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Minutes of the April 3, 4, & 5, 2006 Meeting of the Ohio State Board of Pharmacy

MONDAY, APRIL 3, 2006

10:03 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:

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

Also present were Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Monitoring Program Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

10:04 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the 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. Turner and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

10:33 a.m. The Executive Session ended and the meeting was opened to the public.

R-2006-163 Mr. Turner moved that the Board deny the Settlement Offer presented in the matter of **John Tekulve**, R.Ph. The motion was seconded by Mr. Giacalone and approved by the Board: Aye – 7.

R-2006-164 Mr. Giacalone moved that the Board accept the Settlement Offer presented in the matter of **Robert Carter**, R.Ph. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 7.

R-2006-165 Mr. Turner moved that the Board deny the Settlement Offer presented in the matter of **Thomas Jirles**, R.Ph. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 7.

R-2006-166 Mrs. Teater moved that the proposed Cease and Desist order drafted by Board staff be issued in the matter of **Island Pharmacy Service**, Woodruff, Wisconsin. Mr. Kost seconded the motion and it was approved by the Board: Aye – 7.

R-2006-167 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received from the following sites:

Beachbrook Nursing Facility (license application submitted)
NCS Healthcare (02-0908000)

After discussion, Mr. Giacalone 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 Mrs. Gregg and approved by the Board: Aye – 7.

R-2006-168 The Board then considered a request for an exemption to OAC Rule 4729-5-11 (Responsible person) to allow **David Ely**, R.Ph., to be the responsible pharmacist for the following sites:

Rite Aid #794/Englewood (02-0124950)

Rite Aid #3134/Dayton (02-0355450)

After discussion, Mr. Giacalone moved that the Board approve the request for 60 days. The motion was seconded by Mr. Kost and approved by the Board: Aye –7.

Mrs. Droz presented an update on the Prescription Drug Monitoring Program.

10:59 a.m. The Board recessed briefly.

11:08 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of creating a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Juniper Transglobal, Inc.**, Toledo, Ohio.

11:26 a.m. The hearing ended and the record was closed.

11:29 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of creating a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Craig James Bryant**, R.Ph.

11:50 a.m. The hearing ended and the record was closed.

11:51 a.m. Mr. Kost moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.

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

R-2006-169 Mr. Kost moved that the Board adopt the following order in the matter of **Juniper Transglobal, Inc.**, Toledo, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060110-052

in the matter of:

JUNIPER TRANSGLOBAL, INC.
C/O MUNIR AHMAD, PRESIDENT
2450 North Reynolds Road
Toledo, Ohio 43615

INTRODUCTION

The matter of Juniper Transglobal, Inc. came for consideration on April 3, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Munir Ahmad was not present nor was Juniper Transglobal, Inc. represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Dale R. Fritz, Jr., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [01-10-06]
2. Application for Registration as a Wholesale Distributor of Dangerous Drugs [04-26-05]; Application for a Controlled Substance License with attachment [07-29-05]
3. Letter from Michael Majzoub [07-13-05]; Resume of Martin J. Dauer [not dated]
4. Ten Photographs of Proposed Business Location [not dated]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) On January 10, 2006, Juniper Transglobal, Inc. was notified by letter of its right to a hearing, its rights in such hearing, and its right to submit any contentions in writing.
- (2) As demonstrated by return receipt dated February 16, 2006, signed by Neila Smith, Munir Ahmad, President received the letter of January 10, 2006, informing him of the allegations and the proposal to deny Juniper Transglobal, Inc.'s application for registration as a Wholesale Distributor of Dangerous Drugs and licensure as a Wholesaler of Controlled Substances, and its rights.
- (3) Munir Ahmad has not responded in any manner to the letter of January 10, 2006, and has not requested a hearing in this matter, therefore the matter was referred to the Board for consideration.
- (4) Records of the Board of Pharmacy indicate that Munir Ahmad is the President of Juniper Transglobal, Inc., and that Munir Ahmad applied for registration as a Wholesale Distributor of Dangerous Drugs and licensure as a Wholesaler of Controlled Substances.
- (5) Juniper Transglobal, Inc. is not equipped as to land, buildings, equipment, and personnel to properly carry on the business of a wholesale distributor or dangerous drugs, including providing adequate security and proper storage conditions and handling for dangerous drugs, to wit: when a Board agent attempted to deliver the license and perform an inspection, the facility was found to be under construction without walls or a ceiling, without proper storage areas, and without proper security. Such conditions indicate the facility does not meet the requirements for a wholesale distributor as set forth in Section 4729.53 of the Ohio Revised Code and/or Rule 4729-9-16 of the Ohio Administrative Code.

