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

MONDAY, AUGUST 7, 2006

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

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

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

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

OATH OF NEW MEMBER

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

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

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

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

R-2007-002

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-060512-079

in the matter of:

ABDALLAH D. ABUKHALIL, R.PH.

16544 North White Oaks
Strongsville, Ohio 44136

R.Ph. Number 03-3-23964

This Settlement Agreement is entered into by and between Abdallah D. Abukhalil and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

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

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

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

Whereas, on or about May 14, 2002, pursuant to Chapter 119. of the Ohio Revised Code, Abdallah D. Abukhalil was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Abdallah D. Abukhalil requested a hearing; it was scheduled and continued. The May 14, 2002, Notice of Opportunity for Hearing contains the following allegations or charges, as amended:

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

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

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

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

(B) Terms of probation are as follows:

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

- (C) Abdallah D. Abukhalil agrees to the imposition of a monetary penalty of five thousand dollars (\$5,000.00) due and owing within thirty days from the effective date of this Agreement. Check should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the Ohio State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (D) Abdallah D. Abukhalil agrees to waive his right to appeal and also agrees he will not file a second motion for legal fees with any court. Abdallah D. Abukhalil agrees that he is not a "prevailing party" as defined in Chapter 119. of the Ohio Revised Code, and he will not request an award of attorney's fees from the Board or from any court of competent jurisdiction for any reason.

If, in the judgment of the Board, Abdallah D. Abukhalil appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement. Any future action would be subject to the provisions of Chapter 119. of the Ohio Revised Code.

Abdallah D. Abukhalil acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

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

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

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

R-2007-003

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

in the matter of:

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

R.Ph. Number 03-3-06433

This Settlement Agreement is entered into by and between Charles H. Baker and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

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

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

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

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

Charles H. Baker acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner.

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

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

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

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

R-2007-004

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

in the matter of:

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

R.Ph. Number 03-2-19444

This Settlement Agreement is entered into by and between Michael M. Fraulini and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

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

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

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

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

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

Michael M. Fraulini acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner.

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

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

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

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

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

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

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

After discussion, Mr. Braylock moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 7.*

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

3:03 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Corey Y. Thompson**, R.Ph., Ashland, Ohio.

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

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

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

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

R-2007-010

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060511-074

in the matter of:

COREY YVETTE THOMPSON, R.PH.

845 Ninth Avenue
Middletown, Ohio 45044

R.Ph. Number 03-3-23719

INTRODUCTION

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

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

SUMMARY OF EVIDENCE

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

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

State's Exhibits:

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

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Corey Y. Thompson was originally licensed by the State of Ohio as a pharmacist on September 14, 1999, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective May 11, 2006. Records further reflect during the relevant time periods stated herein, Corey Y. Thompson was the Responsible Pharmacist at CVS/Pharmacy #6167, 418 East Main Street, Ashland, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Corey Y. Thompson is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Corey Y. Thompson has admitted to a board agent that she is addicted to marijuana, a Schedule I Controlled Substance. Corey Y. Thompson has indicated that she needs, and is willing to seek, treatment for her addiction. Such conduct indicates that Corey Y. Thompson is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render Corey Y. Thompson unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

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

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

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

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

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

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

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

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

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

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

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

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

TUESDAY, AUGUST 8, 2006

8:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

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

BOARD ACCESS AND USE OF OARRS As adopted 08/07/2006

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

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

Mr. McMillen presented the Licensing Report to the Board.

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

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

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

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

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

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

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

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

R-2007-020 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1:41 p.m.

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

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

2:13 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Derek Duckworth**, R.Ph., Toledo, Ohio.

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

Mr. Giacalone moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call

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

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

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

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060201-059

in the matter of:

DEREK EDWARD DUCKWORTH, R.PH.

2545 Point Pleasant Way

Toledo, Ohio 43611

R.Ph. Number 03-2-10274

INTRODUCTION

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

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

SUMMARY OF EVIDENCE

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

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

State's Exhibits:

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

Respondent's Exhibits:

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

FINDINGS OF FACT

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

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

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

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

Such conduct violates Section 2913.02 of the Ohio Revised Code.

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

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

Such conduct violates Section 2913.02 of the Ohio Revised Code.

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

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Derek Edward Duckworth on February 1, 2006.

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

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-10274, held by Derek Edward Duckworth effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-10274, held by Derek Edward Duckworth effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-10274, held by Derek Edward Duckworth effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Derek E. Duckworth must return his 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.

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

R-2007-029 After discussion, Mr. Giacalone moved that the Board find the proposed **Spartan Stores** central-fill system to be approvable pending final inspection. Mrs. Gregg seconded the motion and it was approved by the Board: Aye – 7.

