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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126
telephone: 614-466-4143 fax: 614-752-4836 email: exec@bop.state.oh.us

Minutes of the February 2-3, 2009

Meeting of the Ohio State Board of Pharmacy

Monday, February 2, 2009

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:

Nathan S. Lipsyc, R.Ph., *President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, 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*; and Sally Ann Steuk, *Assistant Attorney General*.

R-2009-151 Mr. Winsley announced that the following Settlement Agreement with **Claudia Jo Ward**, R.Ph. (03-2-13948) Fredericksburg, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-060

in the matter of:

CLAUDIA JO WARD, R.PH.

356 Mill Street
Fredericksburg, Ohio 44627

R.Ph. Number 03-2-13948

This Settlement Agreement is entered into by and between Claudia Jo Ward 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.

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

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification

card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Claudia Jo Ward is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Claudia Jo Ward was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Claudia Jo Ward accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Claudia Jo Ward was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Claudia Jo Ward did, on or about March 26, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: when audited, it was determined that Claudia Jo Ward did not complete 0.7 Continuing Education Units (C.E.U.s) of Board approved continuing education. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Claudia Jo Ward admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Claudia Jo Ward herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Claudia Jo Ward will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Claudia Jo Ward's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Claudia Jo Ward appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

Claudia Jo Ward waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees,

and/or agents of either, arising out of matters which are the subject of this Agreement. Claudia Jo Ward waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

/s/ Claudia Jo Ward, R.Ph. Date Signed: 01/21/09
Respondent

/s/ Nathan S. Lipsyc Date Signed: 02/02/09
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 01/29/09
Ohio Assistant Attorney General

R-2009-152

Mr. Winsley announced that the following Settlement Agreement with **Sue Ann Carey, R.Ph.** (03-2-11242) Massillon, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-047

in the matter of:

SUE ANN CAREY, R.PH.
7910 Laura Avenue N.W.
Massillon, Ohio 44646

R.Ph. Number 03-2-11242

This Settlement Agreement is entered into by and between Sue Ann Carey 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.

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

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

Whereas, Sue Ann Carey is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Sue Ann Carey was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Sue Ann Carey accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Sue Ann Carey was originally licensed in the State of Ohio on August 4, 1975, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Sue Ann Carey did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Sue Ann Carey submitted 0.1 Continuing Education Unit (C.E.U.) of Jurisprudence that was not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Sue Ann Carey admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Sue Ann Carey herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Sue Ann Carey will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Sue Ann Carey's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Sue Ann Carey appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

<u>/s/ Sue Ann Carey, R.Ph.</u>	<u>Date Signed: 01/28/09</u>
<i>Respondent</i>	
<u>/s/ Nathan S. Lipsyc</u>	<u>Date Signed: 02/02/09</u>
<i>President, Ohio State Board of Pharmacy</i>	
<u>/s/ Sally Ann Steuk</u>	<u>Date Signed: 01/30/09</u>
<i>Ohio Assistant Attorney General</i>	

R-2009-153

Mr. Winsley announced that the following Settlement Agreement with **Barbara D. Gatz**, R.Ph. (03-2-13923) Parma, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-044

in the matter of:

BARBARA D. GATZ, R.PH.

6447 Kerneywood
Parma, Ohio 44129

R.Ph. Number 03-2-13923

This Settlement Agreement is entered into by and between Barbara D. Gatz 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.

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

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

Whereas, Barbara D. Gatz is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 17, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Barbara D. Gatz was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Barbara D. Gatz accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Barbara D. Gatz was originally licensed in the State of Ohio on August 1, 1980, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Barbara D. Gatz did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Barbara D. Gatz submitted one

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-050

in the matter of:

LEROY JAMES HUDSON, JR., R.PH.

570 West Highland Road
Sagamore Hills, Ohio 44067

R.Ph. Number 03-2-16581

This Settlement Agreement is entered into by and between Leroy James Hudson, Jr. 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.

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

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

Whereas, Leroy James Hudson, Jr. is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Leroy James Hudson, Jr. was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Leroy James Hudson, Jr. accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Leroy James Hudson, Jr. was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Leroy James Hudson, Jr. did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Leroy James Hudson, Jr. submitted 0.3 Continuing Education Units (C.E.U.s) of Jurisprudence that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Leroy James Hudson, Jr. admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

(A) Leroy James Hudson, Jr. herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).

(B) Leroy James Hudson, Jr. will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Leroy James Hudson, Jr.'s license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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/ Sally Ann Steuk Date Signed: 01/29/09
Ohio Assistant Attorney General

Mr. Winsley announced that the following Settlement Agreement with **Yashvanthi Santosh Kotian**, R.Ph. (03-2-23006) Mason, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-046

in the matter of:

YASHVANTHI SANTOSH KOTIAN, R.PH.

7766 Bayshore Drive
Mason, Ohio 45040

R.Ph. Number 03-2-23006

This Settlement Agreement is entered into by and between Yashvanthi Santosh Kotian 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.

