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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126  
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## **Minutes of the September 13 & 14, 2005** **Meeting of the Ohio State Board of Pharmacy**

### **TUESDAY, SEPTEMBER 13, 2005**

7:54 a.m. The Ohio State Board of Pharmacy convened in Room 1960, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

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

Mr. Winsley announced that the following settlement agreements had been signed by all parties and were now effective:

### **R-2006-035**

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

Docket Number: D-040810-014

*in the matter of:*

**JOHN P. HARRINGTON, R. PH.**  
7654 East Harford  
Scottsdale, Arizona 85255

R.Ph. Number: 03-1-08362

This Settlement Agreement is entered into by and between John P. Harrington 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.

John P. Harrington 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. John P. Harrington 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, John P. Harrington is licensed to practice pharmacy in Ohio.

Whereas, on or about August 10, 2004, pursuant to Chapter 119. of the Ohio Revised Code, John P. Harrington 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. John P. Harrington requested a hearing; it was scheduled and continued. The August 10, 2004, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that John P. Harrington was originally licensed by the State of Ohio as a pharmacist on August 16, 1965, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) John P. Harrington did, on or about March 7, 2004, knowingly possess a false or forged prescription, to wit: John P. Harrington received a forged prescription for 1,000 unit doses of meprobamate 400 mg, a Schedule IV Controlled Substance; John P. Harrington filled the prescription, assigning it RX #495945, and kept it on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (3) John P. Harrington did, on or about March 7, 2004, 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: John P. Harrington sold 1,000 unit doses of meprobamate 400 mg, a Schedule IV Controlled Substance, pursuant to a forged prescription, RX #495945. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

John P. Harrington neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 10, 2004; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) John P. Harrington agrees to the imposition of a monetary penalty of two thousand dollars (\$2000.00) and payment of the monetary penalty is due and owing within thirty (30) days from the effective date of this Agreement. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126.
- (B) John P. Harrington may not dispense prescriptions for Morton H. Pierce or his wife.

If, in the judgment of the Board, John P. Harrington 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.

John P. Harrington 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.

John P. Harrington 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. John P. Harrington 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> John R. Harrington, R.Ph., Respondent	<u>/d/ 08/07/05</u> Date Signed
<u>/s/</u> Elizabeth Y. Collis, Attorney for Respondent	<u>/d/ 08/07/05</u> Date Signed
<u>/s/</u> Suzanne R. Eastman, President, Ohio State Board of Pharmacy	<u>/d/ 09/13/05</u> Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/ 09/13/05</u> Date Signed

**R-2006-036**

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

*in the matter of:*

**ZIA U. MALIK, R.PH.**  
3723 Troon Drive  
Uniontown, Ohio 44685

R.Ph. Number 03-3-10366

This Settlement Agreement is entered into by and between Zia U. Malik 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.

Zia U. Malik 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.

Zia U. Malik 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 Zia U. Malik'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) Zia U. Malik, through the terms of this document, 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) Zia U. Malik acknowledges that he has been made aware of the investigation and has cooperated in said investigation. Zia U. Malik 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 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, said 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 a 119. hearing at this time, Zia U. Malik 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), Zia U. Malik may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Zia U. Malik 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.

Zia U. Malik 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. Zia U. Malik 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> Zia U. Malik, R.Ph.	<u>/d/ 08/17/05</u> Date Signed
<u>/s/</u> Paul Anderson, Attorney for Zia U. Malik	<u>/d/ 08/17/05</u> Date Signed
<u>/s/</u> Suzanne R. Eastman, President, Ohio State Board of Pharmacy	<u>/d/ 09/13/05</u> Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/ 09/13/05</u> Date Signed

R-2006-037

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

*in the matter of:*

**RX PLUS**  
3333 Manchester Road, Suite 2  
Akron, Ohio 44319

T.D.D.D. Number 02-0781450

This Settlement Agreement is entered into by and between RX Plus, a pharmacy (licensed as a Terminal Distributor of Dangerous Drugs) owned by Zia U. Malik, 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.

RX Plus and Zia U. Malik, hereinafter referred to as "Respondents," enter into this Agreement being fully informed of their 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.

