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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.state.oh.us

Minutes of the August 7-9, 2006 Meeting of the Ohio State Board of Pharmacy

MONDAY, AUGUST 7, 2006

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:

James E. Turner, R.Ph., *President*; Gregory Braylock, R.Ph.; *Vice-President*; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

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

President Turner administered the new Board member Oath of Office to Heather L. Pasquale, R.Ph.

OATH OF NEW MEMBER

I, Heather L. Pasquale, as a Member of the Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the State of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

President Turner then distributed the following Board member assignments for FY 2007:

Braylock	Continuing Education
Eastman	Administration/Probationary Reports
Giacalone	Budget/Finance
Gregg	Exams/Internship/Reciprocity
Lipsyc	Legislation/Rules
Mitchell	Personnel
Pasquale	Licensure/Registration
Teater	Consumer Affairs/ Public Relations
Turner	Compliance/Enforcement

Mr. Rowland announced that the following Settlement Agreement with **Abdallah D. Abukhalil**, Strongsville, Ohio, had been signed by all parties and was effective.

R-2007-002

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-060512-079

in the matter of:

ABDALLAH D. ABUKHALIL, R.PH.

16544 North White Oaks
Strongsville, Ohio 44136

R.Ph. Number 03-3-23964

This Settlement Agreement is entered into by and between Abdallah D. Abukhalil 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.

Abdallah D. Abukhalil 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. Abdallah D. Abukhalil acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

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

Whereas, Abdallah D. Abukhalil is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 14, 2002, pursuant to Chapter 119. of the Ohio Revised Code, Abdallah D. Abukhalil 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. Abdallah D. Abukhalil requested a hearing; it was scheduled and continued. The May 14, 2002, Notice of Opportunity for Hearing contains the following allegations or charges, as amended:

- (1) Records of the Board of Pharmacy indicate that Abdallah D. Abukhalil was originally licensed by the State of Ohio as a pharmacist on February 11, 2000, pursuant to examination, and is currently licensed to practice in Ohio.
- (2) On June 5, 2001, Abdallah D. Abukhalil pled no contest to Arson, a fourth degree felony under Section 2909.03 of the Ohio Revised Code. State of Ohio vs. Abdallah Abukhalil, Case No. 389148, Cuyahoga County Common Pleas Court. Such conduct indicates that Abdallah D. Abukhalil is guilty of a felony or gross immorality within the meaning of Section 4729.16 of the Ohio Revised Code.

Abdallah D. Abukhalil herein admits that he pled no contest to one count of Arson, a felony of the fourth degree and was found guilty.

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

- (A) The State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-3-23964, held by Abdallah D. Abukhalil. Further, the Board STAYS the revocation and hereby places on probation for two years the pharmacist identification card, No. 03-3-23964, held by Abdallah D. Abukhalil.
- (B) Terms of probation are as follows:

Abdallah D. Abukhalil shall have no convictions for violation of criminal law; no significant violation of any laws or regulations under enforcement jurisdiction of the Board.

(C) Abdallah D. Abukhalil agrees to the imposition of a monetary penalty of five thousand dollars (\$5,000.00) due and owing within thirty days from the effective date of this Agreement. Check should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the Ohio State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(D) Abdallah D. Abukhalil agrees to waive his right to appeal and also agrees he will not file a second motion for legal fees with any court. Abdallah D. Abukhalil agrees that he is not a "prevailing party" as defined in Chapter 119. of the Ohio Revised Code, and he will not request an award of attorney's fees from the Board or from any court of competent jurisdiction for any reason.

If, in the judgment of the Board, Abdallah D. Abukhalil 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. Any future action would be subject to the provisions of Chapter 119. of the Ohio Revised Code.

Abdallah D. Abukhalil 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.

Abdallah D. Abukhalil 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. Abdallah D. Abukhalil 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/</u> Abdallah D. Abukhalil, R.Ph., Respondent	<u>/d/</u> 06/26/06 Date Signed
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<u>/s/</u> Elizabeth Y. Collis, Attorney for Respondent	<u>/d/</u> 06/29/06 Date Signed
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<u>/s/</u> James E. Turner, President, Ohio State Board of Pharmacy	<u>/d/</u> 08/07/06 Date Signed
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<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/</u> 08/07/06 Date Signed
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Mr. Rowland then announced that the following Settlement Agreement with **Charles H. Baker, R.Ph.**, Willoughby, Ohio, had been signed by all parties and was effective.

