

NOTE: The following Minutes are provided for informational purposes only.
If you would like to obtain an official copy of these Minutes, please contact the State Board of Pharmacy at 614/466-4143 for instructions and fee.

Minutes Of The Meeting
Ohio State Board of Pharmacy
April 8, 9, 10, 2002

MONDAY, APRIL 8, 2002

11:05 a.m. ROLL CALL

The State Board of Pharmacy convened in Room 1932, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

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

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

11:11 a.m.

Mrs. Adelman moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code and for the purpose of conferring with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Revised Code. The motion was seconded by Mr. Braylock and a roll call vote was conducted by President Abele as follows: Adelman-Yes, Braylock-Yes, Eastman-Yes, Giacalone-Yes, Lipsyc-Yes, Kost-Yes, Teater-Yes, and Turner-Yes.

11:55 a.m.

RES. 2002-154 The Executive Session ended and the meeting was opened to the public. Ms. Eastman moved that the Board deny the request from Jeffrey Czuba for reconsideration of his Board Order. The motion was seconded by Mrs. Teater and approved by the Board (Aye-8/Nay-0).

RES. 2002-155 Mr. Rowland announced that the following settlement agreements had been signed by all parties and are effective:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING
(Docket No. D-020131-035)

In The Matter Of:

Crystal Edward White, R.Ph.
4676 Country Lane #12
Warrensville Heights, Ohio 44128
(R.Ph. No. 03-2-11178)

This Settlement Agreement is entered into by and between Crystal Edward White 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.

Crystal Edward White 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.

Crystal Edward White is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Crystal Edward White'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) Crystal Edward White neither admits nor denies the allegations stated in the Summary Suspension and Notice of Opportunity for Hearing letter dated January 31, 2002; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Cuyahoga County, Ohio, has submitted to this Board information which indicates that on January 29, 2002, you pled guilty in State of Ohio vs. Crystal White, Case No. 413938, Cuyahoga County Common Pleas Court, to six (6) felony drug abuse offenses under Section 2913.02 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Crystal Edward White knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.**

Crystal Edward White 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.

Crystal Edward White 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. Crystal Edward White 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/ Crystal E. White
Crystal Edward White, Respondent

/d/ 2-26-02
Date of Signature

/s/ Thomas J. Kraus
Thomas Kraus, Attorney for Respondent

/d/ 2/26/02
Date of Signature

/s/ Ann D. Abele
Ann D. Abele, President, Ohio State Board of Pharmacy

/d/ 3/5/02
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 3-11-02
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-010615-077)

In The Matter Of:

ANTHONY AJEGBA
1006 South Bryne Road
Apartment 31
Toledo, Ohio 43609
(Intern No. 06-0-02011)

This Settlement Agreement is entered into by and between Anthony Ajegba 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.

Anthony Ajegba 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.

Anthony Ajegba is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Anthony Ajegba's pharmacy intern license 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) Anthony Ajegba neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 15, 2001; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that you were originally licensed as an Intern in the State of Ohio on June 21, 1999.
 - (2) You did, on or about December 1, 2000, misbrand and/or sell a misbranded drug, to wit: when the prescribing physician caused telephone prescription number 267088 to be issued for "Rondec DM, ½ dropper full, 3 times per day," you dispensed the drug with a label indicating directions as "take 1 and ½ droppers full three times a day." The patient, a seven-month old child, was administered one dose at bedtime. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

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

- (A) Pursuant to Sections 4729.16 and 4729.25(B), Anthony Ajegba is hereby reprimanded for the aforementioned violations of rules and/or laws.
- (B) Anthony Ajegba agrees to attend 2.0 hours of continuing education within two months of the effective date of this agreement for kinetic principles and dosing of pediatric medications, including cough and cold prescriptions.
- (C) Anthony Ajegba agrees that the kinetic principles continuing education will be prepared and presented by the faculty of the Pharmacy Practice Division of The Ohio State University College of Pharmacy and will be accredited through the Ohio State Board of Pharmacy.

Anthony Ajegba 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.

Anthony Ajegba 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. Anthony Ajegba 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/ Anthony Ajegba
Anthony Ajegba, Respondent

/d/ 3/9/02
Date of Signature

/s/ David W. Grauer
David W. Grauer, Attorney for Respondent

/d/ 3-10-02
Date of Signature

/s/ Ann D. Abele
Ann D. Abele, President, Ohio State Board of Pharmacy

/d/ 4/8/02
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 3-14-02
Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-010917-013)

In The Matter Of:

MOLETHA J. COLEMAN
5675 Chatford Drive
Columbus, Ohio 43232
(Intern No. 06-0-02881)

This Settlement Agreement is entered into by and between Moletha J. Coleman 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.

Moletha J. Coleman 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 and the right to a formal adjudication hearing on the issues contained herein.