Respondents are knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that would be filed by the Board against RX Plus and in order to obviate the need to conduct administrative hearings to consider possible disciplinary sanctions against its license as a Terminal Distributor of Dangerous Drugs 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 4729.57 of the Ohio Revised Code to suspend, revoke, 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) Respondents, through the terms of this document, neither admit nor deny 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) Respondents acknowledge that they have been made aware of the investigation and have cooperated in said investigation. Respondents further acknowledge that they have not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges 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, said 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 a 119. hearing at this time, Respondents knowingly and voluntarily **SURRENDER PERMANENTLY TO THE STATE BOARD OF PHARMACY RX PLUS' TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSE, WITH DISCIPLINARY ACTION PENDING.** Further, Respondent Zia U. Malik agrees never to apply for another license as a Terminal Distributor of Dangerous Drugs or to join in any business venture with another to do so or has done so.

Respondents further agree to immediately hire a registered pharmacist to effect the closing of the pharmacy, to file the appropriate "Discontinuing Business" forms with the Board, and to comply fully with Rule 4729-9-07 of the Ohio Administrative Code, "Procedure for Discontinuing Business as a Wholesale or a Terminal Distributor of Dangerous Drugs." The pharmacy must be fully liquidated and closed, pursuant to the rule, within ninety (90) days of the date of this agreement. Respondent Zia U. Malik agrees not to sell the current business to any family member, whether immediate or extended family. Failure to comply with this agreement could allow Respondents the unauthorized access and/or possession of dangerous drugs, which would be a violation of various provisions of Chapters 2925. and 4729. of the Ohio Revised Code.

Respondents acknowledge that they have had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner.

Respondents waive any and all claims or causes of action they 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. Respondents waive 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> Zia U. Malik, R.Ph., on behalf of RX Plus	<u>/d/ 08/17/05</u> Date Signed
<u>/s/</u> Paul Adamson, Attorney for Zia U. Malik	<u>/d/ 08/17/05</u> Date Signed
<u>/s/</u> Suzanne R. Eastman, President, Ohio State Board of Pharmacy	<u>/d/ 09/13/05</u> Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/ 09/13/05</u> Date Signed

- 8:03 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Jesse Thomas Krusling, R.Ph., Cincinnati.
- 8:05 a.m. Board member Gregory Braylock, R.Ph., arrived and joined the hearing in progress. With the consent of all parties, President Eastman announced that Mr. Braylock would participate in the hearing and the resulting adjudication.
- 9:39 a.m. The hearing ended and the record was closed. The Board took a brief recess.
- 9:49 a.m. The Board reconvened in Room 1960 of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with all members present.

**R-2006-038** After discussion, Mr. Mitchell moved that the Board permit Danna and Doug Droz to participate in the reciprocity meeting that afternoon (September 13) and that their licenses to practice pharmacy in Ohio be awarded upon receipt of a complete and final reciprocity application. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 8.

**R-2006-039** The Board next considered an exemption request from OAC Rule 4729-5-10 (Prescription pick-up station) received from the following site:

**Teregen Laboratories** (02-1235150)  
Various Physician Offices contained in the letter of request

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

**R-2006-040** The Board then considered a request for an exemption from OAC Rule 4729-5-10 (Prescription pick-up station) received from the following sites:

**Pure Service Pharmacy** (02-1531800)  
**Central Admixture Pharmacy Services** (02-1312700)

After discussion, Mr. Giacalone moved that the Board approve the request. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

Mr. Braylock reported that the Nursing Board's Committee on Prescriptive Governance (CPG) had not met. The next meeting is scheduled for October 17, 2005.

9:58 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 Revised Code. The motion was seconded by Mr. Kost and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

10:25 a.m. The Executive Session ended and the meeting was opened to the public.

