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Minutes of the June 2-4, 2008

Meeting of the Ohio State Board of Pharmacy

Monday, June 2, 2008

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:

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

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

10:01 a.m.
R-2008-198

Mr. Winsley announced that the following Settlement Agreement with **Emil Dontenville**, R.Ph. (03-3-14448), Strongsville, Ohio, has been signed by all parties and is now effective.

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

Docket Number D-080206-036

in the matter of:

EMIL DONTENVILLE, R.Ph.
20573 White Bark
Strongsville, Ohio 44136

R.Ph. Number 03-3-14448

This Settlement Agreement is entered into by and between Emil Dontenville 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.

Emil Dontenville 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.

Emil Dontenville is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Emil Dontenville'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) Emil Dontenville acknowledges receipt of the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter, dated February 6, 2008, that the Board has duly filed the allegations in its Summary Suspension/Notice of Opportunity as stated therein and waives his right to an adjudication hearing according to the terms of this agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Emil Dontenville knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

Pursuant to Rule 4729-9-01, Emil Dontenville may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

Emil Dontenville 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.

Emil Dontenville 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. Emil Dontenville waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

Emil Dontenville must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

/s/ Emil Dontenville, R.Ph. Date Signed: 05/19/08
Respondent

/s/ David H. Brown Date Signed: 05/19/08
Attorney for Respondent

/s/ Gregory Braylock Date Signed: 06/02/08
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 06/02/08
Ohio Assistant Attorney General

10:02 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; and Turner – *yes* – Wiesenhahn – *yes*.

10:32 a.m. The Executive Session ended and the meeting was opened to the public.

R-2008-199 Mr. Turner moved that the settlement offer in the matter of **Joseph Lee Baumgartner**, R.Ph. (03-2-12607), Oak Harbor, Ohio, be denied. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 5/*Nay* – 2.

10:33 a.m. The Board recessed briefly.

11:00 a.m. Mr. McMillen discussed with the Board the new "e-Licensing" system that went into effect May 28, 2008.

Mr. Keeley presented the Legislative Report.

12:27 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened with the following members present:

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

1:33 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 **Dave Wayne Blackwell**, R.Ph. (03-1-24395), Land O'Lakes, Florida.

2:18 p.m. The hearing ended and the record was closed.

2:18 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. Mitchell and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.

2:38 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-200 Mr. Turner moved that the following order be adopted in the matter of **Dave Wayne Blackwell**, R.Ph. (03-1-24395), Land O'Lakes, Florida.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070723-001

in the matter of:

DAVE WAYNE BLACKWELL, R.Ph.

4626 Tailfeather Court
Land O'Lakes, Florida 34639

R.Ph. Number 03-1-24395

INTRODUCTION

The matter of Dave Wayne Blackwell came for hearing on June 2, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Dave Wayne Blackwell 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 Witness: Dave Wayne Blackwell, R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request letter from Dave Blackwell, R.Ph. [07-18-07]
1A-1D. Procedurals
2. State Board of Pharmacy Order in re Dave Wayne Blackwell, R.Ph. [06-07-06]

Respondent's Exhibits:

- A. Final Order, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [03-03-06]
- B. Order Granting Modification of Final Order [03-13-08]
- C. Copy of the State of Florida Department of Health Pharmacist Identification Card issued to Dave W. Blackwell [Expiration date 09-30-09]
- D-H. Five Letters of Support [05-23-08 to 05-30-08]

FINDING 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 that Dave Wayne Blackwell has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-060216-061, effective June 7, 2006.

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. 03-1-24395, held by Dave Wayne Blackwell to practice pharmacy in Ohio and places Dave Wayne

Blackwell on probation for five years effective from the date his pharmacist identification card is issued, if the following conditions are met:

- (A) Dave Wayne Blackwell must, upon returning to Ohio and prior to employment, enter into a **new** contract, signed, 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 his 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 reports to the Board, 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) Dave Wayne Blackwell 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 Dave Wayne Blackwell 's progress towards recovery and what Dave Wayne Blackwell 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 Dave Wayne Blackwell'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) Dave Wayne Blackwell may not serve as a responsible pharmacist.
 - (3) Dave Wayne Blackwell may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Dave Wayne Blackwell must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Dave Wayne Blackwell must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Dave Wayne Blackwell must abide by the rules of the State Board of Pharmacy.
 - (7) Dave Wayne Blackwell must comply with the terms of this Order.
 - (8) Dave Wayne Blackwell's 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.

