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Minutes of the January 8-10, 2007

Meeting of the Ohio State Board of Pharmacy

MONDAY, JANUARY 8, 2007

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*; 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.; 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*; Danna Droz, *Prescription Monitoring Program Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

10:05 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Eastman and a roll-call vote was conducted by President Turner as follows: Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.

10:17 a.m. Board member Gregory Braylock, R.Ph., arrived and joined the Executive Session in progress.

11:14 a.m. The Executive Session ended and the Board recessed briefly.

11:24 a.m. The Board meeting was reconvened.

Mrs. Teater moved that a continuance request from **Michael Esber**, R.Ph. (03-1-13497) Louisville, Ohio be denied. Mrs. Gregg seconded the motion and it was approved by the Board: Aye – 4/Nay – 2/Abstain – 1 (Braylock).

R-2007-096 Mr. Giacalone moved that the Board accept the Settlement Offer presented in the matter of **Elaine Courtney Mullins**, R.Ph. (03-3-21874) Cincinnati, Ohio. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 7.

R-2007-097 The Board discussed the need to establish a Jurisprudence Review Committee in accordance with the following Board policy.

Review Process for Jurisprudence Programs

The Licensing Administrator/Director of Internship, the Vice-President of the Board, and a Board member, appointed by the President, will be responsible for reviewing submitted jurisprudence programs pursuant to the requirements in Chapter 4729-7. The initial program submissions will go to the Licensing Administrator/Director of Internship who will be responsible for distributing it to the other members of the review group. Within 60 days of receiving the submission these individuals will review the

submitted program and make a decision to approve or deny the program. If a program is approved, the Licensing Administrator/Director of Internship will be responsible for sending a letter by mail to the provider indicating the approved status and posting the program on the Board's website.

If a program is denied, the three-member group will indicate to the provider the section of rule 4729-7-09 where the program is deficient on a form created by the Board. The completion and mailing of the form shall be the responsibility of the Licensing Administrator/Director of Internship.

If a program is denied a second time, the Licensing Administrator/Director of Internship will notify the provider in a letter by mail that the program has been denied and the provider cannot submit a program covering the same topic for a one-year period from the date of the denial. The letter shall also indicate the provider's appeal rights pursuant to paragraph (C) of section 119.06. The completion and mailing of the form shall be the responsibility of the Licensing Administrator/Director of Internship.

If deemed necessary, the three-member review group may consult with the full Board regarding a jurisprudence program submission.

R-2007-098 President Turner appointed Betty Gregg to fill the Board member position listed in the above policy statement.

Mr. Keeley reported that the new and changed Rules have been filed and are now on the Board's website.

R-2007-099 After discussion, Mrs. Gregg moved that the Board find the proposed **Walgreens** central-processing system to be used between **Walgreens** pharmacies located in Ohio approvable pending final inspection. Mr. Giacalone seconded the motion and it was approved by the Board: Aye – 6/Abstain – 1(Braylock).

R-2007-100 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

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

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

Mr. Turner was designated as the voting delegate to the NABP annual meeting and Mr. Braylock was designated as alternate.

Mr. Keeley presented the Legislative Report.

Mrs. Droz presented the Prescription Drug Monitoring Program Report.

12:35 p.m. The Board recessed for lunch.

1:35 p.m. The Board reconvened and considered a request from the Accreditation Council for Pharmacy Education (ACPE) for the appointment of a Board member to participate in an ACPE accreditation visit to the University of Findlay School of Pharmacy on April 18-20, 2007. President Turner appointed Mr. Braylock.

1:40 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 **Lisa Ann Baker**, R.Ph. (03-2-15516) Bolivar, Ohio.

- 3:20 p.m. The hearing concluded and the Board recessed briefly.
- 3:29 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 Mrs. Teater and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.
- 4:05 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2007-101** Mr. Braylock moved that the Board adopt the following order in the matter of **Lisa Ann Baker**, R.Ph. (03-2-15516) Bolivar, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
Docket Number D-060511-072

in the matter of:

LISA ANN BAKER, R.PH.
9875 Bimeler Street N.E.
Bolivar, Ohio 44612

R.Ph. Number 03-2-15516

INTRODUCTION

The matter of Lisa Ann Baker came for hearing on January 8, 2007, 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.; and Dorothy S. Teater, Public Member.