Mrs. Gregg moved that the Board adopt the following Order in the matter of Jesse Thomas Krusling:

**R-2006-041**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number: D-050804-012

*in the matter of:*

**JESSE THOMAS KRUSLING**

3176 Mapleleaf, Apt. 8  
Cincinnati, Ohio 45213

**INTRODUCTION**

The matter of Jesse Thomas Krusling came for hearing on September 13, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Jesse Thomas Krusling was not represented by counsel. The State Of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: Jesse Thomas Krusling, Respondent  
John Dinkelacker, R.Ph.  
Deacon Larry Koebel  
Susan Ehrhardt

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing letter [08-04-05]
- 1A-1B. Procedurals
2. Application for Pharmacy Intern Registration with attachment submitted by Jesse Thomas Krusling [06-10-05]
3. Indictment, State of Ohio vs. Jesse T. Krusling, Case No. B9407709, Hamilton County Common Pleas Court [11-02-94]
4. Judgment Entry: Sentence: Incarceration [04-06-95]
5. State of Ohio Department of Rehabilitation and Correction Certification of Incarceration [08-17-05]

Respondent's Exhibits:

- A1. Seven Letters of Support [10-13-04 to 09-06-05]
- A2. Two Scholarship Letters [05-26-05 and 05-17-05]
- A3. PCAT Transcript of Jesse T. Krusling [January 2005]
- A4. Eight University of Cincinnati Transcripts of Jesse Thomas Krusling [03-25-04 to 09-02-05]; Hocking College Associate Degree [12-11-98]

**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 Jesse Thomas Krusling applied to the Board for registration as an intern in the State of Ohio on June 10, 2005.
- (2) Jesse Thomas Krusling was, on or about April 6, 1995, convicted of Burglary, in violation of Section 2911.12 of the Ohio Revised Code, a felony of the third degree, and Abduction, in violation of Section 2905.02 of the Ohio Revised Code, a felony of the third degree. Jesse Thomas Krusling was sentenced to a term of imprisonment of two to ten years, of which he served approximately eight and one-half years. State of Ohio vs. Jesse T. Krusling, Case No. B-947709, Hamilton County Common Pleas Court. Such conviction indicates that Jesse Thomas Krusling has been convicted of a felony within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.16 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 a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

**DECISION OF THE BOARD**

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Jesse Thomas Krusling on June 10, 2005.

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

10:33 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for the purpose of creating a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Craig Capwell, WDDD Applicant, Mt. Vernon.

10:45 a.m. The record was closed.

**R-2006-042** Mr. Keeley continued the discussion of all of the proposed new and changed rules with the Board. At the conclusion of the discussion, Mrs. Gregg moved that the Board approve the filing of the following rules as amended. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

**OAC (Ohio Administrative Code) Chapter 4729-3 (Pharmacy Internship)**

4729-3-01 Definitions.

**OAC Chapter 4729-5 (Pharmacy Practice)**

4729-5-01 Definitions.

4729-5-15 Prescriber.



- 4729-5-30 Manner of issuance of a prescription.
- 4729-5-34 Successful completion of the "Test of Spoken English".

**OAC Chapter 4729-7 (Pharmacy Practice-Continuing Education)**

- 4729-7-01 Definitions.
- 4729-7-02 Requirements for renewal of a pharmacist identification card.
- 4729-7-05 Procedure for approval of a provider of continuing pharmacy education.

**OAC Chapter 4729-9 (Dangerous Drugs)**

- 4729-9-02 Minimum standards for a pharmacy.
- 4729-9-11 Security and control of dangerous drugs.
- 4729-9-15 Report of theft or loss of dangerous drugs, controlled substances, and drug documents.
- 4729-9-20 Drugs repackaged by a pharmacy.
- 4729-9-25 Drugs compounded for direct administration by a prescriber. *[proposed new]*

**OAC Chapter 4729-17 (Institutional Facilities)**

- 4729-17-01 Definitions.
- 4729-17-03 Security and control of drugs in an institutional facility.
- 4729-17-04 Records; institutional ~~facility~~ pharmacy.
- 4729-17-08 Minimum standards for an institutional ~~facility~~ pharmacy.
- 4729-17-09 Drug orders for patients of an institutional facility.
- 4729-17-13 D.E.A. numbers for hospital employed ~~physicians~~ prescribers.

**OAC Chapter 4729-33 (Emergency Medical Services)**

- 4729-33-04 ~~Recordkeeping~~ Record keeping.

**OAC Chapter 4729-35 (Drug Repository Programs)**

- 4729-35-01 Definitions.
- 4729-35-04 Eligible drugs.