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

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

Whereas, Yashvanthi Santosh Kotian is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Yashvanthi Santosh Kotian was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Yashvanthi Santosh Kotian accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Yashvanthi Santosh Kotian was originally licensed in the State of Ohio on July 21, 1998, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Yashvanthi Santosh Kotian did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Yashvanthi Santosh Kotian submitted 0.3 Continuing Education Units (C.E.U.s) of Jurisprudence that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Yashvanthi Santosh Kotian admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Yashvanthi Santosh Kotian herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Yashvanthi Santosh Kotian will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Yashvanthi Santosh Kotian's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Yashvanthi Santosh Kotian appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

<u>/s/ Yashvanthi Santosh Kotian, R.Ph.</u>	<u>Date Signed: 01/21/09</u>
<i>Respondent</i>	
<u>/s/ Nathan S. Lipsyc</u>	<u>Date Signed: 02/02/09</u>
<i>President, Ohio State Board of Pharmacy</i>	
<u>/s/ Sally Ann Steuk</u>	<u>Date Signed: 01/29/09</u>
<i>Ohio Assistant Attorney General</i>	

R-2009-156

Mr. Winsley announced that the following Settlement Agreement with **Julie Eisenberg Millstein**, R.Ph. (03-2-16615) Beachwood, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-054

in the matter of:

JULIE EISENBERG MILLSTEIN, R.PH.

24275 Woodside Lane
Beachwood, Ohio 44122

R.Ph. Number 03-2-16615

This Settlement Agreement is entered into by and between Julie Eisenberg Millstein 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.

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

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

Whereas, Julie Eisenberg Millstein is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Julie Eisenberg Millstein was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Julie Eisenberg Millstein accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Julie Eisenberg Millstein was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Julie Eisenberg Millstein did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Julie Eisenberg Millstein submitted 0.3 Continuing Education Units (C.E.U.s) of Jurisprudence that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Julie Eisenberg Millstein admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Julie Eisenberg Millstein herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Julie Eisenberg Millstein will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Julie Eisenberg Millstein's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Julie Eisenberg Millstein appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

<u>/s/ Julie Eisenberg Millstein, R.Ph.</u>	<u>Date Signed: 01/16/09</u>
<i>Respondent</i>	

<u>/s/ Nathan S. Lipsyc</u>	<u>Date Signed: 02/02/09</u>
<i>President, Ohio State Board of Pharmacy</i>	

<u>/s/ Sally Ann Steuk</u>	<u>Date Signed: 01/29/09</u>
<i>Ohio Assistant Attorney General</i>	

R-2009-157

Mr. Winsley announced that the following Settlement Agreement with **Julie Marie Morris**, R.Ph. (03-2-26170) Amelia, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-043

in the matter of:

JULIE MARIE MORRIS, R.PH.

1360 Naegele Lane
Amelia, Ohio 45102

R.Ph. Number 03-2-26170

This Settlement Agreement is entered into by and between Julie Marie Morris 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.

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

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

Whereas, Julie Marie Morris is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 17, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Julie Marie Morris was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Julie Marie Morris accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Julie Marie Morris was originally licensed in the State of Ohio on July 12, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Julie Marie Morris did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that you submitted 0.1 Continuing Education Unit (C.E.U.) of Jurisprudence that was not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Julie Marie Morris admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

(A) Julie Marie Morris herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).

(B) Julie Marie Morris will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Julie Marie Morris's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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/ Sally Ann Steuk Date Signed: 01/29/09
Ohio Assistant Attorney General

Mr. Winsley announced that the following Settlement Agreement with **Lisette M. Schuette**, R.Ph. (03-2-21578) Wauseon, Ohio, had been signed by all parties making it effective.

R.Ph. Number 03-2-21578

This Settlement Agreement is entered into by and between Lisette M. Schuette 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.

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

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

Whereas, Lisette M. Schuette is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Lisette M. Schuette was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Lisette M. Schuette accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Lisette M. Schuette was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Lisette M. Schuette did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Lisette M. Schuette submitted three (0.3) C.E.U.s of Jurisprudence that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Lisette M. Schuette admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Lisette M. Schuette herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Lisette M. Schuette will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Lisette M. Schuette's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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/ Sally Ann Steuk Date Signed: 01/30/09
Ohio Assistant Attorney General

The Board recessed briefly.

R-2009-160 Mr. Casar moved that the settlement offer in the matter of **Mariane Letargo-Enriquez**, R.Ph. (03-2-24536) Cincinnati, Ohio, be denied. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 6; *Abstained* – Ms. Lange.