Lisa Ann Baker was represented by James Lindon. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses: Lisa Ann Baker, R.Ph., Respondent
Bernadette Charles
Debra Basinger, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [05-11-06]
1A-1D. Procedurals
1E. Addendum Notice [10-24-06]
1F. Procedural
2. Statement of Lisa Baker [04-26-06]
3. Drug Audit Accountability Sheet for hydrocodone/APAP 10/325 mg at Rite Aid Pharmacy #2401 [05-01-06]
- 3A. Photocopy of hydrocodone/APAP 10/325 mg stock bottle [not dated]
4. Receipt for Evidence from Lisa Baker's pocket [04-26-06]; photocopies of hydrocodone/APAP 10/325 mg, Imprint Watson/853; hydrocodone/APAP 10/325 mg, Imprint M-367; and, Fioricet, Imprint A/2355 [not dated]
5. Receipt for Evidence from Lisa Baker's residence [04-26-06]; photocopies of sulfamethoxazole and trimethoprim double strength, Imprint 93-089; Fioricet, Imprint A-2355 and hydrocodone/APAP 10/500 mg, Imprint M-363 [not dated]

- dated]; hydrocodone Bitartrate and Acetaminophen 10 mg-325 mg stock bottle [not dated]; hydrocodone/APAP 10/325 mg, Imprint Watson/853 [not dated]
6. Drug Audit Accountability Statement for hydrocodone/APAP 10/325 mg at Rite Aid Pharmacy #2401 [05-10-06]
 7. Indictment, State of Ohio vs. Lisa A. Baker, Case No. 2006CR0935, Stark County Common Pleas Court [06-23-06]; Plea of Guilty [08-09-06]; Change of Plea and Intervention in Lieu of Conviction [08-15-06]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Lisa A. Baker [08-17-06]; Mercy Medical Center Certificate of Achievement [09-07-06]; Mercy Impact Information letter [not dated]; Medical Records - Sealed
- B. Calendar pages for April 2006 to December 2006; Support Group Attendance Records [05-03-06 to 12-28-06]
- C. Drug Screen Reports [05-23-06 to 12-05-06]
- D. Continuing Pharmaceutical Education Credits and Certificates [08-31-05 to 07-19-06]
- E. Letters of Support [05-25-06 to 12-27-06]
- F. Meeting Attendance Record [09-22-06 to 12-29-06]; copy of letter from Steve Doss to Lisa Baker [10-10-06]; Summons in Lieu of Arrest, State of Ohio vs Lisa A. Baker, Case No. 2006CR0935, Stark County Common Pleas Court [06-23-06]; Request for Intervention in Lieu of Conviction [07-18-06]; Indictment [06-23-06]; Docket Entries [06-23-06 to 09-26-06]; Change of Plea and Intervention in Lieu of Conviction [08-09-06]; Plea of Guilty [08-09-06]
- G. Rite Aid Corporation Restitution Agreement [05-25-06]; Restitution Documentation [06-21-06 to 10-03-06]; Letter from Rite Aid Corporation to Lisa Baker [12-08-06]

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 Lisa Ann Baker was originally licensed by the State of Ohio as a pharmacist on August 8, 1984, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective May 11, 2006.
- (2) Lisa Ann Baker 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: Lisa Ann Baker admitted to a Board agent that she stole approximately 6,000 hydrocodone/APAP 10/325 mg tablets and 300 to 500 hydrocodone/APAP 10/500 mg tablets, Schedule III controlled substances, during the past year. Lisa Ann Baker has also admitted to using 12 to 18 tablets of hydrocodone in a 12-hour shift. Such conduct indicates that Lisa Ann Baker is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Lisa Ann Baker did, between April 15, 2006 and April 17, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Lisa Ann Baker stole 143 hydrocodone/APAP 10/325 mg tablets, a Schedule III controlled substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) Lisa Ann Baker did, on or about April 19, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Lisa Ann Baker stole 5 hydrocodone/APAP 10/325 mg tablets, a Schedule III controlled substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Lisa Ann Baker did, on or about April 21, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Lisa Ann Baker stole 55 hydrocodone/APAP 10/325 mg tablets, a Schedule III controlled substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Lisa Ann Baker did, on or about April 22, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Lisa Ann Baker stole 145 hydrocodone/APAP 10/325 mg tablets, a Schedule III controlled substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Lisa Ann Baker did, on or about April 24, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Lisa Ann Baker stole 50 hydrocodone/APAP 10/325 mg tablets, a Schedule III controlled substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) Lisa Ann Baker did, on or about April 26, 2006, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lisa Ann Baker possessed 7 hydrocodone/APAP 10/500 mg tablets, a Schedule III controlled substance, in her home without a valid prescription. Lisa Ann Baker surrendered the tablets to Board agents. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (9) On or about August 9, 2006, Lisa Ann Baker pled guilty to (2) two counts of Theft of Drugs, felonies of the fourth degree, under Section 2913.02 (A)(2) of the Ohio Revised Code. Lisa Ann Baker was granted Intervention in Lieu of Conviction. State of Ohio vs. Lisa A. Baker, Case No. 2006 CR 0935, Stark County Common Pleas Court. Such conduct indicates that Lisa Ann Baker is guilty of a felony or gross immorality and/or addicted to or abusing drugs to such a degree as to render her unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

