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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 May 4-7, 2009 Meeting of the Ohio State Board of Pharmacy

Monday, May 4, 2009

- 9:00 a.m. The Ohio State Board of Pharmacy convened in the Ralph Regula Conference Center of Northeastern Ohio University College of Pharmacy, Rootstown, Ohio, with the following members present:
- Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; 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 Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; Chris Reed, *Compliance Supervisor*; David Rowland, *Legal Affairs Administrator*; Tracy Marie Greuel, *Assistant Attorney General*, and Elizabeth Hartnett, *Assistant Attorney General*.
- 9:05 a.m. Mr. McMillen presented the Licensing Report to the Board.
- 9:15 a.m. Mr. Braylock arrived and joined the meeting in progress.
- 9:20 a.m. Mr. Keeley presented the Legislative Report to the Board.
- 9:50 a.m. The Board recessed briefly.
- 10:03 a.m. The Board was joined by Assistant Attorney General Elizabeth Hartnett to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Vienna Medical Arts Clinic (02-0236750) / Mark Davis**, D.O., Vienna, Ohio.
- 11:46 a.m. The Board recessed for lunch.
- 1:03 p.m. The adjudication hearing in the matter of **Vienna Medical Arts Clinic and Mark Davis** resumed.
- 1:47 p.m. The hearing ended and the record was closed. The Board recessed briefly.
- 2:03 p.m. The Board was joined by Assistant Attorney General Tracy Marie Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Lloyd Neal Fisk**, R.Ph. (03-2-19476) Grove City, Ohio.
- 3:32 p.m. The hearing ended and the record was closed.
- 3:33 p.m. The Board recessed for the day.

Tuesday, May 5, 2009

8:05 a.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present:

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

R-2009-253 Mrs. Gregg moved that the Board adopt the following recognition resolution for **William F. McMillen**, recognizing his many years of service to the Board of Pharmacy. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 8.

RESOLUTION OF THE BOARD

WHERE AS, the Board's Licensing Administrator, **William F. McMillen**, has been with the Board since April 4, 1994, giving of himself with great dedication and personal sacrifice to the benefit of the Board and the citizens of the State of Ohio for 15 years; and

WHERE AS, his efforts first as a Compliance Specialist and then as the Board's Licensing Administrator and Director of Internship have significantly contributed to the ongoing operation of the Board, enabling this Board to serve its constituents effectively and efficiently; and

WHERE AS, the Board recognizes that, upon his retirement this May 29, 2009, his daily presence in the Board office will be greatly missed;

BE IT RESOLVED that we, the undersigned Members of the Ohio State Board of Pharmacy, in the Board's one-hundred twenty-fifth year, do hereby express our profound appreciation to William F. McMillen for his dedication and service to the Board and to the citizens of Ohio; and

BE IT FURTHER RESOLVED that this resolution be spread upon the permanent minutes of the Ohio State Board of Pharmacy and a copy presented to:

William Finch McMillen, R.Ph.

8:06 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. 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 Wiesenbahn – *yes*.

8:23 a.m. The Executive Session ended and the meeting was opened to the public.

R-2009-254 After votes were taken in public session, the Board adopted the following order in the matter of **Lloyd Neal Fisk, R.Ph.** (03-2-19476) Grove City, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-081211-037

in the matter of:

LLOYD NEAL FISK, R.Ph.

3553 Lake Mead Drive
Grove City, Ohio 43123

R.Ph. Number 03-2-19476

INTRODUCTION

The matter of Lloyd Neal Fisk came for hearing on May 4, 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Barton G. Kaderly, Board Member, absent.

Lloyd Neal Fisk was represented by Daniel D. Connor. The State of Ohio was represented by Elizabeth G. Hartnett, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Lloyd Neal Fisk, R.Ph., Respondent
Jarrod Warren Grossman, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Daniel D. Connor, Esq. [12-05-08]
1A-1C. Procedurals
2. State Board of Pharmacy Order in re Lloyd Neal Fisk, R.Ph. [05-14-08]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Lloyd Fisk [08-22-08]
- B. The Woods at Parkside Aftercare Report from Doug Blair MA, LICDC [04-22-09]
- C. First Lab OHPRO Test History Reports [11-29-07 to 03-28-09]; Drug Screen Panel [10-11-06]
- D. Support Group Attendance Records [03-18-08 to 04-30-09]
- E. Four Letters of Support [04-02-09 to 04-09-09]
- F. State of Ohio County of Franklin Affidavit of Probation [04-28-09]
- G. Continuing Pharmaceutical Education Credits and Certificates [09-19-06 to 04-27-08]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Lloyd Neal Fisk has complied with the terms set forth in the

Order of the State Board of Pharmacy, Docket No. D-070910-008, effective May 14, 2008.

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. 03-2-19476, held by Lloyd Neal Fisk to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Lloyd Neal Fisk must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before 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 to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Lloyd Neal Fisk 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 Lloyd Neal Fisk's progress towards recovery and what Lloyd Neal Fisk 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 Lloyd Neal Fisk'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) Lloyd Neal Fisk may not serve as a responsible pharmacist.
 - (3) Lloyd Neal Fisk may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Lloyd Neal Fisk must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Lloyd Neal Fisk must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Lloyd Neal Fisk must abide by the rules of the State Board of Pharmacy.
 - (7) Lloyd Neal Fisk must comply with the terms of this Order.
 - (8) Lloyd Neal Fisk'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.