Moletha J. Coleman is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Moletha J. Coleman's pharmacy intern license 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) Moletha J. Coleman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 17, 2001; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same:
 - (1) Records of the Board of Pharmacy indicate that you were originally licensed as an pharmacy intern in the State of Ohio on August 10, 2000.
 - (2) You did, on or about May 8, 2001, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing prescription number 267228, you did not indicate the directions for use of the drug as was prescribed by the physician. The patient, an 11-month old child, was administered eight (8) teaspoons of amoxicillin suspension 250mg/5ml twice daily, although prescribed to take eight (8) ml twice daily, the child experienced vomiting and diarrhea for three (3) days as a result. Such conduct is in violation of Rule 4729-5-16 of the Ohio Administrative Code, and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
 - (3) You did, on or about May 8, 2001, misbrand a drug, to wit: when you received prescription number 267228 for amoxicillin suspension 250mg/5ml, to be administered to the patient as eight (8) ml twice daily, you incorrectly labeled the prescription container with directions which were dangerous to the patient when consumed according to the label. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code (relating to Section 3715.64(A)(11) of the Ohio Revised Code), and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
 - (4) You did, on or about May 8, 2001, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number 267228, you failed to review the original prescription for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. When the patient's mother called the pharmacy about the error, without checking with the pharmacist, you assured her it was correct. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

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

- (A) Pursuant to Sections 4729.16 and 4729.25(B), Moletha J. Coleman is hereby reprimanded for the aforementioned violations of rules and/or laws.

Moletha J. Coleman 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.

Moletha J. Coleman 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. Moletha J. Coleman 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/ Moletha J. Coleman</u>	<u>/d/ 3-12-02</u>
Moletha J. Coleman, Respondent	Date of Signature

<u>/s/ David W. Grauer</u>	<u>/d/ 3-12-02</u>
David W. Grauer, Attorney for Respondent	Date of Signature

<u>/s/ Ann D. Abele</u>	<u>/d/ 4/8/02</u>
Ann D. Abele, President, Ohio State Board of Pharmacy	Date of Signature

<u>/s/ Sally Ann Steuk</u>	<u>/d/ 4-8-02</u>
Sally Ann Steuk, Ohio Assistant Attorney General	Date of Signature

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-010615-078)

In The Matter Of:

MARION A. SZCZECHOWSKI, R.Ph.
4220 Hurley Drive
Toledo, Ohio 43614
(R.Ph. No. 03-1-11008)

This Settlement Agreement is entered into by and between Marion A. Szczechowski 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.

Marion A. Szczechowski 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. Marion A. Szczechowski 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, Marion A. Szczechowski is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 15, 2001, pursuant to Chapter 119. of the Ohio Revised Code, Marion A. Szczechowski 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. Further, a hearing was scheduled by the Board. The Notice of Opportunity for Hearing contains the following allegations or charges:

- (A) Records of the Board of Pharmacy indicate that you were originally licensed in the State of Ohio on July 30, 1974, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.
- (B) You did, on or about December 1, 2000, misbrand and/or sell a misbranded drug, to wit: when the prescribing physician caused telephone prescription number 267088 to be issued for "Rondec DM, ½ dropper full, 3 times per day," you dispensed the drug with a label indicating directions as "take 1 and ½ droppers full three times a day." The patient, a seven-month old child, was administered one dose at bedtime. Such conduct is in violation of Section 3715.52 of the Ohio Revised Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (C) You did, on or about December 1, 2000, fail to perform prospective drug utilization review, to wit: when dispensing medication to a patient pursuant to prescription number 267088, you failed to review the original prescription for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Such conduct is in violation of Rules 4729-5-20 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Wherefore, the parties, in consideration of the mutual covenants and promises contained herein, and in lieu of any further formal proceedings at this time, and intending to be bound by said covenants, agree as follows:

- (1) Marion A. Szczechowski agrees to the imposition of a monetary Two Hundred Fifty Dollars (\$250.00) due and owing within 30 days of the effective date of this Agreement. 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 S. High Street, 17th Floor, Columbus, Ohio 43266-0320.
- (2) In addition to any and all other Continuing Education requirements, Marion A. Szczechowski agrees to attend 2.0 hours of continuing education within two months of the effective date of this agreement for kinetic principles and dosing of pediatric medications, including cough and cold prescriptions.
- (3) Marion A. Szczechowski agrees that the kinetic principles continuing education will be prepared and presented by the faculty of the Pharmacy Practice Division of The Ohio State University College of Pharmacy and will be accredited through the Ohio State Board of Pharmacy.
- (4) Marion A. Szczechowski denies some or all of the allegations or charges. Notwithstanding Marion A. Szczechowski's denial of the allegations, the Board hereby adjudicates the same.
- (5) Marion A. Szczechowski admits and acknowledges that he is not a "prevailing eligible party" for purposes of Revised Code Sections 119.092 and 2335.39. Further Marion A. Szczechowski waives any rights he may have under Revised Code Sections 119.09 and 2335.39.

- (6) Marion A. Szczechowski, with intention of binding himself and his successors in interest and assigns, hereby releases, and holds harmless from liability and forever discharges the State of Ohio, the Board, the Ohio Attorney General, and any and all of their present and former members, officers, attorneys, agents and employees, personally and in their official capacities, from any and all claims, demands, causes of actions, judgments, or executions that Marion A. Szczechowski ever had, or now has or may have, known or unknown, or that anyone claiming through or under him may have or claims to have, created by or arising out of the allegations or charges filed by the Board against Marion A. Szczechowski, set forth in the Notice of Opportunity for Hearing.
- (7) Marion A. Szczechowski 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.
- (8) This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.
- (9) The parties hereto acknowledge that this 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/ Marion A. Szczechowski
Marion A. Szczechowski, Respondent

/d/ 3-28-02
Date of Signature

/s/ David W. Grauer
David W. Grauer, Attorney for Respondent

/d/ 3-24-02
Date of Signature

/s/ Ann D. Abele
Ann D. Abele, President, Ohio State Board of Pharmacy

/d/ 4/8/02
Date of Signature

/s/ Sally Ann Steuk
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 4-8-02
Date of Signature

12:05 p.m.