R-2007-003

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

in the matter of:

CHARLES H. BAKER, R.PH.
4691 Wood Street
Willoughby, Ohio 44094

R.Ph. Number 03-3-06433

This Settlement Agreement is entered into by and between Charles H. Baker 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.

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

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Charles H. Baker neither admits nor denies the allegations pending in the Board's investigation; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code.
- (C) Charles H. Baker acknowledges that he has been made aware of the investigation and has not failed to cooperate in said investigation. Charles H. Baker further acknowledges that he has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of the filing of formal ADMINISTRATIVE charges and/or holding a 119. hearing at this time, Charles H. Baker knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.** Pursuant to Rule 4729-9-01(F), Charles H. Baker may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Charles H. Baker 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.

Charles H. Baker 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. Charles H. Baker 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/</u> Charles H. Baker, R.Ph., Respondent	<u>/d/</u> 08/06/06 Date Signed
<u>/s/</u> Albert Purola, Witness	<u>/d/</u> 08/06/06 Date Signed
<u>/s/</u> Frank J. Bodi, Witness	<u>/d/</u> 08/06/06 Date Signed
<u>/s/</u> James E. Turner, President, Ohio State Board of Pharmacy	<u>/d/</u> 08/07/06 Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/</u> 08/07/06 Date Signed

Mr. Rowland next announced that the following Settlement Agreement with **Michael M. Fraulini**, Nashua, New Hampshire, had been signed by all parties and was effective.

R-2007-004

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

in the matter of:

MICHAEL M. FRAULINI, R.PH.
8 Williams Street
Nashua, NH 03060

R.Ph. Number 03-2-19444

This Settlement Agreement is entered into by and between Michael M. Fraulini 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.

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

Michael M. Fraulini is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that are filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible

disciplinary sanctions against Michael M. Fraulini's license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Michael M. Fraulini neither admits nor denies the allegations pending in the Board's investigation; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code.
- (C) Michael M. Fraulini acknowledges that he has been made aware of the investigation and has not failed to cooperate in said investigation. Michael M. Fraulini further acknowledges that he has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of the filing of formal ADMINISTRATIVE charges and/or holding a 119. hearing at this time, Michael M. Fraulini knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.** Pursuant to Rule 4729-9-01(F), Michael M. Fraulini may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Michael M. Fraulini 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.

Michael M. Fraulini 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. Michael M. Fraulini 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/</u> Michael M. Fraulini, R.Ph., Respondent	<u>/d/</u> 08/02/06 Date Signed
<u>/s/</u> Michael L. Shultz, Witness	<u>/d/</u> 08/02/06 Date Signed
<u>/s/</u> Julie Val (illegible), Witness	<u>/d/</u> 08/07/06 Date Signed
<u>/s/</u> James E. Turner, President, Ohio State Board of Pharmacy	<u>/d/</u> 08/07/06 Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/</u> 08/07/06 Date Signed

10:10 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 Mrs. Teater and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Gregg – yes; Pasquale – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.

11:35 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-005 Mrs. Gregg moved that the settlement offer received in the matter of **Allen Ray Wolford**, R.Ph., Barnesville, Ohio, be accepted. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 6.

R-2007-006 Mr. Braylock moved that the request to remove the probation conditions in the matter of **Audley D. Stevens**, R.Ph., Conneautville, PA, be accepted and that Mr. Stevens be permitted to serve as a responsible pharmacist and train interns. Mrs. Gregg seconded the motion and it was approved by the Board: Aye – 6.

R-2007-007 Mrs. Teater moved that the settlement offer received in the matter of **Elizabeth Baishnab**, Strongsville, Ohio, be accepted as amended by the Board. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 5/Nay – 1.

R-2007-008 Mrs. Gregg then moved that the Board summarily suspend the license to practice pharmacy belonging to **Edward R. Kapturasky**, R.Ph., Columbus, Ohio pursuant to Ohio Revised Code 3719.121 (A) and (B). Mr. Mitchell seconded the motion and it was approved by the Board: Aye – 6.

11:43 a.m. Board member Robert Giacalone, R.Ph., arrived and joined the meeting in progress.

Mr. Mitchell moved that the Board approve Executive Director William Winsley's proposed trip to Washington, DC, to meet with representatives of the Drug Enforcement Agency on August 22, 2006. Mr. Braylock seconded the motion and it was approved by the Board: Aye – 7.