Dave Wayne Blackwell 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 Mrs. Gregg and approved by the Board: *Aye – 5/Nay – 2.*

2:42 p.m. The Board recessed briefly.

3:00 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 **Ross Putman Turner**, D.O., R.Ph. (03-2-23163), Canal Winchester, Ohio.

4:44 p.m. The hearing ended and the record was closed.

4:45 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. Wiesenhahn and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.

4:56 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-201 Mr. Mitchell moved that the following order be adopted in the matter of **Ross Putman Turner**, D.O., R.Ph. (03-2-23163), Canal Winchester, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080122-035

in the matter of:

ROSS PUTMAN TURNER, D.O., R.Ph.

6442 Dietz Drive
Canal Winchester, Ohio 43110

R.Ph. Number 03-2-23163

INTRODUCTION

The matter of Ross Putman Turner came for hearing on June 2, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Ross Putman Turner was represented by Terri-Lynne B. Smiles. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witness: Ross Putman Turner, D.O., R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request letter from Ross P. Turner [01-16-08]
1A-1C. Procedurals
2. Ohio State Board of Pharmacy Settlement Agreement in re Ross Putman Turner, D.O., R.Ph. [06-04-07]

Respondent's Exhibits:

- A. Step I Consent Agreement Between Ross Putman Turner, D.O. and The State Medical Board of Ohio [03-14-07]
- B. Letter of Compliance from Danielle Bickers to Ohio State Board of Pharmacy [05-19-08]
- B1. Step II Consent Agreement Between Ross Putman Turner, D.O. and The State Medical Board of Ohio [05-14-08]; Step I Consent Agreement [03-14-07]
- C. Letter from Ellen Laubis, M.Ed., LICDC, Shepherd Hill to Ohio State Board of Pharmacy [05-07-08]
- D. Letter from Richard N. Whitney, MD, Shepherd Hill to Danielle Bickers [02-29-08]; Letter from David D. Goldberg, D.O. to Danielle Bickers [03-20-08]
- D1. Letter from David D. Goldberg, D.O., Greene Memorial Hospital to Ohio State Board of Pharmacy [05-20-08]
- E. Letter from Connie Jenkins, M.D. to Danielle Bickers [03-04-08]
- F. Ohio Physicians Health Program, Inc. Agreement [04-10-07]; Authorization for Records [04-20-07]; Amendment to Agreement [04-20-07]
- F1. Letter from Stan G. Sateren, M.D., FASAM to William Winsley, MS, RPH [05-27-08]
- G. Aftercare Contract between Ross Turner and Shepherd Hill [not dated]
- H. Drug Screen Reports [04-29-07 thru 05-18-08]
- I. Support Group Attendance Records [04-21-07 thru 05-11-08]

- J. Continuing Pharmaceutical Education Credits and Certificates [10-18-05 thru 05-08-08]

FINDING 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 that Ross Putman Turner has complied with the terms set forth in the Settlement Agreement with the State Board of Pharmacy, Docket No. D-070515-049, effective June 4, 2007.

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. 03-2-23163, held by Ross Putman Turner to practice pharmacy in Ohio with the following conditions:

- (A) Ross Putman Turner must comply with and complete The State Medical Board of Ohio's Step II Consent Agreement dated May 14, 2008.
- (B) Ross Putman Turner must, prior to the reinstatement of his pharmacist identification card, have 300 hours of experience under the direct supervision of a responsible pharmacist. The pharmacist must provide, to the Board, documentation of the 300 hours worked.

The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 7.

- 5:00 p.m. Mrs. Gregg moved that the Board go into Executive Session 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. Turner and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.
- 5:06 p.m. The Executive Session ended and the meeting was opened to the public.
- 5:08 p.m. The Board meeting recessed for the day.

Tuesday, June 3, 2008

- 8:33 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:
- Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Elizabeth I. Gregg, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.
- 8:34 a.m. Mr. Benedict said there was no Medical Board Prescribing Committee Report this month.
- 8:35 a.m. Mrs. Droz presented her report to the Board on the Prescription Drug Monitoring Program//Ohio Automated RX Reporting System.
- 8:51 a.m. Mr. Mitchell said there was no Medical Board Physician Assistant Policy Committee this month.