The Board recessed for lunch.

1:05 p.m.

The Board returned and was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Robert J. Garrity, R.Ph., Lakewood.

2:39 p.m.

The hearing was recessed until after the Public Rules Hearing.

3:00 p.m.

The Board convened in Room 1960, Vern Riffe Center for Government and the Arts to hold a Public Rules Hearing on proposed new rules.

3:10 p.m.

The Public Rules Hearing ended.

3:21 p.m.

The Board returned to Room 1932 and resumed the hearing in the matter of Robert J. Garrity, R.Ph.

4:49 p.m.

The hearing ended and the record was closed.

4:55 p.m.

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

5:20 p.m.

RES. 2002-156 The Executive Session ended and the meeting was opened to the public. Ms. Eastman moved that the Board issue the following Order in the matter of Robert J. Garrity, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010208-039)

In The Matter Of:

ROBERT J. GARRITY, R.Ph.

1196 Summit Avenue
Lakewood, Ohio 44107
(R.Ph. No. 03-2-22864)

INTRODUCTION

THE MATTER OF ROBERT J. GARRITY CAME FOR HEARING ON APRIL 8, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph., (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ROBERT J. GARRITY WAS REPRESENTED BY JOHN A. FATICA AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. James Reye, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Todd Jaros, R.Ph.
2. Michael Quigley, R.Ph.
3. Robert Garrity, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [02-08-01]
1A-1E. Procedurals
2. Copy of Board of Pharmacy Order [07-17-97]
- 2A. Copy of Board of Pharmacy Order [07-16-98]
3. Summa Health System Toxicology Laboratory Report [02-07-01]
4. Photograph of drugs/syringe on Robert J. Garrity at time of arrest
5. Photograph of syringe on Robert J. Garrity at time of arrest
6. Bill of Information, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court - Five counts of Theft of Drugs, R.C. 2913.02 [04-18-01]
7. Change of Plea, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [07-05-01]
8. Sentencing Entry, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [09-07-01]

9. Shock Probation Entry, State of Ohio vs. Robert J. Garrity, Case No. 406023, Cuyahoga County Common Pleas Court [12-28-01]
10. Statement by Kebebew A. Aboye, R.Ph. [03-02-01]
11. Daily Count of Ritalin 20mg Tablets report [12-22-00 to 01-31-01]
12. Daily Count of Dilaudid 4mg Tablets report [12-22-00 to 01-31-01]
13. Daily Computer Reports for CVS #3340 [12-23-00]
14. Daily Count of Adderall 30mg Tablets report [12-22-00 to 01-31-01]
15. Daily Computer Reports for CVS #3340 [01-21-01]
16. Daily Computer Reports for CVS #3340 [01-23-01]
17. Daily Computer Reports for CVS #3340 [01-26-01]
18. Daily Computer Reports for CVS #3340 [01-29-01]
19. Statement of Carrie Rini [02-12-01]
20. Statement of Lorraine Thomay [02-01-01]
21. Identidex Imprint Identification Sheet for Ativan tablet 0.5mg [02-06-01]
22. Identidex Imprint Identification Sheet for Carisoprodol tablet 350mg [02-06-01]
23. Daily Computer Reports for CVS #3340 [01-31-01]
24. Offense Report, Freeport Police Department (Illinois) [02-24-87] and Summary of Analytical Findings from the Illinois State Police Forensic Science Laboratory [05-05-87]
25. Complaint, Sentencing Order, and Court Record, State of Illinois vs. Robert J. Garrity, Case No. 87-CF-87, Fifteenth Judicial Circuit Court, Stephenson County, Illinois for Unlawful Possession of Controlled Substances [05-21-87 to 10-12-89]
26. Offense Report, Freeport Police Department, Freeport, IL; Statement of Constitutional Rights and Waiver; Freeport Police Dept. Supplementary Report [07-04-95]; and Summary of Analytical Findings from the Illinois State Police Forensic Science Laboratory [09-08-95]
27. Complaint, Docket Sheets, and Sentencing Order, State of Illinois vs. Robert J. Garrity, Case No. 95-CF-255, Fifteenth Judicial Circuit Court, Stephenson County, Illinois for Unlawful Possession of Controlled Substances [07-05-95 to 04-07-98]
28. Consent Order, Illinois Department of Professional Regulation vs. Robert J. Garrity, Case No. 95-3410-LEG [03-21-96]
29. NABP Official Application for Transfer of Pharmaceutic Licensure to the state of Ohio [01-03-97]
30. Letter from Respondent to the Ohio Board of Pharmacy [03-04-97]

Respondent's Exhibits:

- A. Cover letter and copy of restitution check to CVS/pharmacy [02/18/02]
- B. Letters from Terry Luria, MA, LSW, CCDC III-E [5/7/02] and Katherine H. Heim, CCDC III-E [02/08/01]
- C. PRO Pharmacist's Recovery Contract for Robert J. Garrity [01/23/02]; OLAP'S Lawyers Support System Recovery Contract. for Robert J. Garrity [04/30/01]
- D. Support Groups Attendance Records [02-02-01 to 04-07-02]
- E. Urine drug screen reports [03-20-02, 04-05-02]
- F. Letters of support for Robert J. Garrity from David Merk; Elizabeth M. Hartranft; Robert J. Dougherty; J. Gary Ressa, RN/RC; Charles Broussard, R.Ph., M.Ed.; and Scott Scheeff [03-24-02 to 04-04-02]
- G. "Food For Thought", Newsletter of the Cleveland Foodbank [July 2001] and Certificates of Appreciation [01-07-02 to 03-29-02]
- H. Continuing Pharmaceutical Education Certificates [04-19-01 to 04-04-02]

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 Ohio State Board of Pharmacy indicate that Robert J. Garrity was originally licensed by the State of Ohio on August 4, 1998, pursuant to reciprocity, and that his license to practice pharmacy in the state of Ohio was summarily suspended effective February 8, 2001. Robert J. Garrity's license to practice pharmacy in the state of Ohio was placed on probation for a period of five years effective August 4, 1998, pursuant to the provisions of Section 4729.16 of the Ohio Revised Code. The terms of probation included that Robert J. Garrity not abuse drugs.

(2) Robert J. Garrity is addicted to the use of controlled substances, to wit: Robert J. Garrity admitted to the Board that he is addicted to controlled substances; Robert J. Garrity was found by the Board to be addicted to controlled substances; and, Robert J. Garrity did recently steal and abuse controlled substances. Such conduct indicates that Robert J. Garrity is addicted to the use of controlled substances within the meaning of Sections 3719.121 and 4729.16 of the Ohio Revised Code.

(3) Robert J. Garrity did, from December 22, 2000, through December 26, 2000, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole 38 tablets of Dilaudid 4mg and 15 tablets of Ritalin 20mg, Schedule II controlled substances, for Robert J. Garrity's personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Robert J. Garrity did, on or about January 21, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole one tablet of Adderall 30mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(5) Robert J. Garrity did, on or about January 23, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole one tablet of Adderall 30mg and four tablets of Dilaudid 4mg, Schedule II controlled substances, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(6) Robert J. Garrity did, on or about January 26, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole four tablets of Dilaudid 4mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(7) Robert J. Garrity did, on or about January 29, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole three tablets of Dilaudid 4mg, a Schedule II controlled substance, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(8) Robert J. Garrity did, on or about January 29, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: Robert J. Garrity injected Dilaudid 4mg, a Schedule II controlled substance, while Mr. Garrity was practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(9) Robert J. Garrity did, on or about January 31, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS/-pharmacy, 15311 Detroit Avenue, Lakewood, Ohio 44107, beyond the express or implied consent of the owner, to wit: Robert J. Garrity stole 37 tablets of Lorazepam 0.5mg, a Schedule IV controlled substance, one tablet of Dilaudid 4mg, a Schedule II controlled substance, and one tablet of Carisoprodol 350mg, a dangerous drug, for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(10) Robert J. Garrity did, on or about January 31, 2001, knowingly use a controlled substance without having a prescription for the drug and without a legitimate medical use, to wit: Robert J. Garrity injected Dilaudid, a Schedule II controlled substance, while Mr. Garrity was practicing pharmacy. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

(11) Robert J. Garrity did, on or about January 31, 2001, possess for use, and/or use, drug paraphernalia, to wit: Robert J. Garrity possessed and retained a syringe for use for injecting himself with Dilaudid, a Schedule II controlled substance. Such conduct is in violation of Section 2925.14 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (3) through (11) 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 (3) through (11) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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

(4) The State Board of Pharmacy concludes that paragraphs (8), (10), and (11) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Robert J. Garrity on February 8, 2001.

Upon consideration of the record as a whole, the State Board of Pharmacy takes the following actions pursuant to Section 4729.16 of the Ohio Revised Code in the matter of Robert J. Garrity:

(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 the pharmacist identification card, No. 03-2-22864, held by Robert J. Garrity 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 the pharmacist identification card, No. 03-2-22864, held by Robert J. Garrity 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 the pharmacist identification card, No. 03-2-22864, held by Robert J. Garrity 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 the pharmacist identification card, No. 03-2-22864, held by Robert J. Garrity effective as of the date of the mailing of this Order.

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

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

MOTION CARRIED.

SO ORDERED.

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

5:23 p.m.

The meeting was recessed until Tuesday, April 9, 2002.

TUESDAY, APRIL 9, 2002

8:00 a.m. ROLL CALL

The State Board of Pharmacy reconvened in Room 1932, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Ann D. Abele, R.Ph. (President); Diane C. Adelman, R.Ph. (Vice-President); Robert P. Giacalone, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

After discussion, Mrs. Adelman moved that the Board approve the minutes of the March 4 & 5, 2002 meeting as amended. The motion was seconded by Mr. Giacalone and approved by the Board (Aye-6/Nay-0).

8:03 a.m.

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

Mrs. Adelman then moved that the Board approve the minutes of the March 26, 2002 conference call. The motion was seconded by Mr. Braylock and approved by the Board (Aye-7/Nay-0).

8:05 a.m.

Board Member Suzanne Eastman arrived and joined the meeting in progress.