4:31 p.m. The Board recessed for the day.

WEDNESDAY, AUGUST 9, 2006

8:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

The July, 2006, reciprocity list with the following names was distributed.

Rayf Sohail Aboezz	03-1-27316	Michigan
Jessica Eileen Bollinger	03-1-27396	Pennsylvania
Cathy C. Caudill	03-1-17514	Kentucky
Amy Lynn Durell	03-1-27423	North Carolina
Erica Leigh Johnson	03-1-27280	Massachusetts
Mark S. Kelley	03-1-27350	New York
Lisa Ann Potts	03-1-27531	Michigan
Lisa Story Proffitt	03-1-27540	Kentucky
Jacqueline Kay Schneider	03-1-27426	Nebraska
Brooke Kristen Sorgen	03-1-27190	Indiana

The discussion regarding the situation with **BioScrip** and other specialty pharmacies was tabled to allow Board staff time to prepare a proposed rule change that would allow the Board to authorize some exemptions to deal with this unique situation.

R-2007-030 After discussion, Ms. Eastman moved that the **Medco Work-At-Home** intervention program as it is currently structured be given final Board approval. In addition, Medco may use out of state pharmacists in this program as long as the pharmacist has an Ohio license. Any significant changes to this program and any additional Work-At-Home duties must be brought before the Board prior to implementation. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 8.

8:37 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Randy Hostetler**, R.Ph., Toledo, Ohio.

8:54 a.m. The record was closed.

8:55 a.m. The Board recessed briefly.

9:07 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Danielle Lyn Timkovich**, Intern, Toledo, Ohio.

10:56 a.m. The hearing ended and the meeting was opened to the public.

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

11:40 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-031 Mr. Giacalone moved that the Board adopt the following order in the matter of **Randy Hostetler**, R.Ph., Littleton, Colorado.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060309-062

in the matter of:

RANDY HOSTETLER, R.PH.
6318 South Harlan Way
Littleton, Colorado 80123

R.Ph. Number 03-1-12226

INTRODUCTION

The matter of Randy Hostetler came for consideration on August 9, 2006, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Randy Hostetler 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: Betty Jones, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [03-09-06]
 - 1A. Procedural
2. Renewal Application for Pharmacist License of Randy Hostetler [08-23-05]
3. Stipulated Summary Suspension, The State Board of Pharmacy, State of Colorado vs. Randy Hostetler, Case No. RL PH DLQEE [12-08-04]; Diversion Program Contract [01-07-04]
4. Statement of Michael G. Lupo [11-21-03]
5. Renewal Application for Pharmacist License of Randy Hostetler [10-19-01]; Misdemeanor Infractions, State of Colorado vs. Randy A. Hostetler, Case No. 97T-015405 [12-09-97]; Terms and Conditions of Sentence [04-15-98]; Misdemeanor Infractions, State of Colorado vs. Randy A. Hostetler, Case No. 98T-009929 [08-13-98]; Terms and Conditions of Sentence [10-28-98]

6. E-Mail letter from Donna Lindsey to Betty Jones [11-16-05]
7. Letter from Susan L. Warren to Thomas E. Callison, Esq. [11-22-05]
8. E-Mail letter from Donna Lindsey to Betty Jones [12-20-05]
9. Renewal Application for Pharmacist License of Randy Hostetler [10-06-98]
10. Renewal Application for Pharmacist License of Randy Hostetler [07-13-99]

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 March 9, 2006, Randy Hostetler 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 March 13, 2006, Randy Hostetler received the letter of March 9, 2006, informing him of the allegations against him and his rights.
- (3) Randy Hostetler has not responded in any manner to the letter of March 9, 2006, and has not requested a hearing in this matter, therefore the matter was referred to the Board for consideration.
- (4) Records of the Board of Pharmacy indicate that Randy Hostetler was originally licensed by the State of Ohio as a pharmacist on August 10, 1977, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (5) Randy Hostetler is abusing liquor or drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Randy Hostetler's license to practice pharmacy in the State of Colorado was summarily suspended on December 8, 2004, for theft of drugs, personal addiction, and falsifying his pharmacist's renewal application. The State Board Of Pharmacy, State of Colorado vs. Randy Hostetler, Case No. RL PH DLQEE. Randy Hostetler relapsed during his mandated treatment on three different occasions. Randy Hostetler's license to practice pharmacy in Colorado remains suspended. Such conduct indicates that Randy Hostetler is within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (6) Randy Hostetler did, on or about August 10, 1998, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Randy Hostetler indicated on his Ohio pharmacist license renewal application that he had not been charged with a crime when in fact Randy Hostetler had been convicted in Colorado of driving while intoxicated. People of the State of Colorado vs. Randy Hostetler, Case No. 97T-15405, Jefferson County, Colorado. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (7) Randy Hostetler did, on or about July 8, 1999, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Randy Hostetler indicated on his Ohio pharmacist license renewal application that he had not been charged with a crime when in fact Randy Hostetler had been convicted in Colorado of driving while intoxicated. People of the State of Colorado vs. Randy Hostetler, Case No. 98T-009929, Jefferson County, Colorado. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