- (6) Juniper Transglobal, Inc. does not have written policies and procedures for the receipt, security, storage, inventory, and distribution of dangerous drugs as required by Rule 4729-9-16(l) of the Ohio Administrative Code.
- (7) Juniper Transglobal, Inc.'s owners and personnel do not have appropriate education and/or experience to assume the responsibility for a wholesale distributor of dangerous drugs as required by Section 4729.53 of the Ohio Revised Code and/or Rule 4729-9-16(k) of the Ohio Administrative Code.
- (8) Juniper Transglobal, Inc. has not shown that granting a license as a wholesale distributor of dangerous drugs is in the public's interest as required by Sections 3719.03(E) and 4729.53(B) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (8) of the Findings of Fact constitute failure to meet the qualifications set forth in Section 4729.53(A) of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (8) of the Findings of Fact constitute failure to furnish satisfactory proof to the Board that granting a registration certificate to Juniper Transglobal is in the public interest as provided in Section 4729.53(B) of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register Juniper Transglobal, Inc. and, therefore, denies the Application for a Wholesaler of Controlled Substances License and the Application for Registration as a Wholesale Distributor of Dangerous Drugs submitted by Munir Ahmad on April 26, 2005 and July 29, 2005.

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

R-2006-170 Mrs. Gregg moved that the Board adopt the following order in the matter of **Craig James Bryant**.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-051017-039

in the matter of:

CRAIG JAMES BRYANT, R.PH.
967 Home Circle
Salem, Ohio 44460

R.Ph. Number 03-2-21372

INTRODUCTION

The matter of Craig James Bryant came for consideration on April 3, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Craig James Bryant was not present nor was he represented by counsel. The state of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Frank J. Bodi, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [10-17-05]
1A. Procedural
2. State Board of Pharmacy Order in re Craig James Bryant, R.Ph. [06-09-05]
3. Judgment Entry, State of Ohio vs. Craig James Bryant, Case No. R 04TRC9528, Portage County Municipal Court [04-26-05]; Statement of Trp. R. J. Kuhn [07-08-04]
4. Rx #2247941 [08-24-05]; Rx #6664180 [06-21-05]; Three Drug Orders [06/21/05 and 07-06-05]
5. Medical Expenses for Rachel Bryant at Giant Eagle Pharmacy [08-01-05 to 08-24-05]; Medical Expenses for Craig J. Bryant [01-01-05 to 08-24-05]
6. Notarized Statement of Charles Durner, D.O. [08-31-05]
7. Notarized Statement of Lisa Maxwell, R.Ph. [08-31-05]
8. Notarized Statement of Jane Shenal [08-29-05]
9. Notarized Statement of Craig Bryant [09-07-05]
10. Indictment, State of Ohio vs. Craig J. Bryant, Case No. 2005 CR 0643, Portage County Common Pleas Court [12-02-05]; Order and Journal Entry [03-17-06]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) On October 17, 2005, Craig James Bryant was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by return receipt received by the Board, on February 17, 2006, and signed by Nancy Holloway, Craig James Bryant received the letter of October 17, 2005, informing him of the allegations against him and his rights.
- (3) Craig James Bryant did not request a hearing in a timely manner pursuant to Chapter 119. of the Ohio Revised Code, therefore the matter was referred to the Board for consideration.
- (4) Records of the State Board of Pharmacy indicate that Craig James Bryant was originally licensed by the State of Ohio as a pharmacist on February 26, 1996, pursuant to examination and his license to practice pharmacy was indefinitely suspended by the Board on June 9, 2005.
- (5) Craig James Bryant did, on or about August 24, 2005, intentionally create and/or knowingly possess a false or forged prescription, to wit: Craig James Bryant took his wife's prescription, chemically obliterated the text, and created a forgery for 10 unit doses of OxyContin 40 mg, a schedule II

controlled substance. Craig James Bryant presented the altered document for filling and obtained the drugs for his own abuse. Such conduct is in violation of Sections 2925.23(B) and 2925.11 of the Ohio Revised Code

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes 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 addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that 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 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 Craig James Bryant 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. 03-2-21372, held by Craig James Bryant 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. 03-2-21372, held by Craig James Bryant 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. 03-2-21372, held by Craig James Bryant 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. 03-2-21372, held by Craig James Bryant effective as of the date of the mailing of this Order.