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

1:04 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, with the following members present: James E. Turner, R.Ph.; Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Mr. Keeley reviewed the proposed new and changed Rules from the Ad Hoc Committee on Rule Review. Official action on the proposed rules will be taken at the September meeting.

Mr. Keeley then discussed his Legislative Report with the Board.

Mr. Keeley next presented his Budget Report to the Board.

R-2007-009 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

MetroHealth Medical Center Pharmacy/Cleveland (02-0035550)
Buderer Drug/Sandusky (02-1106900)
Buderer Drug/Perrysburg (02-1198400)

After discussion, Mr. Braylock 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.*

2:55 p.m. The Board recessed briefly.

3:03 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 **Corey Y. Thompson**, R.Ph., Ashland, Ohio.

4:10 p.m. The hearing ended and the record was closed.

Mrs. Teater 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. Lipsyc and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; Teater – yes.

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

4:43 p.m. Mr. Braylock moved that the Board adopt the following order in the matter of **Corey Y. Thompson**, R.Ph., Ashland, Ohio.

R-2007-010

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060511-074

in the matter of:

COREY YVETTE THOMPSON, R.PH.
845 Ninth Avenue
Middletown, Ohio 45044

R.Ph. Number 03-3-23719

INTRODUCTION

The matter of Corey Yvette Thompson came for hearing on August 7, 2006, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Corey Y. Thompson was not represented by Counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Don Newton, Ohio State Board of Pharmacy

Respondent's Witnesses: Corey Yvette Thompson, R.Ph., Respondent
Aaron Thompson

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [05-11-06]
1A-1C. Procedurals
2. Notarized Statement of Corey Y. Thompson [05-03-06]
3. Ashland Police Department Incident Report, No. 06-3395; [03-28-06]
4. Photocopy of Ashland Police Department Chain of Custody envelope containing marijuana in a black box [03-28-06]
5. Photographs of respondent's residence [not dated]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Corey Y. Thompson was originally licensed by the State of Ohio as a pharmacist on September 14, 1999, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective May 11, 2006. Records further reflect during the relevant time periods stated herein, Corey Y. Thompson was the Responsible Pharmacist at CVS/Pharmacy #6167, 418 East Main Street, Ashland, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Corey Y. Thompson 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: Corey Y. Thompson has admitted to a board agent that she is addicted to marijuana, a Schedule I Controlled Substance. Corey Y. Thompson has indicated that she needs, and is willing to seek, treatment for her addiction. Such conduct indicates that Corey Y. Thompson 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 paragraph (2) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that 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 Corey Y. Thompson unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby continues the hearing of Corey Y. Thompson to Tuesday, October 10, 2006 at 8:30 a.m.

(A) Corey Y. Thompson must obtain, within thirty days after the effective date of this Order, a treatment evaluation by an ODADAS approved treatment provider, to include a urine drug screen, to determine if she is addicted to, or just abusing, drugs or marijuana.

(B) The provider must provide the treatment evaluation directly to the Board office within fifteen days after completing the assessment.

Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7.*

R-2007-011 Mr. Keely presented a request from the electronic prescribing system, **Healthramp**, to have the Board recognize its name change to **Sigma Point**. After discussion, Mrs. Gregg moved that the request be accepted. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye – 7.*

R-2007-012 Mr. Keeley presented a request from the **McKesson Corporation** for Board approval of its electronic prescribing system. After discussion, Mr. Braylock moved that the Board find the system approvable pending final inspection of the installed product. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye – 7.*

R-2007-013 Mr. Keeley then presented a request from **Mi-LifeNet (PETNET)** for Board approval of its electronic prescribing system. After discussion, Ms. Pasquale moved that the Board find the system approvable pending final inspection of the installed product. The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 6/Nay – 0/Abstain – 1 (Mr. Giacalone).*

R-2007-014 Mr. Keeley next presented a request from **Media Highway** for Board approval of its electronic prescribing system. After discussion, Mr. Giacalone moved that the Board find the system approvable pending final inspection. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 7.*

R-2007-015 Mrs. Teater moved that the memorandum of understanding with the Attorney General's office concerning a continuation of the services of an Assistant Attorney General for FY 2007 be accepted. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7.*

R-2007-016 President Turner appointed Mr. Mitchell to be the Board's representative at the ACPE Accreditation Review at the University of Cincinnati, October 17-19, 2006.