RES. 2002-157 As Mr. Kost's term on the Nursing Board's Committee on Prescriptive Governance (CPG) was due to end in June, the members discussed a possible replacement. Mr. Turner moved that Mr. Braylock be appointed as the Board's representative on the CPG committee. The motion was seconded by Mrs. Teater and approved by the Board (Aye-8/Nay-0).

RES. 2002-158 The Board next discussed a request from several hospital pharmacies in Northeast Ohio for an exemption to Ohio Administrative Code (OAC) Rule 4729-5-10 (Pick-up station) so that patient-specific prescriptions for Total Parenteral Nutrition (TPN) could be filled at Central Admixture Pharmacy Services (02-1312700) and delivered to the individual hospital pharmacies for administration to patients at the hospital. After discussion, Mr. Lipsyc moved that the Board approve the requests from the following hospital pharmacies due to the need for involvement by a health care professional in the patient's drug therapy [Rule 4729-5-10(B)(5)(b)].

1. Cleveland Clinic Hospital Pharmacy (02-0034700)
2. MetroHealth Medical Center Pharmacy (02-0035550)
3. Marymount Hospital Pharmacy (02-0031150)
4. Hillcrest Hospital Pharmacy (02-0034350)
5. South Pointe Campus Pharmacies (02-0824850)
6. Euclid Hospital Pharmacy (02-0032000)
7. Huron Hospital Pharmacy (02-0041600)

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

RES. 2002-159 Mr. Winsley then presented a request from Children's Hospital Medical Center Pharmacy (02-0038900) in Akron for an exemption to OAC Rule 4729-5-10 (Pick-up station) so that patient-specific prescriptions for cardioplegic solution could be prepared at Central Admixture Pharmacy Services and delivered to the hospital pharmacy for administration to patients at the hospital. After discussion, Mr. Lipsyc moved that the Board approve the request due to the need for involvement by a health care professional in the patient's drug therapy (Rule 4729-5-10(B)(5)(b)). The motion was seconded by Mr. Giacalone and approved by the Board (Aye-8/Nay-0).

RES. 2002-160 Mr. McMillen then presented the following proposed resolution to assist the Emergency Medical Services (EMS) squads during periods of temporary drug shortages. After discussion, Mr. Lipsyc moved that the Board adopt the following resolution. The motion was seconded by Mr. Turner and approved by the Board (Aye-8/Nay-0).

EMERGENCY DRUG ADDENDUM

When due to a national or regional shortage of a particular drug and a Terminal Distributor of Dangerous Drugs with a limited license desires to use a replacement to cover the shortage, the Board of Pharmacy may elect to withhold charging a fee for an updated drug addendum provided that:

- (1) There is a documented shortage by the manufacturer or drug wholesaler;
- (2) The shortage is not due to the local pharmacy being out of a product;
- (3) The intention of the Medical Director is for short-term use until the shortage has been resolved;

- (4) The Medical Director must submit a signed, notarized letter indicating that due to the shortage, the requested drug will be used in place of the drug that is currently in short supply. The Medical Director will submit a signed, notarized copy of the protocol with the requested drug in place of the previous drug including the strength and directions for use.

If approved, a letter will be sent from the Board office stating that the requested substitution may be made. This letter shall be kept on file with the Terminal Distributor license and drug addendum and used to obtain the drug from drug suppliers.

This temporary approval, which shall be no longer than 1 year from issuance, is valid only during the shortage. During the next license renewal period, the physician may elect to add the drug to the drug addendum by noting that request on the drug addendum.

RES. 2002-161 Mr. McMillen then discussed an intern application received from a student at a new college of pharmacy. The college was considered in a pre-candidate status by the American Council on Pharmaceutical Education (ACPE), so the student was not enrolled in an approved college of pharmacy. Ms. Eastman moved that the Board adopt a resolution that the Board will consider a college of pharmacy with pre-candidate status from ACPE to be an approved college of pharmacy for purposes of intern licensure issues. The motion was seconded by Mr. Braylock and approved by the Board (Aye-8/-Nay-0).

RES. 2002-162 Mr. Benedict presented a request from Milton Dehner, R.Ph. for an exemption to OAC Rule 4729-5-11 (Responsible pharmacist) for the following locations:

Mercy Franciscan Hospital/Western Hills (02-0446550)
Mercy Hospital/Fairfield (02-0039000)

After discussion, Ms. Eastman moved that the Board approve the request for a ninety-day period. The motion was seconded by Mr. Kost and approved by the Board (Aye-8/-Nay-0).

RES. 2002-163 Mr. Winsley then presented a request from Giant Eagle's Central Fill Pharmacy to be allowed to function as a central fill pharmacy in Ohio. After discussion, Mrs. Adelman moved that the Board consider the Giant Eagle Central Fill Pharmacy to be approvable pending final inspection showing compliance with the applicable Board rules. The motion was seconded by Mrs. Teater and approved by the Board (Aye-7/Nay-0/Abstain-1[Kost]).

Mr. Kost reported that he was unable to attend the last meeting of the Nursing Board's CPG committee as he was on vacation.

Ms. Abele reported that the Nursing Board's Formulary Committee had not met.

Mr. Benedict reported on his last meeting with the Medical Board's Prescribing Committee.

Mr. Keeley discussed his legislative report with the Board.

9:46 a.m.

The Board took a brief recess.

10:05 a.m.

The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Katherine R. Carson, R.Ph., Mentor.

12:06 p.m.