- 8:52 a.m. Mr. Braylock reported the Nursing Board's Committee on Prescriptive Governance did not meet this month.
- 8:53 a.m.
R-2008-202 Mr. Keeley discussed an electronic prescribing system from **MicroMD, Henry Schein Medical Systems**, Boardman, Ohio. After discussion, Mr. Mitchell moved that the system be found approvable pending final inspection. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 7.*
- 8:56 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 **Robert W. Przytulski**, R.Ph. (03-2-15677), Broadview Heights, Ohio.
- 11:45 a.m. The hearing ended and the record was closed.
- 11:45 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. Turner and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.
- 11:59 a.m. The Executive Session ended and the meeting was opened to the public.
- 12:00 p.m.
R-2008-203 Mrs. Teater moved that the following order be adopted in the matter of **Robert W. Przytulski**, R.Ph. (03-2-15677), Broadview Heights, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060518-078

in the matter of:

ROBERT W. PRZYTULSKI, R.Ph.

2051 McClaren Lane
Broadview Heights, Ohio 44147

R.Ph. Number 03-2-15677

INTRODUCTION

The matter of Robert W. Przytulski came for hearing on June 3, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Robert W. Przytulski was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Thomas Michael Miksch
Ohio State Board of Pharmacy

Respondent's Witnesses: Robert W. Przytulski, R.Ph., Respondent
Catherine Cerny

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [05-18-06]
- 1A-1M. Procedurals
2. Ohio State Board of Pharmacy Order in re Robert W. Przytulski [07-03-79]
3. Ohio State Board of Pharmacy Record Of The Proceedings, Resolution 84-107 [not dated]
4. Ohio State Board of Pharmacy Transcript in re Robert W. Przytulski [06-27-79]
- 5.
6. Notarized Statement of James H. Hill [05-11-06]
- 6A.
- 7.
- 8.
- 9.
10. Two Drug Accountability Statements at Marc's Pharmacy for oxycodone/APAP 5/325; oxycodone HCl ER 40 mg [11-20-06]
11. Marc's Constructive Advice Notice for Robert Przytulski with Response [01-23-06]

Respondent's Exhibits:

- D. Treatment Letter from Gregory B. Collins, M.D. [05-01-08]
- E. Letter from Reverend Justin Dyrwal [05-13-08]
- F. Progress Report from Ted W. Raddell, PhD [05-07-08]
- G. Letter from Charles Wu, MD [05-14-08]
- H-K. Four Letters of Support [05-21-07 to 05-07-08]
- L. Drug Screen Results [12-18-06 to 04-18-08]
- M. Letter of Support [05-22-08]
- N. Support Group Attendance Records [01-31-07 to 05-23-08]
- O. FirstLab Test History Report [10-18-05 to 11-27-07]

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 Board of Pharmacy indicate that Robert W. Przytulski was originally licensed by the State of Ohio as a pharmacist on July 30, 1974, pursuant to examination. Records further reflect that on July 3, 1979, Robert W. Przytulski's license to practice pharmacy was revoked. On August 8, 1984, Robert W. Przytulski was again licensed by examination and his license was summarily suspended on May 18, 2006.
- (2) Robert W. Przytulski 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: Robert W. Przytulski has admitted to Board agents that he is addicted to controlled substances.

Robert W. Przytulski indicated that he worked too much overtime because he is a "sucker for the money" and "the money is inviting to me." Such conduct indicates that Robert W. Przytulski is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

- (3)

- (4)
- (5)
- (6)
- (7) Robert W. Przytulski did, on or about May 9, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Marc's Pharmacy, beyond the express or implied consent of the owner, to wit: Robert W. Przytulski admitted stealing 3 oxycodone/APAP 5/325 mg tablets and 4 oxycodone hydrochloride ER 40 mg tablets, both of which are Schedule II controlled substances. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) 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 (3) through (7) 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 constitute 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 Robert W. Przytulski on May 18, 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 Robert W. Przytulski as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-15677, held by Robert W. Przytulski effective as of the date of the mailing of this Order.

Robert W. Przytulski, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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.

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

12:01 p.m. The Board recessed for lunch.

1:30 p.m.

R-2008-204

The following candidates for licensure by reciprocity met with members of the Board in Room South A, 31st Floor of the Vern Riffe Center. The candidates introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen and the Board.