- (8) Randy Hostetler did, on or about October 17, 2005, and again on or about December 19, 2005, fail to cooperate with, and divulge all relevant information when requested to the Board of Pharmacy Specialist engaged in an investigation. Specifically, Randy Hostetler refused to speak about the facts that led to the Colorado Board suspending his license to practice pharmacy. Such conduct is in violation of Section 4729.19 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (5) through (7) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (5) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (8) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.
- (5) The State Board of Pharmacy concludes that paragraphs (6) and (7) of the Findings of Fact constitute being guilty of committing fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the Board under Chapter 4729. of the Revised Code as provided in Division (A)(10) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

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

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-12226, held by Randy Hostetler and such suspension is effective as of the date of the mailing of this Order.
 - (1) Randy Hostetler, 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.
 - (2) Randy Hostetler, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his 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.

(B) Further, the Board will consider any petition filed by Randy Hostetler for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (1) Randy Hostetler must personally appear at the hearing before the Ohio Board of Pharmacy and demonstrate his fitness to practice pharmacy to the satisfaction of the Board.
- (2) If reinstatement is not accomplished within three years of the effective date of this Order, Randy Hostetler must also take and pass the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Upon such time as the Board may consider reinstatement, Randy Hostetler will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

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

R-2007-032 Mr. Braylock then moved that the Board adopt the following order in the matter of **Danielle Lyn Timkovich**, Intern, Toledo, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060208-060

in the matter of:

DANIELLE LYN TIMKOVICH
3031 Palmarie Drive
Poland, Ohio 44514

Intern Number 06-0-03803

INTRODUCTION

The matter of Danielle Lyn Timkovich came for hearing on August 9, 2006, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Danielle Lyn Timkovich was represented by Elizabeth Y. Collis. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: Danielle Timkovich, Respondent
Christine Nafe, R.Ph.
Michael Quigley, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-08-06]
- 1A-1C. Procedurals
- 1D. Addendum Notice [06-27-06]

1E-1F. Procedurals

2. Indictment, State of Ohio vs. Danielle L. Timkovich, Case No. G-4801-CR-2006-1449, Lucas County Common Pleas Court [02-28-06]; Plea of Guilty [06-01-06]; Request for Intervention in Lieu of Conviction with Speedy Trial Waiver [04-10-06]
3. Notarized Statement of Danielle Lyn Timkovich [02-02-06]
4. Rite Aid Customer History Report for Danielle Timkovich [12-21-04 to 02-13-06]
5. Ohio State Board of Pharmacy Inventory of Evidence with two photocopies of Drug Vials [02-02-06]

Respondent's Exhibits:

- A. Order, State of Ohio v. Danielle L. Timkovich, Case No. G-4801-CR-0200601449-000, Lucas County Common Pleas Court [06-05-06]
- B. Continuing Pharmaceutical Education Certificate on Chemical Dependency in the Profession of Pharmacy [04-30-06]
- C. PRO Pharmacist's Recovery Contract for Danielle Timkovich [04-24-06]
- D. Letter from Christine N. Hinko, Ph.D. [07-20-06]
- E. Letter from Raymond R. Carlson, R.Ph. [07-20-06]
- F. Letter from Michael D. Quigley, R.Ph. [07-09-06]
- G. Letter from Christine Nafe, R.Ph. [07-24-06]
- H. Treatment Report from ProMedica Health System [07-18-06]; Clinical Notes [04-06-06]
- I. Drug Screen Reports [02-20-06 to 08-01-06]
- J. Calendar pages for April 2006 to July 2006
- K. Support Group Attendance Records [03-03-06 to 08-01-06]
- L. University of Toledo Official Academic Transcript [08-02-06]
- M-P. Four Letters of Support [07-17-06 to 07-23-06]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Danielle Lyn Timkovich was originally licensed as an intern by the State of Ohio on May 28, 2002.
- (2) Danielle Lyn Timkovich is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Danielle Lyn Timkovich has admitted to Board agents that she is addicted to the use of controlled substances and Danielle Lyn Timkovich has admitted to stealing controlled substances for her own personal use. Such conduct is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Danielle Lyn Timkovich did, on or about January 12, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
hydrocodone/APAP	7.5/500 mg	7	CIII
hydrocodone/APAP	5/500 mg	5	CIII
hydrocodone/APAP	7.5/750 mg	4	CIII