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.
- (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 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Lisa Ann Baker on May 11, 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 pharmacist identification card, No. 03-2-15516, held by Lisa Ann Baker and such suspension is effective as of the date of the mailing of this Order.

- (A) Lisa Ann Baker, 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) Lisa Ann Baker, 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, after one year from the effective date of this Order, the Board will consider any petition filed by Lisa Ann Baker 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:

- (A) Lisa Ann Baker 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) Lisa Ann Baker 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) Lisa Ann Baker must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Restitution to Rite Aid pursuant to Rite Aid's Restitution Agreement;
 - (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 continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (4) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Lisa Ann Baker must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.
- (E) Upon such time as the Board may consider reinstatement, Lisa Ann Baker 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 – 7.

R-2007-102 After discussion, Mrs. Gregg moved that the Settlement Offer in the matter of **Frank Dusini**, R.Ph. (03-1-06591) New Philadelphia, Ohio; **Dusini Drugs** (02-1221200) New Philadelphia, Ohio; **Scott Vinci**, R.Ph. (03-2-17886) New Philadelphia, Ohio; and **Connie Jo Campbell**, R.Ph. (03-2-15169) Mineral City, Ohio, be denied. The motion was seconded by Mrs. Teater and approved by the Board: Aye – 4/Nay – 2/Abstain – Giacalone.

4:08 p.m. The Board recessed for the day.

TUESDAY, JANUARY 9, 2007

- 9:00 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 R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and Dorothy S. Teater, Public Member.
- 9:01 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 **Kevin James Bowers**, R.Ph., (03-3-18479) Fairfield, Ohio.
- 9:55 a.m. The hearing ended and the record was closed. The Board recessed briefly.
- 10:03 a.m. Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.
- 10:17 a.m. The Executive Session ended and the meeting was opened to the public.
- R-2007-103** Mrs. Gregg moved that the Board adopt the following order in the matter of **Kevin James Bowers**, R.Ph. (03-3-18479) Fairfield, Ohio:

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060622-091

in the matter of:

KEVIN JAMES BOWERS, R.PH.

15 Pinehurst Court
Fairfield, Ohio 45014

R.Ph. Number 03-3-18479

INTRODUCTION

The matter of Kevin James Bowers came for hearing on January 9, 2007, 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.; and Dorothy S. Teater, Public Member.

Kevin James Bowers was represented by Harry B. Plotnick. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Kevin James Bowers, R.Ph., Respondent
Wayne Miller, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Harry B. Plotnick [06-20-06]
1A-1B. Procedurals

2. State Board of Pharmacy Order in re Kevin James Bowers, R.Ph. [09-19-05]
- 3.
- 4.

Respondent's Exhibits:

- A.
- B. State Board of Pharmacy Monetary Penalty Payment Form [not dated]; Copy of check No. 8001 made payable to Treasurer, State of Ohio [10-10-05]
- C.
- D. Support Group Attendance Records [08-03-05 to 12-30-06]
- E. First Lab OHPRO Test History Report [01-25-06 to 12-12-06]; Drug Screen Collection Sheets [08-12-05 to 12-12-06]
- F. Continuing Pharmaceutical Education Credits and Certificates [03-22-05 to 12-13-06]
- G.
- H.

