. Number 03-2-21040

INTRODUCTION

The matter of Betsy Jean Carnevale came for hearing on November 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Betsy Jean Carnevale was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Christopher K. Reed, Ohio State Board of Pharmacy
Betsy Jean Carnevale, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-14-10]
1A-1C. Procedurals
2. Credential View Screen for Betsy Jean Carnevale, R.Ph. [10-20-09]
3. OAKS control sheet [11-10-09]
4. Notarized statement of Betsy Carnevale [11-04-09]
5. Copy of RX #743152 [09-21-09]
6. Copy of RX #743838 [10-05-09]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Betsy Jean Carnevale was originally licensed in the State of Ohio on July 27, 1995, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Betsy Jean Carnevale did, on or about September 21, 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 Betsy Jean Carnevale did not renew her license to practice pharmacy, Betsy Jean Carnevale dispensed RX #743152 for 14 OxyContin 80 mg tablets, and Betsy Jean Carnevale performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Betsy Jean Carnevale did, on or about October 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 Betsy Jean Carnevale did not renew her license to practice pharmacy, Betsy Jean Carnevale dispensed RX #743838 for 30 morphine 100 mg tablets, and Betsy Jean Carnevale performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

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

- (A) On the basis of the Findings of Fact and the Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes on Betsy Jean Carnevale a monetary penalty of two hundred and fifty dollars (\$250.00) due and owing within thirty days of the mailing of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Deborah Lange moved for Findings of Fact; Lori Woodson seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-8/Nay-0).

Brian Joyce moved for Action of the Board; Michael Moné seconded the motion. Motion passed (Aye-8/Nay-0).

2:43 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 **Matthew Kolb**, R.Ph., Chicago, Illinois.

3:02 p.m. The record was closed.

3:03 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

3:09 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-105 After votes were taken in public session, the Board adopted the following order in the matter of **Matthew Kolb**, R.Ph., Chicago, Illinois.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100618-133

in the matter of:

MATTHEW KOLB, R.Ph.

6555 West 59th Street
Chicago, Illinois 60638

INTRODUCTION

The matter of Matthew Kolb came for consideration on November 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Matthew Kolb 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: Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing letter [06-18-10]
2. National Association of Boards of Pharmacy Application for Transfer of Pharmacist License for Matthew Kolb [12-21-09]
3. Illinois Division of Professional Regulation Information on Matthew J. Kolb [12-28-09]
4. Illinois Department of Financial and Professional Regulation Consent Order for Matthew Kolb [11-10-05]
5. Correspondence from Russell Romano, Jr. of Advocate Medical Group to Thomas Miksch in re Matthew Kolb, R.Ph. [12-30-09]; Licensee Summary Report [01-30-06 to 12-09-09]
6. Minutes of the Wisconsin Department of Regulation and Licensing Pharmacy Board Meeting [09-23-09]

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) Matthew Kolb is a registered pharmacist in the State of Illinois, and on or about December 21, 2009, Matthew Kolb applied for reciprocal registration into the State of Ohio.
- (2) Matthew Kolb is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Matthew Kolb has admitted that he is addicted to opiates. While on probation with the Illinois Department of Financial and Professional Regulation, Matthew Kolb tested positive for methadone use on February 6, 2006, and Matthew Kolb tested as "out of range" or "dilute" on four other occasions, three times in 2006 and once in 2007. Such condition indicates that Matthew Kolb is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Matthew Kolb was, in March of 2005, disciplined by the Illinois Department of Financial and Professional Regulation for being addicted to controlled substances and/or for having abused methadone and carisoprodol while practicing pharmacy. Matthew Kolb was suspended for a period of time, and placed on probation with conditions for five years. Such discipline indicates that Matthew Kolb is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.08 of the Ohio Revised Cod
- (2) 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.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been disciplined by any board of pharmacy as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Sections 4729.09 and 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Official Application for Transfer of Pharmacist Licensure submitted by Matthew Kolb on or about December 21, 2009.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-8/Nay-0).

Donald Casar moved for Action of the Board; Lori Woodson seconded the motion. Motion passed (Aye-8/Nay-0).

3:11 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 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. Casar and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Moné – *yes*; Lange – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

4:11 p.m. The Executive Session ended and the meeting was opened to the public.

Mr. Gahm reported on his October 13th & 14th visit at the Accreditation Council for Pharmacy Education Survey at The Ohio State University College of Pharmacy.

4:22 p.m. The Board recessed for the day.

Wednesday, November 3, 2010

8:55 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Deborah A. Lange, R.Ph.; Michael Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph.; and Lori L. Woodson, R.Ph.

8:56 a.m.

R-2011-106 After discussion, Mr. Cain moved that the Board minutes of October 4-5, 2010, be approved as amended. Mr. Moné seconded the motion and it was approved by the Board: *Aye – 7*.

The Board discussed a request from **KRS Global Biotechnology Inc.**, Boca Raton, Florida (02-1978250) for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station), to deliver patient-specific, hazardous chemotherapy medications directly to various veterinarians' offices in Ohio. This action was tabled pending receipt of additional information concerning hazardous materials and shipping methods.

The Board discussed out-of state licensing issues and scope of practice issues with Board staff. The discussion will continue at a later date.

10:06 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 **Jamie Lynn Morton**, R.Ph. (03-1-27731) Bellevue, Kentucky.

1:10 p.m. The hearing ended and the record was closed.

1:11 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. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

1:44 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-107 After votes were taken in public session, the Board adopted the following order in the matter of **Jamie Lynn Morton**, R.Ph. (03-1-27731) Bellevue, Kentucky.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100811-141

in the matter of:

JAIME LYNN MORTON, R.Ph.

225 Memorial Parkway
Bellevue, Kentucky 41073

R.Ph. Number 03-1-27731

INTRODUCTION

The matter of Jaime Lynn Morton came for hearing on November 3, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph. Brian M. Joyce, R.Ph., absent.

Jaime Lynn Morton was represented by Bradley G. Braun. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

DECISION OF THE BOARD

Pursuant to Chapter 4729.16(E), this Board continues the hearing. The Board has reasonable cause to believe that this pharmacist is physically or mentally impaired and she is directed to obtain a mental and physical examination by a board certified addictionologist, such report to be provided to the Board for consideration at the continuation of this Chapter 119. hearing, Monday, February 7, 2011, at 3:00 p.m.

R-2011-108 After discussion, Mr. Moné moved that **KRS Global Biotechnology Inc.**, Boca Raton, Florida (02-1978250) be allowed an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) 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. Woodson and approved by the Board: *Aye – 7.*

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

PER DIEM	10/13 & 14	10/18	11/01	11/02	11/03	Total
Cain	-	-	1	1	1	3
Casar	-	1	1	1	1	4
Gahm	2	-	-	1	1	4
Joyce	-	-	1	1	-	2
Lange	-	-	1	1	1	3
Kolezynski	-	-	1	1	1	3
Moné	-	-	1	1	1	3
Wiesenhahn	-	-	1	1	1	3
Woodson	-	-	1	1	1	3

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

1:55 p.m.

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

**The Ohio State Board of Pharmacy
approved these Minutes December 8, 2010**