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

11:58 a.m. The Board recessed for lunch.

1:25 p.m. The Board reconvened with the following members present:

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

- 1:30 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Patrick Finnegan**, R.Ph., Springfield, Ohio.
- 3:13 p.m. The hearing ended and the record was closed.
- 3:23 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Elizabeth M. Hartranft**, R.Ph., Bay Village, Ohio.
- 4:50 p.m. The hearing ended and the record was closed.
- 4:54 p.m. Mr. Kost moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Mitchell and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.
- 5:25 p.m. The Executive Session ended and the meeting was opened to the public.

R-2006-171 Mrs. Gregg moved that the Board adopt the following order in the matter of **Elizabeth M. Hartranft**, R.Ph.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-051031-043

in the matter of:

ELIZABETH M. HARTRANFT, R.PH.

24529 Bruce Road
Bay Village, Ohio 44140

R.Ph. Number 03-3-08439

INTRODUCTION

The matter of Elizabeth M. Hartranft came for hearing on April 3, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Elizabeth M. Hartranft was represented by Michael E. Murman. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Elizabeth M. Hartranft, R.Ph., Respondent
Kathleen Epp
Robert Hartranft
William Hartranft

State's Exhibits:

1. Reinstatement Hearing Request letter from Michael E. Murman [10-28-05] 1A-1B. Procedurals
2. State Board of Pharmacy Order In Re Elizabeth M. Hartranft, R.Ph. [11-21-02]
3. State Board of Pharmacy Order In Re Elizabeth M. Hartranft, R.Ph. [02-06-03]
4. Journal Entry, State of Ohio vs. Elizabeth Hartranft, Case No. CR 438041, Cuyahoga County Common Pleas Court [09-05-03]
5. Notarized Statement of Todd Jaros [11-18-02]
6. Notarized Statement of Elizabeth Hartranft [11-19-02]

Respondent's Exhibits:

- A. Certified Letter from Michael E. Murman to the Ohio State Board of Pharmacy [03-04-03]; Monetary Penalty Payment Transmittal Form [not dated]; Check #5865 payable to Treasure, State of Ohio [03-04-03]
- B. Letter from Ted Parran, M.D., FACP to Michael Murman, Esq. [09-29-05]
- C. The Cleveland Clinic Foundation Treatment Contract [12-18-02]
- D. Ohio Pharmacists Rehabilitation Organization Licensee Summary Report [01-30-02 to 08-20-05]; Drug Panel [not dated]; Drug Screen Reports [09-27-05 to 03-16-06]; Letter from Michael D. Quigley, R.Ph. to Maral Davis [03-29-06]
- E. C.P.E. Report Form for Elizabeth M. Hartranft [03-29-06]
- F. Support Group Attendance Records [08-25-02 to 03-23-06]
- G. Calendar pages for October 2002 to March 2006
- H. Letter from Linda Pennington to Michael E. Murman, Esq. [03-17-06]; Facsimile Cover letter from Mike Quigley to Tim Benedict [12-10-02]; Treatment Records for Elizabeth Hartranft [10-15-02 to 03-27-06]
- I. Compliance Affidavit of Elizabeth M. Hartranft [03-29-06]
- J. Letter of Support from Lois Hamblin [03-29-06]

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 that Elizabeth M. Hartranft has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-021127-040, effective February 6, 2003.

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. 03-3-08439, held by Elizabeth M. Hartranft to practice pharmacy in Ohio and places Elizabeth M. Hartranft on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Elizabeth M. Hartranft 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) 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 with the renewal application. 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) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.
 - (c) Results of all drug and alcohol 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 to the Board reports, 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 week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Elizabeth M. Hartranft 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 Elizabeth M. Hartranft's progress towards recovery and what she 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 Elizabeth M. Hartranft's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) Elizabeth M. Hartranft may not serve as a responsible pharmacist.
 - (3) Elizabeth M. Hartranft may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Elizabeth M. Hartranft must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Elizabeth M. Hartranft must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Elizabeth M. Hartranft must abide by the rules of the State Board of Pharmacy.