The hearing ended and the record was closed. The Board recessed for lunch.

1:00 p.m.

The Board convened in Room South-A, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, for the purpose of meeting with the candidates for licensure by reciprocity with the following members present:

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

RES. 2002-164 Following presentations by Board members and self-introductions by the candidates for licensure by reciprocity, Mrs. Adelman moved that the Board approve the following candidates for licensure. The motion was seconded by Mr. Braylock and approved by the Board (Aye-8/Nay-0).

KARL BENNETT	03-2-25087	WEST VIRGINIA
DIANE MARIE CAMPAGNA	03-2-25000	NEW YORK
TRACY LEE CLEARY	03-2-25134	INDIANA
WILLIAM JOHN DERUYTER	03-2-25098	WISCONSIN
ANDREW B. HEUER	03-2-25016	PENNSYLVANIA
CHRIS UCHE IBESON	03-2-25115	MICHIGAN
ROBERT WILLIAM JOHNSONBAUGH	03-2-25116	INDIANA
CHESTER JOHN KRAWCZYK	03-2-25108	CONNECTICUT
KAREN GERTRUDE MARIANO	03-2-25106	RHODE ISLAND
KATHY LYNN MCCLIMANS	03-2-25083	PENNSYLVANIA
CECELIA ROSE PETRONE	03-2-25054	PENNSYLVANIA

1:15 p.m.

The Board reconvened in Room 1932 to continue the Board meeting. The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Norma Jean Beard, R.Ph., Lancaster.

3:15 p.m.

The hearing ended and the record was closed.

3:18 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 Revised Code. The motion was seconded by Mr. Braylock and a roll call vote was conducted by President Abele as follows: Adelman-Yes, Braylock-Yes, Eastman-Yes, Giacalone-Yes, Lipsyc-Yes, Kost-Yes, Teater-Yes, and Turner-Yes.

4:25 p.m.

RES. 2002-165 The Executive Session ended and the meeting was opened to the public. Mr. Braylock moved that the Board adopt the following Order in the matter of Norma Jean Beard, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010917-012)

In The Matter Of:

NORMA JEAN BEARD, R.Ph.

1855 Coonpath Road NE

Lancaster, Ohio 43130

(R.Ph. No. 03-3-18730)

INTRODUCTION

THE MATTER OF NORMA JEAN BEARD CAME FOR HEARING ON APRIL 9, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

NORMA JEAN BEARD WAS REPRESENTED BY MARY BARLEY-McBRIDE AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Norma Jean Beard, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [09-17-01]
1A-1C. Procedurals
2. Rx 6822672 [04/19/01]
3. Rx 6823106 [04/23/01]
4. Kroger Pharmacy Patient Medical Expenses Report [07-23-01]
5. Ohio Board of Pharmacy Error in Dispensing Report [05-31-01]
6. Copy of Dangerous Drug Distributor Inspection Report [05-31-01]
7. Pink Sheet Response from Norma Beard [06/11/01]

Respondent's Exhibits

- A1. Rx for Cipro HC solution [04-19-01]
- A2. Rx for Vantin 100mg/5cc [04-19-01]
- A3. Rx for Vantin Susp. 100mg/5cc [04-23-01]
- A4. Pharmacy Incident Report Form [04-24-02]
- A5. Letter from Norma Beard
- A6. Three Kroger Pharmacy N-542 Weekly Schedules covering 4/15 through 5/5
- A7. Letters from Imber Coppinger, D.O.; Philip J. Sheridan III, R.Ph.; Nathan A. Hux, R.Ph.; and Steve M. McCandlish, R.Ph.
- A8. Pages 300, 308, 309, 317, 318, and 319 for applicable statutes of the Ohio Revised Code

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 Norma Jean Beard was originally licensed by the State of Ohio on February 15, 1991, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.

(2) Norma Jean Beard did, on or about April 19, 2001, misbrand a drug, to wit: when Norma Jean Beard received a prescription for Vantin 100mg/5ml, #50cc, with directions for use as 2.5cc twice per day, prescription 6822672, she dispensed Motrin, a drug which had not been prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code (relating to Section 3715.64(A)(10)(d) of the Ohio Revised Code).

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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

Upon consideration of the record as a whole and, in particular, a review of the actual prescription written by Daniel W. Chase, M.D. and dispensed by Norma Jean Beard, the State Board of Pharmacy takes no action pursuant to Section 4729.25(B) of the Ohio Revised Code in the matter of Norma Jean Beard.

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

MOTION CARRIED.

SO ORDERED.

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

RES. 2002-166 Mrs. Teater then moved that the Board adopt the following Order in the matter of Katherine R. Carson, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-010605-071)

In The Matter Of:

KATHERINE R. CARSON, R.Ph.