- R-2009-161** Mr. Casar moved that the Board accept the settlement offer in the matter of **Barbara Ann Kaminsky**, R.Ph. (03-2-26395) Cincinnati, Ohio. The motion was seconded by Mr. Kolezynski and approved by the Board. President Lipsyc cast the tie-breaking vote, making the final vote: *Aye* – 4; *Nay* – 3; *Abstained* – Mr. Wiesenhahn.
- R-2009-162** Mr. Casar moved that the Board accept the settlement offer in the matter of **Jack Paul Horn**, R.Ph. (03-3-13427) Cincinnati, Ohio. The motion was seconded by Mr. Kolezynski and approved by the Board. President Lipsyc cast the tie-breaking vote, making the final vote: *Aye* – 4; *Nay* – 3; *Abstained* – Mr. Wiesenhahn.
- R-2009-163** Mr. Casar moved that the Board accept the settlement offer in the matter of **Cincinnati Children's Hospital Medical Center**, (02-0040400) Cincinnati, Ohio. The motion was seconded by Mr. Kolezynski and approved by the Board. President Lipsyc cast the tie-breaking vote, making the final vote: *Aye* – 4; *Nay* – 3; *Abstained* – Mr. Wiesenhahn.
- R-2009-164** Mr. Kolezynski moved that the Board summarily suspend the license to practice pharmacy belonging to **Ryan Andrew Stout**, R.Ph. (03-3-29086) Akron, Ohio, pursuant to Ohio Revised Code 3719.121(A). Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7.

11:39 a.m.

- R-2009-165** The Board considered a request for a 120-day extension of the previously granted exemption (September 8, 2008) to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) for **Larry Lee Arwood**, R.Ph. (03-3-11911) Columbus, Ohio. Mr. Arwood will continue as the responsible person for the following sites:

Omnicare of Central Ohio,	Columbus, Ohio	(02-0564600)
Pure Service Pharmacy LLC,	Columbus, Ohio	(02-1852500)

After discussion, Mr. Braylock moved that the Board approve the request for an additional 120 days. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

- R-2009-166** Mr. Keeley presented a list of proposed members for the 2009 Ad Hoc Rules Committee. Ms. Pasquale moved that these individuals be appointed. Mr. Braylock seconded the motion and it was approved by the Board: *Aye* – 6; *Nay* – 1.

2009 Ad Hoc Rule Review Committee

Ohio Society of Health-System Pharmacists :

- (1) Mary Ann Dzurec, R.Ph./ Kaiser Permanente and Northeastern Ohio Universities College of Pharmacy
- (2) Sue Fosnight, R.Ph./Summa Health System, Akron
- (3) Steven R. Smith, R.Ph./Toledo Hospital Family Medicine Residency
- (4) Ben Shaffer, R.Ph./Grady Memorial Hospital, Delaware
- (5) Paul Mosko, R.Ph./Good Samaritan Hospital, Dayton

Ohio Pharmacists Association:

- (1) Leonard Stallo, R.Ph./Kroger
- (2) John Hanna, R.Ph./ Adena Health System
- (3) Joe Sabino, R.Ph./Retired

- (4) Dale English, R.Ph./Northeastern Ohio Universities College of Pharmacy
- (5) Troy Gahm, R.Ph./Gahm's Pharmacy, Lucasville
- (6) Debra Paolo-Hohman, R.Ph./University OptionCare-Walgreens Affiliate
- (7) Ron Ward, R.Ph./Giant Eagle, North Canton

Miscellaneous:

- (1) Kevin Mitchell, R.Ph./Rite Aid, Marion

Board Members:

- (1) Jerome Wiesenbahn, R.Ph (Chair); (2) Richard Kolezynski, R.Ph.

R-2009-167 Mr. Keeley then presented a request for approval of the **Point & Click** electronic prescribing system. Mr. Braylock moved that the system be found approvable pending final inspection. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 6; *Nay* –1.

R-2009-168 A proposed emergency rule concerning the criminal records check for pharmacy technicians required by SB203, was presented by Mr. Keeley. Mr. Casar moved that the rule be pursued and subsequently filed by staff. The rule was seconded it by Ms. Lange. It was approved by the Board: *Aye* – 7.

R-2009-169 Ms. Pasquale moved that the annual National Association of Boards of Pharmacy dues (\$250) be paid. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 7.

R-2009-170 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:

**CVS Caremark Specialty Pharmacies, (5 locations)
All CVS Pharmacy locations in Ohio**

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

Ms. Lange reported on the meeting of the Medical Board Physician Assistant Policy Committee.

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

Ms. Pasquale presented the Probation Report. There were no issues requiring Board action.

Mr. Keeley presented the Legislative Report,

12:29 p.m. The Board recessed for lunch.

2:56 p.m. The Board reconvened with all members present.

2:58 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 **Leah Anne Wolfe**, R.Ph. (03-3-10007) Westlake, Ohio.

5:12 p.m. The hearing ended and the record was closed.

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. Casar and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

5:36 p.m. The Executive Session ended and the meeting was opened to the public.

R-2009-171 After votes were taken in public session, the Board adopted the following order in the matter of **Leah Anne Wolfe**, R.Ph. (03-3-10007) Westlake, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080514-045

in the matter of:

LEAH ANNE WOLFE, R.Ph.