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Kevin James Bowers has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-041020-033, effective September 19, 2005.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-18479, held by Kevin James Bowers to practice pharmacy in Ohio and places Kevin James Bowers on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Kevin James Bowers 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 for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) 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) Kevin James Bowers must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of Kevin James Bowers' progress towards recovery and what Kevin James Bowers has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Kevin James Bowers' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) Kevin James Bowers may not serve as a responsible pharmacist.
 - (3) Kevin James Bowers may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Kevin James Bowers must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Kevin James Bowers must not violate the drug laws of the State of Ohio, any other state, or the federal government.
 - (6) Kevin James Bowers must abide by the rules of the State Board of Pharmacy.
 - (7) Kevin James Bowers must comply with the terms of this Order.
 - (8) Kevin James Bowers' license is deemed not in good standing until successful completion of the probationary period.
- (D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

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

The motion was seconded by Mr. Braylock and approved by the Board: Aye – 7.

- R-2007-104** Mrs. Gregg moved that **Mr. Bowers** be given early notification of the reinstatement of his license. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 7.
- 10:28 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 **Edward R. Kapturasky**, R.Ph. (03-3-23792) Columbus, Ohio.
- 12:08 p.m. The hearing ended and the record was closed.
- 12:09 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; and Teater – yes.
- 12:32 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2007-105** Mr. Braylock moved that the Board adopt the following order in the matter of **Edward R. Kapturasky**, R.Ph., (03-3-23792) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060807-003

in the matter of:

EDWARD R. KAPTURASKY, R.PH.

1096 Oregon Avenue
Columbus, Ohio 43201

R.Ph. Number 03-3-23792

INTRODUCTION

The matter of Edward R. Kapturasky came for hearing on January 9, 2007, 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.; and Dorothy S. Teater, Public Member.

Edward R. Kapturasky was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses: Edward R. Kapturasky, R.Ph., Respondent
Joshua Weir, Pastor
Sheila Livingston
Wayne Miller, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-07-06]
1A-1C. Procedurals
2. Notarized Statement of Elisabeth Milbaugh [07-26-06]
3. Handwritten "Suicide Note" of Ed Kapturasky [07-18-06]
4. Notarized Statement of Edward Kapturasky [07-27-06]

5. Release of Medical Information Form [07-27-06]
6. Grant Medical Center Registration Information Form [07-19-06]; Urine Drug Screen [07-19-06]

Respondent's Exhibits:

- A. Summary Suspension Order/Notice of Opportunity For Hearing [08-07-06]; Hearing Request letter from Edward R. Kapturasky [08-10-06]; Hearing Schedule letter [08-14-06]
- B. PRO Pharmacist's Recovery Contract for Eddie R. Kapturasky [08-15-06]; Sealed record; Six Character Reference letters [12-17-06 to 12-29-06]
- C. Drug Screen Reports [10-03-06 to 12-27-06]
- D. Support Group Attendance Records [08-07-06 to 12-28-06]
- E. Continuing Pharmaceutical Education Credits [12-27-06]

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 Edward R. Kapturasky was originally licensed by the State of Ohio as a pharmacist on October 7, 1999, pursuant to examination, and that his licensed to practice pharmacy in Ohio was summarily suspended effective August 7, 2006.
- (2) Edward R. Kapturasky 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: Edward R. Kapturasky has admitted that he is addicted to methamphetamine ("crystal meth"); Edward R. Kapturasky has stolen drugs from his employer's pharmacy so as to commit suicide, being despondent over his relapse into the use of crystal meth; and Edward R. Kapturasky had previously attempted suicide in April of 2006 using Klonopin obtained from a friend. Edward R. Kapturasky further indicated to a Board agent that he began using crystal meth in Fall of 2001. Such conduct indicates that Edward R. Kapturasky is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Edward R. Kapturasky did, on or about July 18, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Drug Store Clinic Pharmacy, beyond the express or implied consent of the owner, to wit: Edward R. Kapturasky admittedly stole approximately 20 alprazolam 2 mg tablets. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Edward R. Kapturasky did, on or about July 19, 2006, possess and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Edward R. Kapturasky admittedly used when not for a legitimate medical purpose, and a toxicology screen confirmed the use of, methamphetamine, a Schedule II controlled substance, and alprazolam, a Schedule IV controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) and (4) 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 (3) and (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Edward R. Kapturasky on August 7, 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 pharmacist identification card, No. 03-3-23792, held by Edward R. Kapturasky and such suspension is effective as of the date of the mailing of this Order.

- (A) Edward R. Kapturasky, 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) Edward R. Kapturasky, 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.