5723 Hopkins Road
Mentor, Ohio 44060
(R.Ph. No. 03-2-21062)

INTRODUCTION

THE MATTER OF KATHERINE R. CARSON CAME FOR HEARING ON APRIL 9, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

KATHERINE R. CARSON WAS REPRESENTED BY MICHAEL J. OCCHIONERO AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Frank Bodi, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Katherine R. Carson, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [06-05-01]
- 1A-1F. Procedurals
2. Rx #205341, Norco 10mg in the name of Niitaka Carson (dog) [01-23-01]
- 2A. Rx #211973, Norco 10mg in the name of Niitaka Carson (dog) [03-29-01]
3. Rite Aid Customer History Report (01/01/95 to 04/30/01) for Niitaka Carson (dog) [04-30-01]
4. Statement of Keith Huston, DVM [05-21-01]
5. Nine valid scripts for Niitaka from Dr. Huston
6. Statement of Kathy Carson [05-08-01]
7. CII Perpetual Inventory Form for Oxycontin 80mg covering July 5, 2000 to May 19, 2001, and two Rite Aid Dispensing System Inquire Prescription printouts for Rx #0212257 and Rx #0202098 [05-30-01]
8. Rx #212257 vial for Ayrton Carson (Respondent's husband) from Dr. Demangone [04-01-01]
9. Rite Aid Customer History Report (03/01/95 to 04/30/01) for Ayrton Carson [04-30-01]
10. Statement of David Demangone, M.D. [05-29-01]
11. Accountability Statement for Oxycontin 80mg [10-31-01]
12. Accountability Statement for Oxycontin 40mg [10-31-01]
13. Bill of Information, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [09-27-01]
14. Guilty Plea and Judgment Entry, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [10-17-01]
15. Judgment Entry of Sentence, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [12-13-01]

Respondent's Exhibits:

- A1. Memorandum from Michael J. Occhionero [04-04-02]
- A2. Judgement Entry, State of Ohio vs. Katherine Carson, Case No. 01-CR-000299, Lake County Common Pleas Court [12-13-01]
- A3. Letter from Donald Jay Weinstein, Ph.D. [11-03-01]
- A4. Letter from Linda Butcher, R.D.A. [01-26-02]
- A5. Letter from Linda Davis Carson, R.N. [04-08-02]
- A6. Letter from Ayrton Carson [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 State Board of Pharmacy indicate that Katherine R. Carson was originally licensed by the State of Ohio on October 19, 1995, pursuant to examination, and that her license to practice pharmacy in the state of Ohio was summarily suspended effective June 5, 2001.

(2) Katherine R. Carson did, on or about January 23, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #205341 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(3) Katherine R. Carson did, on or about February 17, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #207982 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(4) Katherine R. Carson did, on or about March 9, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #207982, and Katherine R. Carson indicated on the prescription that she was dispensing an authorized refill. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(5) Katherine R. Carson did, on or about March 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #211973 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(6) Katherine R. Carson did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #214763 for 60 units of Norco 10mg, written for her dog. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(7) Katherine R. Carson did, on or about April 1, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #212257 for 120 units of OxyContin 80mg, written for her husband. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(8) Katherine R. Carson did, on or about April 29, 2001, intentionally make and/or knowingly possess a false or forged prescription, to wit: Katherine R. Carson created and maintained on file at Rite Aid #3174, without authorization from a prescriber, prescription #214773 for 120 units of OxyContin 80mg, written for her husband. Such conduct violates Section 2925.23 of the Ohio Revised Code.

(9) Katherine R. Carson did, on or about April 1, 2001, 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: after forging a prescription for 120 doses of OxyContin 80mg, a Schedule II controlled substance, Katherine R. Carson gave the drugs to her husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code.

(10) Katherine R. Carson did, on or about April 29, 2001, 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: after forging a prescription for 120 doses of OxyContin 80mg, a Schedule II controlled substance, Katherine R. Carson gave the drugs to her husband for his consumption, while knowing that he was probably addicted to the substance and that he had not been prescribed them. Such conduct violates Section 2925.03 of the Ohio Revised Code.

(11) Katherine R. Carson did, from April 10, 2001, through May 7, 2001, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the scope of the express or implied consent of the owner, to wit: when dispensing OxyContin which had been prescribed to her husband, Katherine R. Carson did not pay for the drugs. Such conduct violates Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (11) 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 (11) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(3) The State Board of Pharmacy concludes that paragraphs (2) through (10) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

The State Board of Pharmacy, pursuant to Section 3719.121 of the Ohio Revised Code, hereby removes the Summary Suspension Order issued to Katherine R. Carson on June 5, 2001.

After consideration of the record as a whole, the State Board of Pharmacy, pursuant to Section 4729.16 of the Ohio Revised Code, hereby suspends indefinitely the pharmacist identification card, No. 03-2-21062, held by Katherine R. Carson and such suspension is effective as of the date of the mailing of this Order.

(A) Katherine R. Carson, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

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

Further, after December 31, 2003, or when Katherine R. Carson is released from criminal probation, whichever is later, the Board will suspend the suspension provided that Katherine R. Carson meets the following requirements:

(A) Katherine R. Carson must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist and must abide by the treatment plan as designed by that psychiatrist or psychologist. The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment.

(B) Katherine R. Carson must provide, with her application for reinstatement, documentation of the following:

- (1) A report from the Probation Department that she has been released;
- (2) Compliance with the licensed psychiatrist's or psychologist's recommended treatment plan;
- (3) A report by the licensed psychiatrist or psychologist regarding Katherine R. Carson's fitness for readmission into the practice of pharmacy;
- (4) Restitution to Rite Aid;
- (5) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
- (6) Compliance with the terms of this Order.

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

(D) Katherine R. Carson's license will be placed on probation for three years effective as of the date the identification card to practice pharmacy is issued. The terms of probation are as follows:

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

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

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

MOTION CARRIED.

SO ORDERED.

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

4:40 p.m.