The Board discussed the November 8-10, 2006 meeting of the NABP/AACP to be held in Detroit, Michigan.

5:10 p.m. The Board recessed for the day.

TUESDAY, AUGUST 8, 2006

8:00 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:

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

R-2007-017 Mr. Benedict discussed the proposed policy concerning OARRS access by Board employees. Mr. Giacalone moved that the policy be adopted.

BOARD ACCESS AND USE OF OARRS

As adopted 08/07/2006

- Board employees are authorized to access OARRS data only in compliance with Board policy, Chapter 4729. of the O.R.C., and Chapter 4729-37 of the O.A.C.
- Board employees are authorized to access OARRS data only pursuant to a Board of Pharmacy investigation.
- Board employees are authorized to access the OARRS database pursuant to an investigation only if the Board is the lead [primary] investigative agency.
- Data obtained by Board employees from the OARRS database remains the property of the Board of Pharmacy.
- The Board employee that obtains data from OARRS is responsible for the filing of all such data into the appropriate Board investigative file.
- Such information will be filed with the Board in a timely manner following procedures established for Reports of Investigation.
- Report identifiers for OARRS data reports shall be a numerical progression, as follows: Board Case Number, space, OARRS-1.
Example: The first report identifier is 2006-9999 OARRS-1.
The next report identifier is 2006-9999 OARRS-2.
The next report identifier is 2006-9999 OARRS-3.
- Board employees may not transfer OARRS data to another agency when referring a complaint or investigation to another agency. An agency receiving a referral of an investigation [complaint] from this Board must obtain their own OARRS data.
- There are no exceptions to this policy. Violations of this policy will be considered serious misconduct.

The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 7.*

Mr. McMillen presented the Licensing Report to the Board.

8:24 a.m. Ms. Eastman arrived and joined the meeting in progress.

Mr. Benedict and Mr. Mitchell briefly discussed the **Medco Work-At-Home** program with the Board prior to the meeting with Medco personnel.

R-2007-018 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

University Hospital Pharmacy (02-0988250)
University Hospital Hoxworth Pharmacy (02-1450350)

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 Ms. Eastman and approved by the Board: *Aye – 8.*

R-2007-019 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Genoa Healthcare Pharmacy (02-1597300)
Harbor Behavioral Healthcare Clinics (4 individual TDDD numbers)

After discussion, Mr. Lipsyc moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Eastman and approved by the Board: *Aye – 8.*

R-2007-020 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 Physician Offices listed on 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.

R-2007-021 Mr. McMillen presented a request from pharmacy intern **Yulia Bar** (06-0-04981) for permission to extend her internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy Intern Identification Card Renewal). After discussion, Mr. Braylock moved that Ms. Bar be permitted to renew her Pharmacy Intern Identification card one additional year. The motion was seconded by Mr. Giacalone and approved by the Board: Aye – 8.

R-2007-022 Mr. McMillen then presented a request from pharmacy intern **Kartik Jhaver** (06-0-05511) for permission to extend his internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy Intern Identification Card Renewal). After discussion, Mrs. Gregg moved that Mr. Jhaver be permitted to renew his Pharmacy Intern Identification Card one additional year. The motion was seconded by Ms. Pasquale and approved by the Board: Aye – 8.

R-2007-023 The Board reviewed Resolution 87-098 concerning the **Cincinnati Drug & Poison Information Center** waiver pursuant to OAC 4729-3-05(D). Mr. Braylock moved that Resolution 87-098 be voided and the waiver be made consistent with Board rules. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

9:15 a.m. The Board recessed briefly.

9:30 a.m. The meeting resumed. The Board approved the following Board Calendar for FY 2008:

2007	2008
JULY 9,10	JANUARY 7,8,9
AUGUST 6,7,8	FEBRUARY 4,5,6
SEPTEMBER 10,11,12	MARCH 3,4,5
OCTOBER 9,10	APRIL 7,8,9
NOVEMBER 5,6,7	MAY 5,6,7
DECEMBER 3,4,5	JUNE 2,3,4

R-2007-024 Mrs. Gregg moved that the Conference Call minutes of July 21, 2006 be approved as amended. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

R-2007-025 Mrs. Gregg moved that the meeting minutes of June, 2006 be approved as amended. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

There was no report about the Nursing Board's Committee on Prescriptive Governance. Mr. Braylock said the committee will not meet again until October.