Further, after eighteen months from the effective date of this Order, the Board will consider any petition filed by Edward R. Kapturasky 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:

- (A) Edward R. Kapturasky 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) Methamphetamine must be added to the standard urine drug screen.
- (c) 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) Edward R. Kapturasky must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Edward R. Kapturasky must obtain, within sixty days after the effective date of this Order, a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist. The psychiatrist or psychologist must provide an initial status report, which includes the recommended treatment plan, to the Board within ten days after completing the assessment. Edward R. Kapturasky must abide by the treatment plan as designed by that psychiatrist or psychologist.
- (D) Edward R. Kapturasky must obtain, within six months prior to his reappearance, a full psychiatric or psychological evaluation, by a licensed psychiatrist or psychologist addressing Edward R. Kapturasky's fitness for readmission into the practice of pharmacy.
- (E) Edward R. Kapturasky must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) 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.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.
- (F) If reinstatement is not accomplished within three years of the effective date of this Order, Edward R. Kapturasky must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

NOTICE: Failure to obtain the psychiatric or psychological evaluation, under the terms, conditions, and time frames set forth in this Order, shall be deemed a violation of the Board's Order and a violation of Divisions (A)(3) and (E) of Section 4729.16 of the Ohio Revised Code.

Upon such time as the Board may consider reinstatement, Edward R. Kapturasky 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. Mitchell seconded the motion and it was approved by the Board: Aye – 7.

12:34 p.m. The Board recessed for lunch. Mr. Mitchell left to attend the Physician Assistant Policy Committee meeting.

1:30 p.m.

R-2007-106 The following candidates for licensure by reciprocity met with the Board members in Room South A, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, introduced themselves, and then participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Ronald Allen Bailey	03-1-27696	Illinois
Kelly Lynn Carver	03-1-27701	Kentucky
Amy Christine Fultz	03-1-27708	Illinois
Constantinos John Glaros	03-1-27698	Indiana
Hayden Parker Honeycutt	03-1-27634	North carolina
Martin E. Kochevar	03-1-27694	Iowa
Kasey Lynne Kugle	03-1-27697	Michigan
Sean Eric Lindstedt	03-1-27695	Pennsylvania
Leesa Kristine McIlwain	03-1-27616	Maryland
Amanda Lee Russell	03-1-27691	West Virginia

1:47 p.m. The Board reconvened in Room East B 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 R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; and Dorothy S. Teater, Public Member.

1:48 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 and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; and Teater – yes.

1:53 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-107 After discussion, Mr. Giacalone moved that the ePrescribing system requested by the **University Hospital of Cleveland** be approved pending final inspection with the requirement that there be a minimum of 70 questions included. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 6.

Mr. Keeley discussed with the Board a possible procedure for staff approval of remote order-entry processes for pharmacies. After discussion, Mrs. Gregg moved that the Board approve a set of requirements for remote order-entry processes for pharmacies after a review of changes to be made by staff to the original proposal. Mr. Lipsyc seconded the motion and it was approved by the Board: Aye – 6.

R-2007-108 After discussion, Mrs. Gregg moved that staff issue a letter in response to the settlement offer presented in the matter of **Karen Amberg Hall**, R.Ph. (03-3-11810) Columbus, Ohio. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 6.

R-2007-109 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Option Care Milford, Michigan (02-0932850)

Two physician offices listed in the letter of request
After discussion, Mr. Giacalone moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 6.

Mr. Braylock reported that the Nursing Board's Committee on Prescriptive Governance did not meet during the past month.

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

Mr. Benedict and Ms. Eastman presented the probation report which required no action by the Board.

3:01 p.m. The Board recessed for the day.

WEDNESDAY, JANUARY 10, 2007

8:30 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 R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and Dorothy S. Teater, Public Member.

R-2007-110 Mrs. Gregg moved that the minutes of the December, 2006 Board meeting be approved as amended. Mr. Mitchell seconded the motion and it was approved by the Board: Aye – 7.

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 **Andrea Holstein**, R.Ph. (03-3-25659) Dublin, Ohio.

9:37 a.m. The hearing ended and the record was closed.

The Board met with Pharmacist Rehabilitation Organization President Mike Quigley to discuss definitions of terms used in drug testing.

9:48 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Turner as follows: Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes. Mr. Braylock recused himself from this vote.

9:54 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-111 Mrs. Gregg moved that the Board adopt the following order in the matter of **Andrea Holstein**, R.Ph., (03-3-25659) Dublin, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060512-075

in the matter of:

ANDREA LYNN HOLSTEIN, R.PH.