(7) Elizabeth M. Hartranft must comply with the terms of this Order.

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

Elizabeth M. Hartranft 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.

The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

R-2006-172 Mr. Braylock moved that the following order be adopted in the matter of **Patrick Finnegan**, R.Ph., Springfield, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050803-011

in the matter of:

PATRICK BRICE FINNEGAN

495 Hornwood Drive
Springfield, Ohio 45504

Pharmacy Intern Number 06-0-04837

INTRODUCTION

The matter of Patrick Brice Finnegan came for hearing on April 3, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Patrick Brice Finnegan was represented by David W. Grauer. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Dale R. Fritz, Jr., Ohio State Board of Pharmacy

Respondent's Witnesses: Patrick B. Finnegan, Respondent
Robert B. Kimmel, R.Ph.

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [08-03-05]
1A-1D. Procedurals
2. Ohio University Police Department Incident Report Case No. 020440 [03-10-02]
3. Application for Pharmacy Intern Registration with attachment submitted by Patrick Brice Finnegan [03-29-04]
4. Letter from Patrick B. Finnegan [03-28-05]
5. Citation, State of Ohio vs. Patrick B. Finnegan, Case No. 01-TRC-15640, Clark County Municipal Court [11-04-01]; Judgment Entry [12-13-01]

6. Summons, State of Ohio vs. Patrick B. Finnegan, Case No. CRB-0200206 A, Hardin County Municipal Court [05-06-02]; Receipt No. 85505 [03-18-04]
7. State of Ohio vs. Patrick B. Finnegan, Case No. 04-TRC-12377, Clark County Municipal Court [02-25-05]; Springfield-Clark County Law Enforcement Arrest Report [12-12-04]

Respondent's Exhibits:

- A. Letter from Mark Schweikert, MRC, PCC, LICDC [03-24-06]
- B. Letter from Cheryl Abston-Line, AAS, CCDC-1 [08-17-05]; McKinley Hall Brochure [not dated]
- C. Two Letters of Support [03-29-06]
- D. Name and Address of Character Witness, Robert D. Kimmel [not dated]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Patrick Brice Finnegan applied to the Board for registration as an intern in the State of Ohio on March 29, 2004.
- (2) Patrick Brice Finnegan did, on or about March 10, 2002, engage in conduct whereby he was arrested for Underage Consumption of Alcohol and Public Intoxication. Though Patrick Brice Finnegan admitted to police officers that he had consumed "nine beers" and was under the legal age for consumption, he was belligerent and combative with the officers. Patrick Brice Finnegan's conduct, during the time of arrest, vacillated between being mildly cooperative to extremely aggressive. Though Patrick Brice Finnegan's conviction for his conduct was sealed, this inquiry into his conduct is permitted under Section 2953.33(B) of the Ohio Revised Code. Patrick Brice Finnegan's conduct constitutes not being of good moral character and habits and/or addicted or abusing liquor or drugs within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Patrick Brice Finnegan did, on or about March 29, 2004 and March 28, 2005, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: when requested to explain Patrick Brice Finnegan's criminal convictions and activity causing them, Patrick Brice Finnegan omitted pertinent material facts so as to mislead the Board. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Patrick Brice Finnegan was, on or about December 13, 2001, convicted of Driving Under the Influence, in violation of Section 4511.19 of the Ohio Revised Code, a minor misdemeanor. State of Ohio vs. Patrick B. Finnegan, Case No. 01-TRC 15640, Clark County Municipal Court of Springfield, Ohio.
- (5) Patrick Brice Finnegan was, on or about May 6, 2002, convicted of Disorderly Conduct, in violation of Section 2917.11 of the Ohio Revised Code, a minor misdemeanor. State of Ohio vs. Patrick B. Finnegan, Case No. CRB 0200206A, Hardin County Municipal Court of Kenton, Ohio.
- (6) Patrick Brice Finnegan was, on or about February 25, 2005, convicted of Driving Under the Influence, in violation of Section 4511.19 of the Ohio Revised Code, a minor misdemeanor. State of Ohio vs. Patrick B. Finnegan, Case No. 04-TRC 12377, Clark County Municipal Court of Springfield, Ohio.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute not being of good moral character and habits as set forth in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes 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.