1370 Prince Charles
Westlake, Ohio 44145

R.Ph. Number 03-3-10007

INTRODUCTION

The matter of Leah A. Wolfe came for hearing on February 2, 2009, before the following members of the board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather I. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Leah A. Wolfe was represented by Eric J. Plinke. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Paul Kover, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Leah A. Wolfe, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity For Hearing Letter [05-14-08]
1A-1E. Procedurals
2. Fairview Hospital Antineoplastic Agent Order Sheet [10-29-07]
3. Fairview Hospital Antineoplastic Agent Order Sheet [11-28-07]
4. Nursing documentation for 10-30-07, 11-20-07 and 11-29-07 [not dated]
5. Two Medication Report Computer Screen Printouts for Patient #01108152
[11-29-07]
6. Two Prescription Label Reprints [01-08-08]
7. Dangerous Drug Distributor Inspection Report at Fairview Hospital [12-19-07]; Response from Michael R. Hoying, R.Ph., M.S. [01-08-08]
8. Notarized Statement of Leah Wolfe [02-21-08]
9. Notarized Statement of Michael R. Hoying [03-04-08]
10. Notarized Statement of Darla J. Stark [12-19-07]

Respondent's Exhibits:

- A. Resume of Leah Wolfe [not dated]
- B. Notarized Statement of Leah Wolfe [02-21-08]
- C-H. Six Letters of Support [01-16-09 to 01-31-09]

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 Leah A. Wolfe was originally licensed in the State of Ohio on February 18, 1972, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Leah A. Wolfe did, on or about November 29, 2007, prior to dispensing order number 81841779, written for carboplatin 584 mg, order number 81841778, written for paclitaxel 350 mg, order number 81841776, written for dolasetron 100 mg, and order number 81841774, written for dexamethasone 20 mg, famotidine 20 mg, and diphenhydramine 50 mg, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Leah A. Wolfe failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. The patient's previous use for these drugs had been on November 20, 2007, and the use for the doses as prescribed on November 29, 2007, was too soon; the patient was harmed and subsequently died. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy hereby admonishes Leah A. Wolfe for her actions in this matter. Further, the Board confirms the importance of appropriate patient counseling and of careful prospective drug utilization review by the use of current patient profiles for every prescription filled.

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 and fifty dollars (\$250.00) on Leah A. Wolfe and payment of the monetary penalty in full 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.

Elizabeth Gregg moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-8/Nay-0).

Elizabeth Gregg moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-6/Nay-2).

Gregory Braylock moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-8/Nay-0).

After reviewing a fax received on behalf of **Mariane Letargo-Enriquez**, R.Ph. (03-2-24536) Cincinnati, Ohio, requesting that her hearing be delayed until 10:00 a.m., February 3, President Lipsyc approved the request.

5:45 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. Braylock and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

6:16 p.m. The Executive Session ended and the meeting was opened to the public.

6:17 p.m. The meeting was adjourned for the day.

Tuesday, February 3, 2009

8:31 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:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

R-2009-172

Mr. Winsley announced that the following Settlement Agreement with **Shelly Holzhauer Loudon**, R.Ph. (03-2-09624) Delaware, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-042

in the matter of:

SHELLY HOLZHAUER LOUDEN, R.PH.

1520 W. William Street
P.O. Box 701
Delaware, Ohio 43015

R.Ph. Number 03-2-09624

This Settlement Agreement is entered into by and between Shelly Holzhauer Loudon 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.

Shelly Holzhauer Loudon voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Shelly Holzhauer

Louden acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

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

Whereas, Shelly Holzhauer Loudon is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Shelly Holzhauer Loudon was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Shelly Holzhauer Loudon accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Shelly Holzhauer Loudon was originally licensed in the State of Ohio on July 27, 1970, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Shelly Holzhauer Loudon did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Shelly Holzhauer Loudon submitted 0.1 Continuing Education Unit, C.E.U. of Jurisprudence that was not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Shelly Holzhauer Loudon admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Shelly Holzhauer Loudon herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Shelly Holzhauer Loudon will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Shelly Holzhauer Loudon's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Shelly Holzhauer Loudon appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

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

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

/s/ Shelly Holzhauer Loudon, R.Ph. Date Signed: 01/20/09
Respondent

/s/ Nathan S. Lipsyc Date Signed: 02/03/09
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 02/02/09
Ohio Assistant Attorney General

R-2009-173

Mr. Winsley announced that the following Settlement Agreement with **Robert Eugene Newnham**, R.Ph. (03-2-07821) Akron, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-052

in the matter of:

ROBERT E. NEWNHAM, R.PH.

156 E. Ingleside Drive
Akron, Ohio 44319

R.Ph. Number 03-2-07821

This Settlement Agreement is entered into by and between Robert E. Newnham 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.