**OAC Chapter 4729-36 (Charitable Pharmacies) [New Chapter]**

- 4729-36-01 Definitions. *[proposed new]*
- 4729-36-02 Licensure of a charitable pharmacy. *[proposed new]*
- 4729-36-03 Requirements of a charitable pharmacy. *[proposed new]*
- 4729-36-04 Sample drug distribution to a charitable pharmacy. *[proposed new]*
- 4729-36-05 Eligibility requirements for sample drugs received by a charitable pharmacy. *[proposed new]*
- 4729-36-06 Dispensing a sample drug by a charitable pharmacy. *[proposed new]*

**OAC Chapter 4729-37 (Drug Database) [New Chapter]**

- 4729-37-01 Definitions. *[proposed new]*
- 4729-37-02 List of drugs to be reported. *[proposed new]*
- 4729-37-03 Entities required to submit information. *[proposed new]*
- 4729-37-04 Information required for submission. *[proposed new]*
- 4729-37-05 Electronic format required for the transmission of dispensing information. *[proposed new]*
- 4729-37-06 Electronic format required for the transmission of wholesale drug sales. *[Proposed New]*
- 4729-37-07 Frequency requirements for submitting drug database information. *[proposed new]*
- 4729-37-08 Procedures for obtaining drug database information. *[proposed new]*
- 4729-37-09 Requesting an extension to the information storage requirements. *[proposed new]*
- 4729-37-10 Providing database statistics and law enforcement outcomes. *[proposed new]*

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

**R-2006-043** Mr. Keeley presented a request for Board approval of an electronic prescribing system from **Bond Clinician**. After discussion, Mr. Braylock moved that the Board find the Bond Clinician

electronic prescribing system approvable pending final inspection of the installed product. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

**R-2006-044** Mr. Benedict then presented an exemption request to Rule 4729-5-11 (Responsible person) asking that **Mark Sterns**, R.Ph., be permitted to be the Responsible Pharmacist for the following Terminal Distributor of Dangerous Drugs licenses:

**Rite Aid/Vandalia** (02-0418800)  
**Rite Aid/Dayton** (02-1086400)

After discussion, Mrs. Gregg moved that the Board approve this request for 120 days. The motion was seconded by Mr. Giacalone and approved by the Board: Aye – 8.

11:55 a.m. The Board recessed for lunch.

1:30 p.m. The Board convened with all members present in Studio 1, 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.

**R-2006-045** Following presentations by Board members and self-introductions by the candidates, the candidates participated in a discussion of pharmacy laws and rules with Mr. McMillen and were then presented with their pharmacist identification cards.

Sahar Abuimara	03-3-27010	Washington
Jill H. Arnold	03-3-26981	Rhode Island
Clarence M. Clifton	03-3-27018	Kentucky
Theodore Coulianos	03-3-26961	Maryland
Stacey R. Fryman	03-3-26979	Kentucky
Paul E. Harder	03-3-27013	Minnesota
Robert J. Hemrick	03-3-26980	Tennessee
Amanda M. Jagger	03-3-27005	Indiana
David W. Karkiewicz	03-3-27002	Indiana
Carey J. Locke	03-3-26994	Virginia
Johnny A. Negusse	03-3-27015	Oklahoma
Ijeoma N. Okorie	03-3-26997	Texas
Michael J. Peeters	03-3-26661	Texas
Franklin C. Powell, II	03-3-27020	West Virginia
Timothy J. Rakas	03-3-27000	Pennsylvania
Shannon N. Saldana	03-3-27014	Texas
Macdonald O. Ziregbe	03-3-27023	Nevada

2:00 p.m. The Board reconvened in Room 1960, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with all members present.

The Board discussed an issue that had been brought to the attention of Board staff regarding dentists writing discharge prescriptions for drugs intended for medical treatment (e.g. blood pressure, cardiac, etc.) during a dental residency program at hospitals. After discussion, it was the consensus of the Board that dentists could not legally write prescriptions for drugs not within their scope of practice. Board staff was instructed to discuss this issue further with the Medical Board and also with the Dental Residency Program Director at the involved hospital.

2:14 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Revised Code Chapters 119. and 4729. in the matter of Matthew Brown, R.Ph., Cincinnati.