DECISION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Patrick B. Finnegan on or about March 29, 2004.

Further, the Board places Patrick B. Finnegan on probation for the duration of his Internship. The terms of probation are as follows:

- (A) Patrick B. Finnegan must not violate the drug laws of the State of Ohio, any other state, or the federal government.
- (B) Patrick B. Finnegan must abide by the rules of the State Board of Pharmacy.
- (C) Patrick B. Finnegan must comply with the terms of this Order.
- (D) Patrick B. Finnegan's license is deemed not in good standing until successful completion of the probationary period.
- (E) 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.

Patrick B. Finnegan 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.

Mr. Lipsyc seconded the motion and it was approved by the Board: Aye – 8.

5:30 p.m. The meeting was adjourned until Tuesday, April 4, 2006.

TUESDAY, APRIL 4, 2006

8:20 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:

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

8:22 a.m. Board member Dorothy Teater, R.Ph., arrived and joined the meeting in progress.
Mr. McMillen and Mr. Keeley discussed potential changes to OAC 4729-3, Pharmacy Internship.
A proposed Compliance Bulletin concerning pseudophedrine was distributed to the Board for later discussion.

8:30 a.m. Board member Gregory Braylock, R.Ph., arrived and joined the meeting in progress.
The Board discussed an invitation from ACPE for a Board member to accompany the accreditation team during an upcoming ACPE Accreditation visit to Findlay School of Pharmacy. After discussion, President Eastman appointed Mr. Braylock as the Board representative.

R-2006-173 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Teregen Laboratories (02-1235150)
Various Offices as listed on the letter of request

After discussion, Mrs. Gregg 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. Braylock and approved by the Board: Aye – 8.

8:50 a.m. The Board recessed briefly.

9:06 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Gina M. Scandy**, R.Ph., Warren, Ohio.

10:15 a.m. The hearing ended and the record was closed.

10:36 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Todd R. Jaros**, R.Ph., Westlake, Ohio.

11:30 a.m. The hearing ended and the record was closed.

11:45 a.m. The Board then met with Pharmacist Rehabilitation Organization (PRO) President Mike Quigley, R.Ph., and members of PRO to discuss items of general interest.

12:40 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

R-2006-174 The following candidates for licensure by reciprocity introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Donald Anthony Alexander	03-3-27121	West Virginia
David D. Allen	03-3-2144	Kentucky
Cynthia Hill Bamberg	03-3-27130	Mississippi
Angela Dawn Brewer	03-3-27112	Maryland

Robert Anthony Delaney	03-3-27122	New Jersey
Anuj P. Doshi	03-3-27104	New York
Nicole Allison Gee	03-3-27143	Connecticut
Gretchen Marie Heenan	03-3-27075	South Carolina
Rebecca Kay Hoover	03-3-27129	Pennsylvania
Thurmon Joseph Ickes, Jr.	03-3-27120	Texas
Matthew Russell McMullen	03-3-27135	Arizona
Hala Fadel Naanouh	03-3-27124	Indiana
Molly Jean Paden	03-3-27098	Pennsylvania
Mukesh B. Patel	03-3-27141	Illinois
Paula Pointer	03-3-27107	Pennsylvania
Shelley Steffen Rose	03-3-27131	Kentucky
Ritesh Tandon	03-3-27111	Maryland
Kristen Noelle Wolf	03-3-27092	Pennsylvania