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

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

Whereas, Robert E. Newnham is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Robert E. Newnham was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Robert E. Newnham accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Robert E. Newnham was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Robert E. Newnham did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Robert E. Newnham submitted 0.1 Continuing Education Unit (C.E.U.) of Jurisprudence that was not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Robert E. Newnham admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Robert E. Newnham herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Robert E. Newnham will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Robert E. Newnham's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Robert E. Newnham appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

Robert E. Newnham 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. Robert E. Newnham waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

<u>/s/ Robert E. Newnham, R.Ph.</u> <i>Respondent</i>	<u>Date Signed: 01/27/09</u>
<u>/s/ Nathan S. Lipsyc</u> <i>President, Ohio State Board of Pharmacy</i>	<u>Date Signed: 02/03/09</u>
<u>/s/ Sally Ann Steuk</u> <i>Ohio Assistant Attorney General</i>	<u>Date Signed: 02/03/09</u>

8:40 a.m. Mr. Kaderly arrived and joined the meeting in progress.

R-2009-174 After discussion, Mrs. Gregg moved that the Board minutes of January 5-6, 2009, be approved as amended. Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye* – 8.

R-2009-175 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, Willoughby, Ohio (02-1235150)
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. Braylock and approved by the Board: *Aye* – 8.

The Board discussed the projected FY 2010-2011 budget, but no action was needed at this time.

Mr. Braylock discussed the January, 2009 Nursing Board Committee on Prescriptive Governance Report.

9:24 a.m. Mrs. Gregg 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

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

The Board recessed briefly.

10:06 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 **Mariane Letargo-Enriquez**, R.Ph. (03-2-24536) Cincinnati, Ohio.

Ms. Lange recused herself from the adjudication hearing.

10:14 a.m. The respondent, **Mariane Letargo-Enriquez** arrived with the hearing in progress.

11:36 a.m. The hearing ended and the record was closed.

- 11:37 a.m. The Board recessed briefly.
- 11:42 a.m. The Board met with Dennis McAllister, representative for the **Humana RightSourceRx**, prescription home delivery service by mail to discuss a proposal regarding returned prescription medications.
- 12:18 p.m. The meeting ended.
- 12:22 p.m. The Board recessed for lunch.

1:00 p.m.
R-2009-176 The following candidates for licensure by reciprocity met with Ms. Lange in Room South A, 31st Floor of the Vern Riffe Center. The candidates introduced themselves, and then participated in a discussion of pharmacy laws and rules with Mr. McMillen.

Brenda Lynn Gray	<i>Minnesota</i>
Annjanette Jackson	<i>Michigan</i>
Mohammad A. Knifati	<i>West Virginia</i>
Tete Edward Koffie-Lartevi	<i>Texas</i>
Thaddeus Dinta Nanji	<i>Virginia</i>
Akilah Jennifer Parks	<i>Maryland</i>
Jatin H. Patel	<i>Illinois</i>
Erum F. Rahman	<i>West Virginia</i>
Brian J. Rosner	<i>Indiana</i>
Leah S. Smith	<i>Georgia</i>
Robert Kenneth Smith	<i>Virginia</i>
Vaninder Walia	<i>Pennsylvania</i>
Melissa Lynn Watson	<i>Kentucky</i>
Susan L. Wood	<i>Pennsylvania</i>

- 1:30 p.m. The Board reconvened in Room East B, 31st Floor, with all members present.
- 1:31 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 Ms. Lange and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

Ms. Lange recused herself from the Executive Session.

- 2:00 p.m. The Executive Session ended and the meeting was opened to the public.
- 2:01 p.m. The Board recessed briefly.

2:08 p.m.
R-2009-177 After votes were taken in public session, the Board adopted the following order in the matter of **Mariane Letargo-Enriquez**, R.Ph. (03-2-24536) Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080820-017

in the matter of:

MARIANE LETARGO-ENRIQUEZ, R.Ph.

742 Avon Fields Lane
Cincinnati, Ohio 45220

R.Ph. Number 03-2-24536

INTRODUCTION

The matter of Mariane Letargo-Enriquez came for hearing on February 3, 2009, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Deborah A. Lange, R.Ph., Board Member, recused.

Mariane Letargo-Enriquez was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Betty Jones, R.Ph., Ohio State Board of Pharmacy
Mariane Letargo-Enriquez, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity For Hearing Letter [08-20-08]
- 1A-1C. Procedurals
2. Orders for RX #140476; Copy of Regency Hospital Cincinnati Pharmacy - IV Order #35 for RX #140476; IV Solutions Report [02-03-07]
3. Total Parenteral Nutrition Orders [03-14-07]; Labels for RX #140474 [03-15-07]; Copy of Computer Screen Printout for Pharmacy - IV Order #182 [03-14-07]
4. Total Parenteral Nutrition Orders for RX #140503; Label for RX #140503; Computer Screen Printout of IV Order #66 [03-14-07]; IV Solution Report [03-14-07]
5. RX #140569; Copy of Computer Screen Printout for Pharmacy IV Order #27; IV Solutions Report [05-23-07]
6. IV Solutions Report; Copy of IV Bag Label for RX 140653 [08-22-07]
7. Physician's Order Sheet [08-29-07]; Copy of Computer Screen Printout for Non-IV Order #30 [08-29-07]; Physician's Order to Discontinue RX #140665 [08-29-07]; Copy of Computer Screen Printout for Non-IV Order #51 [09-12-07]; Copy of Computer Screen Printout for IV Order #62 [09-12-07]; Physician's Orders [09-16-07]; Dangerous Drug Distributor Inspection Report for Regency Hospital of Cincinnati, LLC [10-02-07]; Notarized Statement of Mariane Letargo-Enriquez [09-20-07]; Letter from Heather Baade, Pharm.D. [10-02-07]
8. Target Transfer Prescription for Macrodantin 100 mg [04-19-05]; Label for RX #6643425-1091 Patient Receipt/Instruction Sheet [04-19-05]