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

10:00 a.m. The Board met with representatives from Medco to discuss the **Medco Work-at-Home** program.

10:25 a.m. The meeting with the representatives from Medco ended.

Mrs. Droz discussed with the Board the progress of the Prescription Drug Monitoring Program.

10:49 a.m. The Board recessed for lunch.

12:35 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, with all members present.

R-2007-026 Mr. Winsley presented a request from **Intelli-Shelf** for Board approval of its electronic unit dose system for institutional practice. After discussion, Mrs. Gregg moved that the Board find the system approvable pending final inspection of the pilot program. There should be a follow-up report made to the Board after the system has been in operation for a few months. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

Mr. Mitchell left the meeting to attend the Medical Board Physician's Assistant Prescribing Committee meeting.

The Board met with **BioScrip Pharmacy Services** representative Wendalyn Carney, R.Ph. to discuss the issue of prescriber agents and pickup station requirements for specialty pharmacies.

1:41 p.m.

R-2007-027 The following candidates for licensure by reciprocity met with the Board members in Room South A, 31st Floor of the Riffe Center. They introduced themselves and then participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Sumer Lynn Ashker	03-1-27607	Illinois
Ashley Rose Acton	03-1-27595	Kentucky
Dale Lynn Bearden	03-1-27233	Kentucky
Shauna Marie Burcher	03-1-27600	Virginia
Stacey Lynn Butch	03-1-27596	West Virginia
Eileen Conlon	03-1-27591	Massachusetts
Michael Gerard Dietrich	03-1-27579	West Virginia
William John Greygor	03-1-27348	Virginia
Michael Dwayne Hamilton	03-1-27352	Oklahoma
Michelle K. Hart	03-1-27608	Indiana
Michael Shawn Heesters	03-1-27592	Delaware
Jeffrey Dale Jordan	03-1-27428	Illinois
Raegan Ann Kasserman	03-1-27438	West Virginia
Sidney Ann Kirby Barnett	03-1-27587	Indiana
Kimberly Ann Kolb	03-1-27421	Indiana
Seth Alan Kuiper	03-1-27593	Virginia
Lucille Mary Leone-Walker	03-1-27612	New Jersey
Henry Szeto Lew	03-1-27597	West Virginia
Michael Stephen Mastrantoni	03-1-27292	West Virginia
Corrie Michelle Meiss	03-1-27601	Pennsylvania
Katie Meng Meng Wang	03-1-27570	Delaware
Beatrice Manka Mushi	03-1-27480	Maryland
Timothy Joseph Miller	03-1-27387	West Virginia
John Harvey Nally	03-1-27578	West Virginia
Abby Christine Re'	03-1-27576	Indiana
James D. Robertson	03-1-20798	Michigan
Barry David Rostholder	03-1-27609	New York
Mary Catherine Sainato	03-1-27583	Kentucky
Frank James Szep	03-1-26659	Indiana
Mirta Raquel Vargas	03-1-27548	Texas

2:13 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 **Derek Duckworth**, R.Ph., Toledo, Ohio.

4:01 p.m. The hearing ended and the record was closed.

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. Lipsyc and a roll-call

vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Pasquale – yes; and Teater – yes.

4:22 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-028 Mr. Braylock moved that the Board adopt the following order in the matter of **Derek Duckworth**, R.Ph., Toledo, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060201-059

in the matter of:

DEREK EDWARD DUCKWORTH, R.PH.

2545 Point Pleasant Way

Toledo, Ohio 43611

R.Ph. Number 03-2-10274

INTRODUCTION

The matter of Derek Edward Duckworth came for hearing on August 8, 2006, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Derek Edward Duckworth was not represented by Counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: Derek E. Duckworth, R.Ph., Respondent
Michael Quigley, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-01-06]
1A-1B. Procedurals
1C. Addendum Notice [06-27-06]
1D. Procedural
2. Board of Pharmacy Order in re Derek Edward Duckworth, R.Ph. [10-06-00]
3. Indictment, State of Ohio vs. Derek Edward Duckworth, Case No. G-4801-CR-0200001709, Lucas County Common Pleas Court [05-03-00]; Plea of No Contest [07-19-00]; Order [07-19-00]; Judgment Entry [08-24-00]
4. The Toledo Hospital Pharmacy Medical Expenses Profile for Derek E. Duckworth [09-07-05 to 01-21-06]
5. Notarized Statement of Derek E. Duckworth [01-24-06]
6. Statement of Elizabeth Meglitsch [12-15-05]
7. Indictment, State of Ohio vs. Derek Duckworth, Case No. G-4801-CR-200601450, Lucas County Common Pleas Court [02-28-06]; Plea of No Contest [05-22-06]; Judgment Entry [06-26-06]; Letter to Sheldon and Judge Wittenberg from Derek E. Duckworth [06-04-06]
8. XLS Recording Log [11-22-05 to 11-26-05]