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

- (4) Danielle Lyn Timkovich did, on or about January 14, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
hydrocodone/APAP	7.5/500 mg	24	CIII
hydrocodone/APAP	5/500 mg	13	CIII

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

- (5) Danielle Lyn Timkovich did, on or about January 17, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
hydrocodone/APAP	10/650 mg	9	CIII
hydrocodone/APAP	7.5/750 mg	8	CIII

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

- (6) Danielle Lyn Timkovich did, on or about January 21, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
Ambien	10 mg	83	CIV
hydrocodone/APAP	10/660 mg	26	CIII
hydrocodone/APAP	7.5/750 mg	15	CIII
hydrocodone/APAP	10/500 mg	11	CIII
hydrocodone/APAP	7.5/500 mg	7	CIII

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

- (7) Danielle Lyn Timkovich did, on or about January 24, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
hydrocodone/APAP	10/500 mg	23	CIII
hydrocodone/APAP	10/650 mg	12	CIII
hydrocodone/APAP	10/660 mg	10	CIII
hydrocodone/APAP	7.5/500 mg	10	CIII
hydrocodone/APAP	5/500 mg	8	CIII
Ambien	10 mg	8	CIV
hydrocodone/APAP	7.5/750 mg	7	CIII

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

- (8) Danielle Lyn Timkovich did, on or about February 2, 2006, while employed as an intern at Kroger Pharmacy N-895 knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy N-895, beyond the

express or implied consent of the owner, to wit: Danielle Lyn Timkovich has admitted to stealing the following:

Drug	Strength	Qty	Schedule
hydrocodone/ibuprofen	7.5/200 mg	61	CIII
Ambien	10 mg	56	CIV
hydrocodone/APAP	7.5/750 mg	9	CIII

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

- (9) On or about June 1, 2006, Danielle Lyn Timkovich pled guilty to (6) six counts of Theft of Drugs, felonies of the fourth degree, under Section 2913.02 (A)(3) & (B)(6) of the Ohio Revised Code. Danielle Lyn Timkovich was granted Intervention in Lieu of Conviction. State of Ohio vs. Danielle L. Timkovich, Case No. G-4801-CR-200601449, Lucas County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (9) 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 (9) 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 her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Danielle Lyn Timkovich on February 8, 2006.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the intern identification card, No. 06-0-03803, held by Danielle Lyn Timkovich and such suspension is effective as of the date of the mailing of this Order.

- (A) Danielle Lyn Timkovich 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) Danielle Lyn Timkovich, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her 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, on or after February 1, 2007, the Board will consider any petition filed by Danielle Lyn Timkovich for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the intern license if the following conditions have been met:

- (A) Danielle Lyn Timkovich must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, mail a copy of the contract to the Board office. The contract must provide that:
- (1) Random, observed urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Danielle Lyn Timkovich must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Danielle Lyn Timkovich must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Payment to Kroger Pharmacy of any outstanding restitution;
 - (2) Compliance with the contract required above (e.g. proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (3) Compliance with the terms of this Order.
- (D) Upon such time as the Board may consider reinstatement, Danielle Lyn Timkovich will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 5/Nay – 3.*

11.42 a.m. The Board recessed for lunch.

1:00 p.m. The Board reconvened with all members present.

R-2007-033 Mr. Benedict and Compliance Specialist Betty Jones discussed the **Anthem Work-At-Home** program with the Board. Mr. Lipsyc moved that the program be allowed to continue. After nine months, Anthem should return with statistics to present to the Board. Mr. Giacalone seconded the motion and it was approved by the Board: *Aye – 8.*

1:50 p.m. The Board recessed briefly.

1:57 p.m. Mr. Mitchell discussed the Medical Board Physician’s Assistant Prescribing Committee Meeting that he had attended.

2:10 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; and Teater – yes..

2:20 p.m. The Executive Session ended and the meeting was opened to the public.

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

<u>PER DIEM</u>	<u>6/8</u>	<u>6/13</u>	<u>6/29</u>	<u>8/7</u>	<u>8/8</u>	<u>8/9</u>	<u>Total</u>
G. Braylock	1	-	1	1	1	1	5
S. Eastman	-	-	-		1	1	2
R. Giacalone	-	-	-	1	1	1	3
E. Gregg	-	-	-	1	1	1	3
N. Lipsyc	-	-	-	1	1	1	3
K. Mitchell	-	1	-	1	1	1	4
H. Pasquale	-	-	-	1	1	1	3
D. Teater	-	-	-	1	1	1	3
J. Turner	1	-	1	1	1	1	5

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

2:25 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 Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; and Teater – yes.

2:46 p.m. The Executive Session ended and the meeting was opened to the public.

2:47 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 8*

The Ohio State Board of Pharmacy
approved these Minutes August 12, 2006