9. Copy of Prescription for Metaglip 2.5/500 mg [11-17-05]; Label for RX #6647188-1091 [12-02-05]; Patient Receipt/Instruction Sheet [12-02-05]
10. RX #6656209-1091 [05-03-07]; Target Pharmacy Prescription Label for RX #6656978-1091 [05-04-07]; Patient Receipt/Instruction Sheet [05-04-07]

Respondent's Exhibits:

- A. Letter of Recommendation [01-30-09]
- B. Letter Representing Settlement Agreement Request from Mariane Letargo-Enriquez, R.Ph. to William T. Winsley [witnessed 01-08-09]

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 Mariane Letargo-Enriquez was originally licensed in the State of Ohio on December 28, 2001, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Mariane Letargo-Enriquez did, on or about February 3, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for cefepime 1 gram IV, RX #140476-35, she dispensed cefazolin, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Mariane Letargo-Enriquez did, on or about March 14, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for a TPN solution with sodium phosphate, RX #140474-182, she dispensed the correct medication but labeled the bag as a TPN solution with potassium phosphate, which was not actually dispensed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (4) Mariane Letargo-Enriquez did, on or about March 14, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for a TPN solution with potassium acetate, RX #140503-66, she dispensed the correct medication but labeled the bag without listing the potassium acetate. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (5) Mariane Letargo-Enriquez did, on or about May 23, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for Zyvox 600 mg IV, RX #140579-27, she dispensed the correct medication but labeled the vial with the name of the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (6) Mariane Letargo-Enriquez did, on or about August 22, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for Dilaudid 2 mg per hour continuous infusion, RX #140653-42, she dispensed the wrong volume of medication. The 48 mg was placed into a 250 ml bag instead of a 100 ml bag as ordered. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (7) Mariane Letargo-Enriquez did, on or about August 29, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for allopurinol 200 mg "po qd," RX #140665-30, she dispensed and labeled the

medication to be used with meals, thus being three times the prescribed frequency. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (8) Mariane Letargo-Enriquez did, on or about April 19, 2005, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for Macrochantin 100 mg, RX #6643425, she dispensed Macrobid, which was not what had been prescribed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code, and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (9) Mariane Letargo-Enriquez did, on or about December 2, 2005, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for Metaglip 2.5/500, RX #6647188, she dispensed Metaglip 2.5/250, which was not what had been prescribed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (10) Mariane Letargo-Enriquez did, on or about May 4, 2007, misbrand a drug, to wit: when Mariane Letargo-Enriquez received a prescription for oxybutynin 5 mg/5 ml, to be taken "1 ml po TID," RX #6656978, she dispensed the correct medication but labeled the vial with directions to take one teaspoonful, which is 5 times the correct dose. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) through (10) 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.

DECISION OF THE BOARD

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

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Mariane Letargo-Enriquez's practice of pharmacy in that she may not work in a hospital without petitioning the Board for approval.

Mariane Letargo-Enriquez must obtain, within six months from the effective date of this Order, ten hours of approved continuing pharmacy education (1.0 C.E.U.s) in medication error prevention, which may not also be used for license renewal.

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 one thousand five hundred dollars (\$1,500.00) on Mariane Letargo-Enriquez 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.

Further, 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 places on probation for two years the pharmacist identification card, No. 03-2-24536, held by Mariane Letargo-Enriquez effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (A) Mariane Letargo-Enriquez must not violate the drug laws of Ohio, any other state, or the federal government.
- (B) Mariane Letargo-Enriquez must abide by the rules of the State Board of Pharmacy.
- (C) Mariane Letargo-Enriquez must comply with the terms of this Order.
- (D) Mariane Letargo-Enriquez's license is deemed to be not in good standing until successful completion of the probationary period.
- (E) 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.

Mariane Letargo-Enriquez 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.

Elizabeth Gregg moved for Findings of Fact; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Elizabeth Gregg moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Gregory Braylock moved for Action of the Board; Donald Casar seconded the motion. Motion passed (Aye-4/Nay-3).

2:12 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 **Harold Eugene Fletcher**, R.Ph. (03-1-19231) Columbus, Ohio and **East Main Street Pharmacy**, (02-1074900) Columbus, Ohio.

4:21 p.m. The hearing ended and the record was closed.

4:22 p.m. Mr. Braylock moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

5:28 p.m. The Executive Session ended and the meeting was opened to the public.

R-2009-178 After votes were taken in public session, the Board adopted the following order in the matter of **Harold Eugene Fletcher**, R.Ph. (03-1-19231) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-0/1112-035

in the matter of:

HAROLD EUGENE FLETCHER, R.Ph.