Respondent's Exhibits:

- A1. Treatment Letter from Arlene McMaster, R.N. [12-12-05]
- A2. Progress Report from Cynthia Schroeder, PCC, CCDCI [03-06-06]
- A3. Progress Report from Cynthia Schroeder, PCC, CCDCI [07-13-06]
- B. PRO Pharmacist's Recovery Contract for Derek Duckworth [02-27-06]
- C. Drug Screen Reports [12-12-05 to 06-19-06]
- C1. Letter from Derek E. Duckworth [08-05-06]
- D. Support Group Attendance Records [12-13-05 to 08-04-06]
- E. Eight Letters of Support [06-25-00 to 07-24-06]
- F. Continuing Pharmaceutical Education Certificate on Chemical Dependency in the Profession of Pharmacy [04-30-06]
- G. Letter from Prentiss Jones, Jr., Ph.D., TC-NRCC to Linda Spencer [08-08-06]

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 Derek Edward Duckworth was originally licensed by the State of Ohio as a pharmacist on July 20, 1972, pursuant to examination, and that his license to practice pharmacy in the State of Ohio was summarily suspended effective February 1, 2006.
- (2) Derek Edward Duckworth 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: Derek Edward Duckworth has admitted to a Board agent that he is addicted to the use of controlled substances and is in drug treatment, and Derek Edward Duckworth has admitted to stealing controlled substances for his own personal use. Such conduct indicates that Derek Edward Duckworth is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Derek Edward Duckworth did, on or about June 27, 2005 through December 8, 2005, while employed as a pharmacist at Ryan Pharmacy and Orthopedic Supply, knowingly obtain or exert control over dangerous drugs, the property of Ryan Pharmacy and Orthopedic, beyond the express or implied consent of the owner, to wit: Derek Edward Duckworth has admittedly stolen the following drugs:

<u>Drug</u>	<u>Strength</u>	<u>Schedule</u>	<u>Quantity</u>
hydrocodone w/APAP	5/500 mg	III	1,981
butalbital/APAP/caffeine	50/325/40 mg	DD	1,891
APAP w/codeine #4	60/325 mg	III	396
clonazepam	1.0 mg	IV	324

<u>Drug</u>	<u>Strength</u>	<u>Schedule</u>	<u>Quantity</u>
carisoprodol	350 mg	DD	270

Such conduct violates Section 2913.02 of the Ohio Revised Code.

- (4) Derek Edward Duckworth did, on or about May 21, 2003 through June 27, 2005, while employed as a pharmacist at Ryan Pharmacy and Orthopedic Supply, knowingly obtain or exert control over dangerous drugs, the property of Ryan Pharmacy and Orthopedic, beyond the express or implied consent of the owner, to wit: Derek Edward Duckworth has admittedly stolen the following drugs:

<u>Drug</u>	<u>Strength</u>	<u>Schedule</u>	<u>Quantity</u>
butalbital/APAP/caffeine	50/325/40 mg	DD	8,390
carisoprodol	350 mg	DD	7,715
hydrocodone w/APAP	5/500 mg	III	1,593
APAP w/codeine #4	60/325 mg	III	1,061
clonazepam	1.0 mg	IV	144

Such conduct violates Section 2913.02 of the Ohio Revised Code.

- (5) On or about May 18, 2006, Derek Edward Duckworth was found guilty to two (2) counts of Theft of Drugs, each a felony of the third degree under Section 2913.02(A)(3)&(B)(6) of the Ohio Revised Code. State of Ohio vs. Derek Duckworth, Case No. G-4801-CR-200601450, Lucas County Common Pleas Court.

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

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 Derek Edward Duckworth on February 1, 2006.

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 Derek Edward Duckworth 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. 03-2-10274, held by Derek Edward Duckworth 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. 03-2-10274, held by Derek Edward Duckworth 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. 03-2-10274, held by Derek Edward Duckworth effective as of the date of the mailing of this Order.