3:13 p.m. The hearing ended and the record was closed. The Board recessed briefly.

3:25 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the

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. Mitchell and a roll-call vote was taken by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

4:13 p.m. The Executive Session ended and the meeting was opened to the public.

**R-2006-046** Mr. Turner moved that the Board refuse the proposed Settlement Offer presented in the matter of **Abdallah D. Abukhalil**, R.Ph. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 8.

**R-2006-047** Mr. Braylock moved that the Board accept the Settlement Agreement in the matter of **Eric Hizer**, R.Ph., that had been tabled at the August, 2005, meeting pending receipt of a psychologist's report. The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

Mrs. Gregg moved that the Board adopt the following Order in the matter of Craig Capwell, WDDD Applicant:

**R-2006-048**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050622-066

*in the matter of:*

**CRAIG CAPWELL**  
202 Stevens Street  
Mt. Vernon, Ohio 43050

**INTRODUCTION**

The matter of Craig Capwell came for consideration on September 13, 2005, before the following members of the board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, public member; and James E Turner, R.Ph.

Craig Capwell was not present nor was he represented by counsel. The State Of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: None

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [06-22-05]
2. Application for Registration As A Wholesale Distributor of Dangerous Drugs [01-27-05]
3. Six color photographs [not dated]

Respondent's Exhibits: None

**FINDINGS OF FACT**

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

- (1) On June 22, 2005, Craig Capwell was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by return receipt dated June 24, 2005, Craig Capwell received the letter of June 22, 2005, informing him of the evidence to propose to deny his application for registration as a Wholesale Distributor of Dangerous Drugs, and his rights.
- (3) Craig Capwell has not responded in any manner to the letter of June 22, 2005 and has not requested a hearing in this matter, therefore the matter was referred to the Board for consideration.
- (4) Records of the Board of Pharmacy indicate that on or about January 27, 2005, Craig Capwell applied for registration as a Wholesale Distributor of Dangerous Drugs at 202 Stevens Street, Mount Vernon, Ohio.
- (5) Craig Capwell has not furnished satisfactory proof to the Board that he meets the qualifications of a wholesale distributor, to wit: Craig Capwell has not shown that his past experience in the manufacturing or distribution of dangerous drugs is acceptable to the Board.
- (6) Craig Capwell has not furnished satisfactory proof to the Board that he meets the qualifications of a wholesale distributor, to wit: Craig Capwell has not shown that he is equipped as to land, buildings, equipment, and personnel to properly carry on the business of a wholesale distributor, including providing adequate security and proper storage conditions and handling for dangerous drugs. Specifically, Craig Capwell lacks the necessary facilities for storage, warehousing, handling, offering, marketing, or displaying dangerous drugs, and Craig Capwell does not meet the requirements of Rule 4729-9-16 of the Ohio Administrative Code.
- (7) Craig Capwell has not furnished satisfactory proof to the Board that he has established, maintained, and/or adhered to written policies and procedures which shall be followed for the receipt, security, storage, inventory, and distribution of dangerous drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories as is required by Rule 4729-9-16(l) of the Ohio Administrative Code.

#### **CONCLUSION OF LAW**

Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings of Fact constitute failure to meet the qualifications for registration as a Wholesale Distributor of Dangerous Drugs set forth in Division (A) of Section 4729.53 of the Ohio Revised Code.

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

Pursuant to Section 4729.52(A) of the Ohio Revised Code, the State Board of Pharmacy hereby denies the Application of Craig Capwell for Registration as a Wholesale Distributor of Dangerous Drugs submitted January 27, 2005.

The Motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

**R-2006-049** Mr. Braylock moved that the Board adopt the following Order in the matter of Matthew Brown:

**ORDER OF THE STATE BOARD OF PHARMACY**  
Docket Number D-050317-053

*in the matter of:*

**MATTHEW J. BROWN**  
4131 Carter Avenue #2  
Cincinnati, Ohio 45212

### **INTRODUCTION**

The matter of Matthew J. Brown came for hearing on September 13, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Matthew J. Brown was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