4766 Vista Ridge Drive
Dublin, Ohio 43017

R.Ph. Number 03-3-25659

INTRODUCTION

The matter of Andrea Lynn Holstein came for hearing on January 10, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph., (recused); 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.; and Dorothy S. Teater, Public Member.

Andrea Lynn Holstein was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Andrea Lynn Holstein, R.Ph., Respondent
Alan Horvath, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Andrea Lynn Holstein [05-11-06]
1A-1C. Procedurals
2. State Board of Pharmacy Order In Re Andrea Lynn Holstein [11-09-05]
3. Notarized Statement of Andrea L. Holstein, R.Ph. [02-02-05]

Respondent's Exhibits:

- A. Two PRO Pharmacist's Recovery Contract's for Andrea Holstein [05-01-05 and 11-15-05]
- B. Support Group Attendance Records [02-07-05 to 01-09-07]; Calendar pages for February 2005 to December 2006
- C. Letter to the Ohio State Board of Pharmacy from Michael D. Quigley, R.Ph. [10-03-05]; Drug Screen Reports [05-27-05 to 12-21-06]; Calendar pages for September 2005 to December 2006
- D. Continuing Pharmaceutical Education Credits and Certificates [03-10-04 to 11-12-06]
- E. Reinstatement Hearing Request [05-11-06]; Hearing Schedule letter [06-29-06]; State Board of Pharmacy Order in re Andrea Lynn Holstein, R.Ph. [11-09-05]; Notarized Statement of Andrea L. Holstein, R.Ph. [02-02-05]; Hearing Schedule letter with United States Postal Service Certified Mail Return Receipt for Article No. 7001 0360 0002 4139 7256 [05-12-06]; Hearing Continuance letter with United States Postal Service Certified Mail Return Receipt for Article No. 7003 0500 0002 4340 9241 [06-29-06]; Pharmacist computer record of Andrea Lynn Holstein dated 12-12-06; Twenty-three Letters of Support [09-25-05 to 01-08-07]; Restitution Documentation [02-24-05 to 01-18-06]; Copy of Visa Account Summary [09-26-05]

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Andrea Lynn Holstein has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-050210-046, effective November 9, 2005.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-25659, held by Andrea Lynn Holstein to practice pharmacy in Ohio and places Andrea Lynn Holstein on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Andrea Lynn Holstein 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) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before her pharmacist identification card is issued. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Andrea Lynn Holstein must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - (1) The written report and documentation provided by the treatment program pursuant to the contract, and

- (2) A written description of Andrea Lynn Holstein's progress towards recovery and what Andrea Lynn Holstein has been doing during the previous three months.

(C) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Andrea Lynn Holstein's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) Andrea Lynn Holstein may not serve as a responsible pharmacist.
- (3) Andrea Lynn Holstein may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Andrea Lynn Holstein must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
- (5) Andrea Lynn Holstein must not violate the drug laws of Ohio, any other state, or the federal government.
- (6) Andrea Lynn Holstein must abide by the rules of the State Board of Pharmacy.
- (7) Andrea Lynn Holstein must comply with the terms of this Order.
- (8) Andrea Lynn Holstein's license is deemed not in good standing until successful completion of the probationary period.

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

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

Mr. Giacalone seconded the motion and it was approved by the Board: Aye – 6. Mr. Braylock did not vote as he had recused himself from participation in this hearing.

9:56 a.m. The Board recessed briefly.

10:09 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 **Hai Dinh Nguyen**, R.Ph. (03-3-25557) Liberty Township, Ohio.

10:50 a.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; Mitchell – yes; and Teater – yes.

11:06 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-112 Mr. Giacalone moved that the Board adopt the following order in the matter of **Hai Dinh Nguyen**, R.Ph., (03-3-25557) Liberty Township, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060609-084

in the matter of:

HAI DINH NGUYEN, R.PH.

6377 Ashdale Court
Liberty Township, Ohio 45044
R.Ph. Number 03-3-25557

INTRODUCTION

The matter of Hai Dinh Nguyen came for hearing on January 10, 2007, 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.; and Dorothy S. Teater, Public Member.

Hai Dinh Nguyen 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 Witness: Hai Nguyen, R.Ph., Respondent
Elizabeth Murcia, R.Ph.

State's Exhibits:

1. Notice of Opportunity For Hearing letter [06-09-06]
1A-1D. Procedurals
1E. Addendum Notice [09-19-06]
1F. Procedural
- 2.
3. Notarized Statement of Hai Nguyen [04-03-06]
- 4.