Kristi Renee Bledsoe	Pennsylvania
Kelly Ann Nicole Burg	Pennsylvania
Abigail Joan Durrett	Mississippi
Cynthia Lee	Illinois
Quan Li	Maryland
Kevin Anthony Meyer	Indiana
Mai G. Nguyen	Virginia
Eric James Palmer	Michigan
Mark Alan Robinson	West Virginia
Chad Andrew Royer	Michigan
Basirat Olaide Sanuth	Indiana
Aaron Sapp	Indiana
Catherine Arnette Sheffield	New York
Ismail Yousef	Arizona

R-2008-205

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:

RC Compounding Services L. L. C., Poland, Ohio (02-1678950)
Various Physician Offices on the letter of request

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

R-2008-206

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:

Martin Avenue Pharmacy, Naperville, Illinois (pending)
Cambridge Medical Clinic, Independence, Ohio (pending)

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. Pasquale and approved by the Board: *Aye – 7.*

R-2008-207

The Board discussed the National Association of Boards of Pharmacy (NABP) election results. After, discussion Mr. Turner moved that Executive Director William Winsley be approved to seek the NABP position as President-Elect at the next NABP Annual Meeting and that he be granted the time necessary to fulfill the functions of that role should he be elected. The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 7.*

2:39 p.m.
R-2008-208

After discussion, Mrs. Gregg moved that the Board minutes of May 12-13, 2008, be approved as amended. Mrs. Teater seconded the motion and it was approved by the Board: *Aye – 7.*

R-2009-209

Mrs. Gregg moved that the Board elect Mr. Lipsyc to serve as Board President for FY 2009. The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 7.*

R-2008-210

Mr. Mitchell moved that the Board elect Mrs. Gregg to serve as Vice-President for FY 2009. Mr. Turner seconded the motion and approved by the Board: *Aye – 7.*

2:48 p.m.

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

4:10 p.m.

The Executive Session ended and the meeting was opened to the public.

4:11 p.m.

The Board recessed for the day.

Wednesday, June 4, 2008

9:10 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:

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

9:12 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 **Bryan Paul Murphy**, pharmacy intern (06-0-06078), Avon, Ohio.

12:03 p.m.

The hearing ended and the record was closed.

12:03 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. Wiesenhahn and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.

12:33 p.m.

The Executive Session ended and the meeting was opened to the public.

R-2008-211

Mr. Wiesenhahn moved that the following order be adopted in the matter of **Bryan Paul Murphy**, pharmacy intern (06-0-06078), Avon, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080109-026

in the matter of:

BRYAN PAUL MURPHY
4123 North Terraceview, Apt.10
Toledo, Ohio 43607

INTRODUCTION

The matter of Bryan Paul Murphy came for hearing on June 4, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Bryan Paul Murphy was represented by Daniel D. Connor. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Mark Kabat
Ohio State Board of Pharmacy

Respondent's Witnesses: Bryan Paul Murphy, Respondent
William J. Murphy
Michael Quigley, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [01-09-08]
- 1A-1E. Procedurals
2. Notarized Statement of Bryan Murphy [12-27-07]
- 2A. Application for Pharmacy Intern Registration with Attachment submitted by Bryan Paul Murphy [04-13-06]
3. Seven photographs of respondent [12-06-07]
4. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/660 [02-28-08]
- 4A. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/660 [02-28-08]
5. Twelve photographs of respondent [12-20-07]
6. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/325 [02-28-08]
- 6A. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/325 [02-28-08]
7. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/650 [02-28-08]
- 7A. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/650 [02-28-08]
8. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/660 [02-28-08]
- 8A. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 10/660 [02-28-08]
9. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 7.5/750 [02-28-08]
- 9A. Drug Accountability Statement at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 7.5/750 [02-28-08]
10. Six Drug Accountability Statements at CVS/Pharmacy #3339 for hydrocodone bitartrate/APAP 5/500; hydrocodone bitartrate/APAP 7.5/500; Vicodin ES 7.5/750; Lortab 10/500; hydrocodone bitartrate/APAP 10/500; hydrocodone bitartrate/IBU 7.5/200 [02-28-08]
11. Prescription written for Vicodin ES; Rx #C801307 [12-21-07]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Bryan P. Murphy [03-10-08]
- B. The Toledo Hospital Medical Records for Bryan Murphy [01-31-08 to 03-03-08]
- C. Letter from Marilyn Horton BS, CAC to Dan Connor [03-05-08]
- D. Letter from Cynthia A. Schroeder to Daniel D. Connor [05-06-08]
- E. Drug Screen Reports [02-04-08 to 03-03-08]
- F. Drug Screen Reports [03-31-08 to 05-02-08]; Drug Testing Panels [updated 10-11-06]
- G. Support Group Attendance Records [01-11-08 to 05-19-08]
- H. Seven Letters of Support [05-05-08 to 05-19-08]
- I. Drug Screen Reports [03-31-08 to 05-29-08]
- J. Letter for Restitution from Daniel D. Connor [06-04-08]
- K. Support Group Attendance Records [05-19-08 to 06-02-08]