### **SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: Matthew J. Brown, Respondent  
Sara K. Brown

#### State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [03-17-05]
- 1A-1B. Procedurals
2. Application for Pharmacy Intern Registration with attachment submitted by Matthew J. Brown [11-26-04]
3. Hamilton County Law Enforcement Citation No. 952742 [08-17-03]; Hamilton County Municipal Court Journal Entry, Case No. 03-CRB-31594 [10-15-03]

#### Respondent's Exhibits:

- A.
- B.
- C. University of Cincinnati Transcript for Matthew J. Brown [2001-2005]; two Dean's List Certificates [12-28-04 and 03-29-05]; Plough Scholarship Recipient letter [05-26-05]
- D. University of Utah School on Alcoholism and Other Drug Dependencies Conference Registration for Matthew J. Brown [2005]; copy of check No. 509 to the University of Utah School on Alcoholism and Drugs [06-20-05]
- E. University of Cincinnati REACH Assessment letter of Matthew Brown [08-23-05]; Alcoholism Council of the Cincinnati Area, NCADD Appointment Card [09-21-05]
- F. Four Letters of Support [08-30-05 to 09-06-05]; letter from the Boy Scouts of America, Troop 400 [04-05-04]

### **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 Matthew J. Brown applied to the Board for registration as an intern in the State of Ohio on November 26, 2004.

(2) Matthew J. Brown was, on or about October 15, 2003, convicted of Disorderly Conduct, in violation of Section 2917.11 of the Ohio Revised Code, a minor misdemeanor. State of Ohio v Matthew Brown, Case No. 03 CRB 31594 in the Hamilton County Municipal Court. Such conviction indicates that Matthew J. Brown is not of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Revised Code.

(3)

(4)

(5) Matthew J. Brown did, on or about October 26, 2004, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Matthew J. Brown indicated on his pharmacy intern registration application that he \_\_\_\_\_ but when divulging the specific information Matthew J. Brown failed to indicate the facts as set forth in Paragraph 4 above. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

#### **CONCLUSION OF LAW**

The State Board of Pharmacy concludes that paragraphs (2), (4) and (5) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

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

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Pharmacy Intern Registration submitted by Matthew J. Brown on November 26, 2004.

The Motion was seconded by Mr. Kost and approved by the Board: *Aye* – 8.

4:36 p.m. Mrs. Teater left the meeting for personal reasons.

After a discussion of items not requiring official Board action, Mr. Benedict said there was no report to give regarding the Medical Board.

Mr. Turner distributed a copy of the student evaluations from the Board meeting held at Ohio Northern University in May to the Board.

**R-2006-050** The Board considered the draft minutes from the August 16, 2005 conference call. After discussion, Mrs. Gregg moved that the minutes be approved as written. The motion was seconded by Mr. Braylock and approved by the Board: *Aye* – 5/*Nay* – 0/*Abstain* – 2 (Turner, Kost).

**R-2006-051** The Board then considered the draft minutes from the August 8 & 9, 2005 meeting. After discussion, Mrs. Gregg moved that the minutes be approved as amended. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye* – 6/*Nay* – 0/*Abstain* – 1 (Turner).

5:30 p.m. The Board meeting recessed until Wednesday, September 14, 2005.

#### **WEDNESDAY, SEPTEMBER 14**

10:06 a.m. The Ohio State Board of Pharmacy convened at the Villa Milano Restaurant, 1630 Schrock Road, Columbus, Ohio, with the following members present:

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

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; and William McMillen, *Licensing Administrator*.

The Board was joined by members of the Board of Directors of the Ohio Pharmacists Association (OPA) for a discussion of items of mutual interest to both groups.

11:35 a.m. The meeting with the OPA Board of Directors ended. There were no items requiring official Board action as a result of the discussion.

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

<u>Per Diem</u>	<u>9/13</u>	<u>9/14</u>	<u>Total</u>
Braylock	1	1	2
Eastman	1	1	2
Gregg	1	1	2
Kost	1	1	2
Lipsyc	1	1	2
Mitchell	1	1	2
Teater	1	1	2
Turner	1	1	2

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

11:36 a.m. Mr. Giacalone moved that the meeting be adjourned. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 8.*

<p style="text-align: center;"><b>THE OHIO STATE BOARD OF PHARMACY</b> <b>APPROVED THESE MINUTES OCTOBER 11, 2005</b></p>
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