Respondent's Exhibits:

- A1.
- A2.
- A3-4. Two Letters of Reference [12-27-06 and 01-07-07]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Hai Dinh Nguyen was originally licensed by the State of Ohio as a pharmacist on January 29, 2003, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2)
- (3)

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 paragraphs (2) and (3) 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)

DECISION OF THE BOARD

Pursuant to Section 4729.16 and 4729.25 (B) of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Hai Dinh Nguyen for his conduct in this matter.

Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 5/Nay – 2.*

- 11:07 a.m. Mr. Mitchell reported on the meeting of the Medical Board's Physician Assistant Policy Committee that had been held on Tuesday.
- 11:30 a.m. The Board recessed for lunch.
- 12:48 p.m. The Board reconvened 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 R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and Dorothy S. Teater, Public Member.
- 12:48 p.m. Mr. Lipsyc 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; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.
- 1:22 p.m. The Executive Session ended and the meeting was opened to the public.
- 1:32 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 **Mirabelle N. Eneh**, R.Ph., (03-2-19674) Mason, Ohio.
- 1:52 p.m. The hearing ended and the record was closed.
- 1:53 p.m. 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. Mitchell and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.
- 2:01 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-113 Mr. Braylock moved that the Board adopt the following order in the matter of **Mirabelle N. Eneh**, R.Ph. (03-2-19674) Mason, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060613-083

in the matter of:

MIRABELLE N. ENEH, R.PH.

3877 Breeders Cup Court
Mason, Ohio 45040

R.Ph. Number 03-2-19674

INTRODUCTION

The matter of Mirabelle N. Eneh came for hearing on January 10, 2007, 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.; and Dorothy S. Teater, Public Member.

Mirabelle N. Eneh 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
Mirabelle Eneh, R.Ph., Respondent

Respondent's Witness: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [06-13-06]
1A-1C. Procedurals
2. Pharmacist License Lapsed Notice letter to Mirabelle N. Eneh [08-31-05];
C.P.E. Audit Notice letter [08-31-05]
3. Rx #N324435; Rx #N324438; Rx #N324440 [09-19-05]; Third
Party/Consultation Log Daily Signature Sheet [09-19-05]
4. Rx #N324737; Rx #N324741; Rx #N324750 [09-22-05]; Third
Party/Consultation Log Daily Signature Sheet [09-22-05]
5. Rx #N324881; Rx #N324882; Rx #N324862 [09-24-05]

Respondent's Exhibits:

- A. Three Letters of Support [01-06-07 to 01-07-07]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Mirabelle N. Eneh was originally licensed by the State of Ohio as a pharmacist on September 22, 1992, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Mirabelle N. Eneh received the following notices from the Board: March 1, 2005, regarding renewal of her license; May 1, 2005, regarding the continuing education deadline; August 31, 2005, regarding both lapse of her license and failure to comply with continuing education.

- (2) Mirabelle N. Eneh did, on or about September 19, 2005, while not a registered pharmacist, dispense dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: after her license had lapsed, Mirabelle N. Eneh dispensed prescription numbers N324435, N324438, and N324440. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Mirabelle N. Eneh did, on or about September 22, 2005, while not a registered pharmacist, dispense dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: after her license had lapsed, Mirabelle N. Eneh dispensed prescription numbers N324737, N324741, and N324750. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Mirabelle N. Eneh did, on or about September 24, 2005, while not a registered pharmacist, dispense dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: after her license had lapsed, Mirabelle N. Eneh dispensed prescription numbers N324881, N324882, and N324862. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of two hundred fifty dollars (\$250.00) on Mirabelle N. Eneh and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. 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, Room 1702, Columbus, Ohio 43215-6126.

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

- 2:04 p.m. Mr. Mitchell moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.
- 2:27 p.m. The Executive Session ended and the meeting was opened to the public.
- 2:27 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

PER DIEM	12/06	01/08	01/09	01/10	Total
Braylock	-	1	1	1	3
Eastman	-	1	1	1	3
Giacalone	-	1	1	1	3
Gregg	-	1	1	1	3
Lipsyc	-	1	1	1	3
Mitchell	1	1	1	1	4
Pasquale	-	-	-	-	-
Teater	-	1	1	1	3
Turner	-	1	1	1	3

The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 7.

2:28 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 7.

The Ohio State Board of Pharmacy approved these Minutes February 6, 2007