- 1:53 p.m. Representatives from **WellPoint Pharmacy Management (Anthem Prescription Management)** discussed their proposed work-at-home concept with the Board.
- 2:20 p.m. The Board recessed briefly.
- 2:31 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John Leasure**, R.Ph., Maumee, Ohio.
- 2:52 p.m. Mr. Giacalone 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. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.
- 3:27 p.m. The Executive Session ended and the meeting was opened to the public and the hearing was resumed..
- R-2006-175** Mr. Turner moved that **John Leasure**, R.Ph. had not met the criteria for reinstatement pursuant to his April 9, 2003 Board order and that his request be denied. Mrs. Teater seconded the motion. After a tie vote of Aye-4/Nay-4 on the motion, President Eastman then cast the deciding vote and the motion to deny reinstatement was approved: Aye – 5/Nay – 4.
- 3:30 p.m. The hearing ended and the record was closed.
- 3:40 p.m. Mr. Braylock reported that the Nursing Board's Committee on Prescriptive Governance would meet later in the month.
- Mr. Benedict reported that there were no items regarding the Medical Board Prescribing Committee that needed to be discussed.
- Mr. Keeley discussed his Legislative Report with the Board.
- The Compliance Bulletin on pseudophedrine and other products was reviewed and approved for distribution.
- The Board discussed the Nursing Board's Committee on Prescriptive Governance need for a new person to serve as clinical pharmacist. Mr. Winsley will seek volunteers for the Board to review.
- 4:24 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.

4:40 p.m. The Executive Session ended and the meeting was opened to the public.

R-2006-176 Mrs. Gregg moved that the Board adopt the following order in the matter of **Todd Jaros**, R.Ph.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050906-024

in the matter of:

TODD R. JAROS, R.PH.
2011 Savannah Parkway
Westlake, Ohio 44145

R.Ph. Number 03-1-18980

INTRODUCTION

The matter of Todd R. Jaros came for hearing on April 4, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Todd R. Jaros was represented by John R. Irwin, M.D. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Todd R. Jaros, R.Ph., Respondent
Lisa Jaros, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from John R. Irwin, M.D. [08-30-05]
1A-1B. Procedurals
2. State Board of Pharmacy Settlement Agreement In Re Todd R. Jaros [09-07-99]
3. Journal Entry, State of Ohio vs. Todd Jaros, Case No. CR 379295,
Cuyahoga County Common Pleas Court [01-19-00]
4. State Board of Pharmacy Order In Re Todd R. Jaros, R.Ph. [09-11-00]
5. State Board of Pharmacy Order In Re Todd R. Jaros, R.Ph. [02-06-03]
6. Journal Entry, State of Ohio vs. Todd Jaros, Case No. CR 438041,
Cuyahoga County Common Pleas Court [09-05-03]
7. Notarized Statement of Todd R. Jaros [11-18-02]
8. Notarized Statement of Elizabeth M. Hartranft [11-19-02]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Todd Jaros [09-13-00]
- B. Compliance Affidavit of Todd Jaros [03-24-06]
- C. Copy of Monetary Penalty Payment Transmittal Form [not dated]; Copy of three Bank One checks payable to Treasurer, State of Ohio [04-25-03, 10-28-03 and 04-22-04]; Three letters from John R. Irwin, M.D. to David L. Rowland, Esq. [04-28-03 to 04-26-04]
- D. Calendar pages for January 2003 to April 2006
- E. Letter from James M. Platten [not dated]
- F. Support Group Attendance Records [01-01-03 to 03-22-06]

- G. Ohio Pharmacists Rehabilitation Organization Licensee Summary Report [01-29-02 to 08-17-05]; Drug Panel [not dated]
- H-K. Drug Screen Reports [09-15-05 to 03-15-06]
- L. Letter from Michael D. Quigley, R.Ph. [03-27-06]
- M. Continuing Pharmaceutical Education Certificate [09-09-05]
- N. Sixty-four pages of Continuing Pharmaceutical Education Credits and Certificates [01-14-99 to 05-01-05]

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 that Todd R. Jaros has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-021127-041, effective February 6, 2003.

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. 03-1-18980, held by Todd R. Jaros to practice pharmacy in Ohio and places Todd R. Jaros on probation for one year beginning on the effective date of this Order. The terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Todd R. Jaros' 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) Todd R. Jaros may not serve as a responsible pharmacist.
- (3) Todd R. Jaros may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Todd R. Jaros must not violate the drug laws of Ohio, any other state, or the federal government.
- (5) Todd R. Jaros must abide by the rules of the State Board of Pharmacy.
- (6) Todd R. Jaros must comply with the terms of this Order.

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.

Todd R. Jaros 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.

Mr. Giacalone seconded the motion and it was approved by the Board: Aye – 8.