228 Wilson Avenue
Columbus, Ohio 43205

R.Ph. Number 03-1-19231

INTRODUCTION

The matter of Harold Eugene Fletcher came for hearing on February 3, 2009, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Harold Eugene Fletcher was represented by Brian K. Murphy. 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 Witness: Harold Eugene Fletcher, R.Ph., Respondent

State's Exhibits:

- HF-1. Copy of Notice of Opportunity For Hearing Letter for Harold Eugene Fletcher, R.Ph. [11-17-08]
- EM-1. Copy of Notice of Opportunity For Hearing Letter for East Main Street Pharmacy [11-07-08]
- HF & EM - 1A. Procedural
- HF - 1B. Procedural
- EM - 1B. Procedural
- HF & EM- 1C. Procedural
- 2. Ohio State Board of Pharmacy Settlement Agreement In Re: Harold Eugene Fletcher [05-12-03]
- 3. Dangerous Drug Distributor Inspection Report for East Main Street Pharmacy [08-29-06]
- 4. Response to Dangerous Drug Distributor Inspection Report by H.E. Fletcher, R.Ph. [09-18-06]
- 5. CardinalHealth Invoice [10-30-07]
- 6. CardinalHealth Invoice [11-27-07]
- 7. Dangerous Drug Distributor Inspection Report for East Main Street Pharmacy [11-27-07]
- 8. Letter from Harold Eugene Fletcher, R.Ph./Owner to Ohio State Board of Pharmacy [12-17-07]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Harold Eugene Fletcher was originally licensed in the State of Ohio on February 28, 1992, pursuant to examination, and is currently licensed to practice pharmacy in

the State of Ohio. Records further reflect during the relevant time periods stated herein, Harold Eugene Fletcher was the owner and Responsible Pharmacist at East Main Street Pharmacy, 1336 East Main Street, Columbus, Ohio, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code. Further, records reflect that Harold Eugene Fletcher was previously disciplined by the Board on May 12, 2003.

- (2) Harold Eugene Fletcher as the Responsible Pharmacist did, on or about August 29, 2006, fail to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at 10:40 a.m., a delivery of dangerous drugs, purchased from a wholesaler, was placed in a hallway closet in the medical building in which the pharmacy is located; the closet is located outside the confines of the pharmacy and there was not a pharmacist present. Such conduct is in violation of Section 4729.55(B) of the Ohio Revised Code and Rule 4729-9-11 of the Ohio Administrative Code.
- (3) Harold Eugene Fletcher as the Responsible Pharmacist did, on or about October 30, 2007, fail to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at approximately 10:45 a.m., a delivery of dangerous drugs, purchased from a wholesaler, was placed in a pharmacy technician's automobile which was parked in the pharmacy's parking lot; there was not a pharmacist present and the pharmacy was closed at the time. Harold Eugene Fletcher had been previously warned against such conduct by a Board agent. Such conduct is in violation of Section 4729.55(B) of the Ohio Revised Code and Rule 4729-9-11 of the Ohio Administrative Code.
- (4) Harold Eugene Fletcher as the Responsible Pharmacist did, on or about November 27, 2007, fail to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at approximately 11:00 a.m., a delivery of dangerous drugs, purchased from a wholesaler, was placed in a pharmacy technician's automobile which was parked in the pharmacy's parking lot; there was not a pharmacist present and the pharmacy was closed at the time. Harold Eugene Fletcher had been previously warned against such conduct by a Board agent. Such conduct is in violation of Section 4729.55(B) of the Ohio Revised Code and Rule 4729-9-11 of the Ohio Administrative 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 a rule of the Board.

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 adjudicates the matter of Harold Eugene Fletcher as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for twelve (12) weeks the pharmacist identification card, No. 03-1-19231, held by Harold Eugene Fletcher and such suspension is effective as of the date of the mailing of this Order. Further, the Board stays ten (10) weeks of the suspension subject to a period of probation as set forth below.
- (1) Harold Eugene Fletcher, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - (2) Harold Eugene Fletcher, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.
- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Harold Eugene Fletcher a monetary penalty of one thousand five hundred dollars (\$1,500.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Harold Eugene Fletcher on probation for two years effective upon reinstatement of his identification card. The terms of probation are as follows:
- (1) Harold Eugene Fletcher must obtain, within six months from the effective date of this Order, three hours of approved continuing pharmacy education (0.3 C.E.U.s) of Board approved continuing pharmacy education in Jurisprudence, which may not also be used for license renewal.
 - (2) The State Board of Pharmacy hereby declares that Harold Eugene Fletcher'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.
 - (3) Harold Eugene Fletcher may serve as a responsible pharmacist.
 - (4) Harold Eugene Fletcher must not violate the drug laws of Ohio, any other state, or the federal government.
 - (5) Harold Eugene Fletcher must abide by the rules of the State Board of Pharmacy.
 - (6) Harold Eugene Fletcher must comply with the terms of this Order.
 - (7) Harold Eugene Fletcher's license is deemed to be 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.