The meeting was recessed until Wednesday, April 10, 2002.

WEDNESDAY, APRIL 10, 2002

9:00 a.m. ROLL CALL

The State Board of Pharmacy reconvened in Room 1932, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with the following members present:

Ann D. Abele, R.Ph. (President); Diane C. Adelman, R.Ph. (Vice-President); Robert P. Giacalone, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Mr. Keeley presented his budget report to the Board.

9:07 a.m.

Ms. Eastman and Mr. Braylock arrived and joined the meeting in progress.

9:08 a.m.

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

10:16 a.m.

The Executive Session ended and the meeting was opened to the public. The Board took a brief recess.

10:31 a.m.

The Board reconvened in Room 1932 to continue the Board meeting. The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of conducting an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Erin R. Allen, R.Ph., Galloway.

12:01 p.m.

The hearing ended and the record was closed.

12:08 p.m.

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

1:50 p.m.

RES. 2002-167 The Executive Session ended and the meeting was opened to the public. Mr. Kost moved that the Board adopt the following Order in the matter of Erin Allen, R.Ph.:

ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-011212-027)

In The Matter Of:

ERIN R. ALLEN, R.Ph.
6888 Feder Road
Galloway, Ohio 43119
(R.Ph. No. 03-2-15444)

INTRODUCTION

THE MATTER OF ERIN R. ALLEN CAME FOR HEARING ON APRIL 10, 2002, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ANN D. ABELE, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; NATHAN S. LIPSYC, R.Ph.; DOROTHY S. TEATER, PUBLIC MEMBER; AND JAMES E. TURNER, R.Ph.

ERIN R. ALLEN WAS REPRESENTED BY DANIEL G. WILES AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. John Hougland, R.Ph.
2. Erin R. Allen, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [12-12-01]
1A-1D. Procedurals
2. Patient Profile Printout [07-26-01]
3. Rx #665146 [07-31-00]
4. Rx #666900 [08-30-00]
5. Written Statement of Young Kang, M.D. [07-27-01]
6. Written Statement of Erin Allen, R.Ph. [07-26-01]
7. [REDACTED]

Respondent's Exhibits:

- A. Affidavit of Dr. Young Kang [04-04-02]
- B. [REDACTED]

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 Erin R. Allen was originally licensed by the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio.

(2) [REDACTED]

[REDACTED]

[REDACTED]

(3) Erin R. Allen did, [REDACTED]

[REDACTED]

[REDACTED]

(4) Erin R. Allen did, on or about July 26, 2001, knowingly make a false statement when made with purpose to mislead a public official in performing his official function, to wit: when requested to run a patient profile printout for her husband, Erin R. Allen selected another patient by the same name, yet having a different address, and she stated to a Board of Pharmacy agent that there were no prescriptions on file. However, when the Board agent confronted her, Erin R. Allen gave him the correct information as originally requested. Such conduct violates Section 2921.13 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 being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

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

(3) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters ██████████ of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy takes the following actions pursuant to Section 4729.16 of the Ohio Revised Code in the matter of Erin R. Allen:

(A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-15444, held by Erin R. Allen effective as of the date of the mailing of this Order. Further, the Board suspends the suspension and places her identification card on probation for 18 months.

(B) 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 imposes a monetary penalty of two hundred fifty dollars (\$250.00) on Erin R. Allen effective as of the date of the mailing of this Order. Further, the Board suspends the monetary penalty and places her identification card on probation for 18 months.

(C) The terms of probation are as follows:

(1) Erin R. Allen must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist and must abide by the treatment plan as designed by that psychiatrist or psychologist.

(a) The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment.

(b) The psychiatrist or psychologist must also provide a final report prior to the end of probation showing successful completion of treatment or the continued treatment plan, and must include Erin R. Allen's fitness to practice pharmacy.

(2) Erin R. Allen must comply with the licensed psychiatrist's or psychologist's recommended treatment plan.

(3) The State Board of Pharmacy hereby declares that Erin R. Allen'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.

(4) Erin R. Allen may not serve as a responsible pharmacist.

(5) Erin R. Allen may not destroy, assist in, or witness the destruction of controlled substances.

- (6) Erin R. Allen may not fill prescriptions for family members.
- (7) Erin R. Allen must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (8) Erin R. Allen must abide by the rules of the State Board of Pharmacy.
- (9) Erin R. Allen must comply with the terms of this Order.

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

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.
MOTION CARRIED.
SO ORDERED.

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

RES. 2002-168 The Board next discussed an article that had been prepared by Christine Grant-Young in fulfillment of a requirement of her settlement agreement with the Board. The article had previously been distributed to the Board members for their review. Ms. Eastman moved that the Board consider this article to be sufficient to fulfill the requirement in the settlement agreement. The motion was seconded by Mr. Kost and approved by the Board (Aye-8/Nay-0).

1:58 p.m.

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

PER DIEM	<u>04/08</u>	<u>04/09</u>	<u>04/10</u>	<u>Total</u>
Abele	1	1	1	3
Adelman	1	1	1	3
Braylock	1	1	1	3
Eastman	1	1	1	3
Giacalone	1	1	1	3
Lipsyc	1	1	1	3
Kost	1	1	1	3
Teater	1	1	1	3
Turner	1	1	1	3

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

1:59 p.m.

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

**THE BOARD APPROVED THESE MINUTES
MAY 7, 2002**