R-2006-177 Mr. Braylock moved that the following order be adopted in the case of **Gina M. Scandy**, R.Ph.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050817-019

in the matter of:

GINA M. SCANDY, R.PH.
2708 North River Road
Warren, Ohio 44483

R.Ph. Number 03-2-15310

INTRODUCTION

The matter of Gina M. Scandy came for hearing on April 4, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Gina M. Scandy was represented by Peter T. Cahoon. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses: Gina M. Scandy, R.Ph., Respondent
Curtis Wilson
John Tomko, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-17-05]
 - 1A-1B. Procedurals
 - 1C. Addendum Notice [02-17-06]
 - 1D. Procedural
2. Two photocopies of a medicine vial and tablets [not dated]
3. Notarized Statement of Gina M. Scandy, R.Ph. [08-10-05]
4. Drug Audit Accountability Sheets for oxycodone 5/325 mg at Overholt's Pharmacy [03-12-06]; Endocet 5/325 mg [03-12-06]; Percocet 5/325 mg [03-12-06]
5. Indictment, State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court [09-13-05]; Finding of Guilty Plea to Indictment [01-24-06]; Judgment Entry [01-24-06]

Respondent's Exhibits:

- A. Finding On Guilty Plea to Indictment, State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Please Court [01-24-06]
- B. Community Solutions Association Client Contract for Gina M. Scandy [03-13-06]
- C. Trumbull County Drug Court Compliance letter [03-23-06]
- D. Letter from Carla Becroft, MSSA, LISW, LICDC to Peter Cahoon, Esq. [09-22-05]; Edwin Shaw Rehab Authorization for Disclosure [09-06-05]
- E. Patient Progress Report from Patricia Slevey, LICDC [10-06-05]
- F. Progress Report from Cheryl Shuttleworth, M.Ed., LICDC [02-23-06]
- G. Certificate of Achievement from Akron General Edwin Shaw Rehab [10-18-05]

- H. Certificate of Achievement from Akron General Edwin Shaw Rehab [02-24-06]
- I. Support Group Attendance Records [08-15-05 to 03-24-06]
- J. Northwest Toxicology Drug Screen Reports [09-26-05 to 03-15-06]
- K. Lab One Drug Screen Reports [09-26-05 to 03-15-06]
- L. Calendar pages for August 2005 to March 2006
- M. PRO Pharmacist's Recovery Contract for Gina Scandy [08-15-05]
- N. Six Continuing Pharmaceutical Education Credit Statements [03-10-06 to 03-24-06]
- O. Letter from John R. Tomko [03-15-06]
- P. Letter from Todd S. Bolotin, M.D. [03-09-06]
- Q. Letter from John A. Brallier [not dated]
- R. Letter from John M. Kalish, R.Ph. [03-11-06]
- S. Letter from Kenneth M. Overholt, R.Ph. [03-30-06]

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 Gina M. Scandy was originally licensed by the State of Ohio as a pharmacist on March 27, 1984, pursuant to reciprocity, and that her license to practice pharmacy in Ohio was summarily suspended effective August 17, 2005.
- (2) Gina M. Scandy is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Gina M. Scandy has been observed stealing controlled substances for her own abuse; Gina M. Scandy has been observed in the pharmacy where she practiced appearing under the influence of drugs; and, Gina M. Scandy has admitted to Board agents that she is addicted to controlled substances. Such conduct indicates that Gina M. Scandy is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Gina M. Scandy did, on or about August 5, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Overholt's Champion Pharmacy, beyond the express or implied consent of the owner, to wit: Gina M. Scandy has been observed, and has admitted to stealing oxycodone with APAP 5/325 mg from her employer for her own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Gina M. Scandy did, on or about August 10, 2005, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription and not for a legitimate medical purpose, Gina M. Scandy possessed 109 tablets of oxycodone with APAP 5/325 mg. Gina M. Scandy surrendered the drugs to an agent of the Board. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) On January 24, 2006, Gina M. Scandy pled guilty to one (1) count of Theft of Drugs, a felony of the fourth degree under Section 2913.02 of the Ohio Revised Code and (1) count of Aggravated Possession of Drugs, a felony of the third degree under section 2925.11. State of Ohio vs. Gina M. Scandy, Case No. 05-CR-678, Trumbull County Common Pleas Court. Gina M. Scandy's case was then transferred to the Trumbull County Drug Court.