Harold Eugene Fletcher 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.

Heather Pasquale moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-1).

Deborah Lange moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-7/Nay-1).

Gregory Braylock moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-6/Nay-2).

R-2009-179

After votes were taken in public session, the Board adopted the following order in the matter of **East Main Street Pharmacy**, (02-1074900) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-081112-036

in the matter of:

EAST MAIN STREET PHARMACY

Harold Eugene Fletcher, R.Ph.
1336 East Main Street
Columbus, Ohio 43205

R.Ph. Number 02-1074900

INTRODUCTION

The matter of East Main Street Pharmacy came for hearing on February 3, 2009, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

East Main Street Pharmacy was represented by Brian K. Murphy. 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 Witness: Harold Eugene Fletcher, R.Ph., Respondent

State's Exhibits:

HF-1. Copy of Notice of Opportunity For Hearing Letter for Harold Eugene Fletcher, R.Ph. [11-17-08]

EM-1. Copy of Notice of Opportunity For Hearing Letter for East Main Street Pharmacy [11-07-08]

HF & EM - 1A. Procedural

HF - 1B. Procedural

EM - 1B. Procedural

HF & EM- 1C. Procedural

2. Ohio State Board of Pharmacy Settlement Agreement In Re: Harold Eugene Fletcher [05-12-03]
3. Dangerous Drug Distributor Inspection Report for East Main Street Pharmacy [08-29-06]
4. Response to Dangerous Drug Distributor Inspection Report by H.E. Fletcher, R.Ph. [09-18-06]
5. CardinalHealth Invoice [10-30-07]
6. CardinalHealth Invoice [11-27-07]
7. Dangerous Drug Distributor Inspection Report for East Main Street Pharmacy [11-27-07]
8. Letter from Harold Eugene Fletcher, R.Ph./Owner to Ohio State Board of Pharmacy [12-17-07]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that East Main Street Pharmacy is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and that Harold Fletcher, R.Ph. is the Owner and Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) East Main Street Pharmacy did, on or about August 29, 2006, cease to satisfy the qualifications of a terminal distributor, to wit: the responsible pharmacist failed to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at 10:40 a.m. a delivery of dangerous drugs, purchased from a wholesaler, was placed in a hallway closet in the medical building in which the pharmacy is located; the closet is located outside the confines of the pharmacy and there was not a pharmacist present. Such conduct indicates that the pharmacy no longer meets the qualifications of a terminal distributor within the meaning of Section 4729.55 of the Ohio Revised Code.
- (3) East Main Street Pharmacy did, on or about October 30, 2007, cease to satisfy the qualifications of a terminal distributor, to wit: the responsible pharmacist failed to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at approximately 10:45 a.m. a delivery of dangerous drugs, purchased from a wholesaler, was placed in a pharmacy technician's automobile which was parked in the pharmacy's parking lot; there was not a pharmacist present and the pharmacy was closed at the time. Such conduct indicates that the pharmacy no longer meets the qualifications of a terminal distributor within the meaning of Section 4729.55 of the Ohio Revised Code.
- (4) East Main Street Pharmacy did, on or about November 27, 2007, cease to satisfy the qualifications of a terminal distributor, to wit: the responsible pharmacist failed to maintain supervision and control over the custody and possession of dangerous drugs acquired on behalf of the pharmacy. Specifically, at approximately 11:00 a.m. a delivery of dangerous drugs,

purchased from a wholesaler, was placed in a pharmacy technician's automobile which was parked in the pharmacy's parking lot; there was not a pharmacist present and the pharmacy was closed at the time. Such conduct indicates that the pharmacy no longer meets the qualifications of a terminal distributor within the meaning of Section 4729.55 of the Ohio Revised Code.

CONCLUSIONS OF LAW

Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs as provided in Division (A)(7) of Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of East Main Street Pharmacy as follows:

Pursuant to Section 4729.57 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 one thousand dollars (\$1,000.00) on East Main Street Pharmacy and payment in full 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.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-6/Nay-2).

Jerome Wiesenhahn moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-6/Nay-2).

Gregory Braylock moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed (Aye-8/Nay-0).

- 5:33 p.m. The Board discussed the proposal from **Humana RightSourceRx** that had been presented earlier in the day. The consensus of the Board was that the issue should be tabled for one month to allow the members time to consider the proposal more fully. In the meantime, staff was instructed to request that the company refrain from sending any of the drugs in question into Ohio until a final decision was reached.
- 5:47 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. Casar and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.
- 6:50 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>02/02/09</u>	<u>02/03/09</u>	<u>Total</u>
Braylock	1	1	2
Casar	1	1	2
Gregg	1	1	2
Kaderly	1	1	2
Kolezynski	1	1	2
Lange	1	1	2
Lipsyc	1	1	2
Pasquale	1	1	2
Wiesenhahn	1	1	2

6:50 p.m. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 7.

6:51 p.m. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

The Ohio State Board of Pharmacy approved these Minutes March 3, 2009