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 Bryan Paul Murphy was originally licensed by the State of Ohio as an intern on June 29, 2006, and that his license to practice pharmacy as a pharmacy intern in Ohio was summarily suspended on January 9, 2008.
- (2) Bryan Paul Murphy did, on or about December 6, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan Paul Murphy admittedly stole a full, 100-count stock bottle of hydrocodone/APAP 10/660 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Bryan Paul Murphy did, on or about December 20, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan Paul Murphy admittedly stole 2 full, 100-count stock bottles of hydrocodone/APAP 10/660 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Bryan Paul Murphy did, on or about December 21, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan Paul Murphy admittedly stole a full, 100-count stock bottle of hydrocodone/APAP 10/325 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Bryan Paul Murphy did, on or about December 21, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan Paul Murphy admittedly stole a full, 100-count stock bottle of hydrocodone/APAP 10/650 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Bryan Paul Murphy did, on or about December 21, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan

Paul Murphy admittedly stole approximately 20 tablets of hydrocodone 10/660 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (7) Bryan Paul Murphy did, on or about December 21, 2007, with purpose to deprive, knowingly obtain or exert control over a dangerous drug beyond the express or implied consent of the owner, CVS #3339, to wit: Bryan Paul Murphy admittedly stole approximately 244 tablets of hydrocodone 7.5/750 mg, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) Bryan Paul Murphy did, on or about various and unknown times during the year 2007, knowingly sell or offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731., to wit: on two or three occasions Bryan Paul Murphy admittedly sold a quantity of 50 dosage units, and/or 100 dosage units, of hydrocodone, a Schedule III controlled substance. Bryan Paul Murphy sold them in exchange for entry fees into "Texas Hold'em" poker tournaments. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (9) Bryan Paul Murphy did, on or about various and unknown times during the year 2007, knowingly sell or offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731., to wit: Bryan Paul Murphy admittedly sold a quantity of 50 dosage units, and/or 100 dosage units, of hydrocodone, a Schedule III controlled substance. Bryan Paul Murphy sold them in exchange for "loans between \$500.00 and \$1,000.00." Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (10) Bryan Paul Murphy did, on or about December 21, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Bryan Paul Murphy forged Rx #C801378 for 80 tablets of hydrocodone/APAP 10/660 mg to cover for his theft of the drug. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (11) Bryan Paul Murphy is abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Bryan Paul Murphy has admittedly stolen controlled substances for his own personal abuse, using 10 to 20 tablets per day "when available." Such conduct indicates that Bryan Paul Murphy 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 paragraphs (2) through (10) 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 (2) through (10) 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 (11) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to

practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

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

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Bryan Paul Murphy on January 9, 2008.

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 Bryan Paul Murphy 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 pharmacy intern identification card, No. 06-0-06078, held by Bryan Paul Murphy 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 pharmacy intern identification card, No. 06-0-06078, held by Bryan Paul Murphy 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 pharmacy intern identification card, No. 06-0-06078, held by Bryan Paul Murphy effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacy intern identification card, No. 06-0-06078, held by Bryan Paul Murphy effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Bryan Paul Murphy 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.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 4/Nay – 3.*

12:34 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened with the following members present:

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

Mr. Winsley presented a report of the final inspection and approval of the **Alliance Hospital** (TDDD 02-0035152), Alliance, Ohio, pharmacy medication verification system.

1:32 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. Mitchell and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenhahn – *yes*.

2:37 p.m. The Executive Session ended and the meeting was opened to the public.

President Braylock administered the Oath of Office to the president-elect, Nathan Lipsyc.

OATH OF PRESIDENT

I, Nathan S. Lipsyc, as President 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 Braylock then administered the Oath of Office to Vice-President-elect, Elizabeth Gregg.

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OATH OF VICE-PRESIDENT

I, Elizabeth I. Gregg, as Vice-President 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.

2:47 p.m. Mr. Turner moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>05/28</u>	<u>05/29</u>	<u>06/02</u>	<u>06/03</u>	<u>06/04</u>	<u>Total</u>
Braylock	-	1	1	1	1	4
Gregg	-	-	1	1	1	3
Kolezynski	-	-	-	-	-	-
Lipsyc	-	-	1	1	1	3
Mitchell	1	-	1	1	1	4
Pasquale	-	-	1	1	1	3
Teater	-	-	1	1	1	3
Turner	-	-	1	1	1	3
Wiesenhahn	1	-	1	1	1	4

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

Mrs. Teater moved that the meeting be adjourned. The motion was seconded by Mr. Turner and approved by the Board: *Aye* – 7.

The Ohio State Board of Pharmacy approved these Minutes July 8, 2008