Lloyd Neal Fisk 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 I. Gregg moved for Findings of Fact and the Decision of the Board; Richard F. Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0/Abstain-1).

R-2009-255 After votes were taken in public session, the Board adopted the following order in the matter of **Vienna Medical Arts Clinic (02-0236750) / Mark Davis, D.O.** Vienna, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090313-120

in the matter of:

VIENNA MEDICAL ARTS CLINIC, INC.

c/o MARK DAVIS, D.O.

341 Youngstown-Kingsville Road

P.O. Box 117

Vienna, Ohio 44473

License Number 02-0236750

INTRODUCTION

The matter of Vienna Medical Arts Clinic, Inc. came for hearing on May 4, 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Barton G. Kaderly, Board Member, absent.

Vienna Medical Arts Clinic, Inc. was not represented by counsel. The State of Ohio was represented by Tracy Marie Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
Mark Davis, D.O., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Photographs of Vienna Medical Arts Clinic Property [01-23-07]
2. Documentation of Dismissed Civil Case, Pamela Dougher vs. Mark E. Davis, D.O., Case No. 97-CV-2328, Trumbull County Common Pleas Court, Warren, Ohio [05-27-99]; Deposition of Pamela Dougher [02-06-98]
3. Letter from Mary Ellen Brannigan to Mark Davis, D.O. [05-07-02]; Two Letters from Michael Ockerman to Mark E. Davis, D.O. [06-07-05 and 08-04-05]; Dismissal Entry, Rose M. Schrecengost, et al. vs. Gary W. Stucke, D.O., et al., Case No. 2002-CV 2457, Court of Common Pleas Trumbull County, Ohio [08-01-05]
4. Rite Aid-540 E. Midlothian Customer History Report [01-01-03 to 07-26-06]
5. Neil Kennedy Recovery Clinic in re CI #1 with Diagnostic Codes for Substance Relations Treatment [05-26-06]
6. Prescription for Vicodin ES [08-01-06]
7. Video Snapshot Photographs of CI #1 with Dr. Davis [08-01-06]
8. Bank Check and Patient Office Visit Receipt [08-01-06]
9. Photographs of XXX Magazine and Video Covers Found in Medical Office [02-12-07]
10. Search Warrant, Inventory Sheet and Photographs of Medical Office [02-12-07]
11. Mahoning Valley Law Enforcement Task Force Constitutional Rights and Waiver Sheets Signed by Mark Davis [02-12-07]; Notarized Statement of Mark Davis, D.O. [02-12-07]
12. Finding on Guilty Plea to Bill of Information, State of Ohio vs. Mark Davis, Case No. 09-CR-18-A, Court of Common Pleas Trumbull County, Ohio [01-28-09]; Bill of Information [01-28-09]
13. Prescription for Vicodin [01-05-07]
14. Three Video Photographs of CI #2 with Dr. Davis [01-05-07]
15. Copy of Notice of Opportunity for Hearing letter [03-13-09]
- 15A-15D. Procedurals

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 Vienna Medical Arts Clinic, Inc. is licensed with the State Board of Pharmacy as a Terminal Distributor of

Dangerous Drugs and Mark Davis, D.O. is the Responsible Person pursuant to Rule [4729-5-11 or 4729-17-02] of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

- (2) Vienna Medical Arts Clinic did, on or about August 1, 2006, knowingly sell or offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the supervising physician, Mark Davis, sold a prescription for 30 tablets of Vicodin ES 7.5 mg to another in exchange for sexual acts. On January 27, 2009, Dr. Davis pled guilty to Trafficking in Drugs. State of Ohio vs Davis, Case No. 09 CR 18-A, Trumbull County Common Pleas Court. Such conduct, constitutes violating a provision of Chapter 2925. of the Ohio Revised Code.
- (3) Vienna Medical Arts Clinic did, on or about January 5, 2007, knowingly sell or offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: the supervising physician, Mark Davis, sold a prescription for 5 tablets of Vicodin 5 mg to another in exchange for sexual acts. On January 27, 2009, Dr. Davis pled guilty to Trafficking in Drugs. State of Ohio vs Davis, Case No. 09 CR 18-A, Trumbull County Common Pleas Court. Such conduct, constitutes violating a provision of Chapter 2925. of the Ohio Revised Code.
- (4) Vienna Medical Arts Clinic did, on or about January 27, 2009, cease to satisfy the qualifications of a terminal distributor of dangerous drugs, to wit: Dr. Mark Davis, the owner, agent, and/or employee of the facility was found guilty of violating a provision of Chapter 2925. of the Ohio Revised Code, and adequate safeguards are not assured to prevent the recurrence of the violation pursuant to Section 4729.57 of the Ohio Revised Code within the meaning of Section 4729.55 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute violating provisions of the federal drug abuse control laws or Chapter 2925. of the Revised Code as provided in Division (A)(4) of Section 4729.57 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes 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 Vienna Medial Arts Clinic, Inc., as follows:

- (1) 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 terminal distributor license, No. 02-0236750, held by Vienna Medical Arts Clinic, Inc., effective as of the date of the mailing of this Order.
- (2) 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 terminal distributor license, No. 02-0236750, held by Vienna Medical Arts Clinic, Inc., effective as of the date of the mailing of this Order.

Vienna Medical Arts Clinic, Inc., pursuant to Section 4729.57(C)(1) of the Ohio Revised Code, must return the license to the office of the State Board of Pharmacy immediately after receipt of this Order. The license should be sent by certified mail, return receipt requested.

Elizabeth I. Gregg moved for Findings of Fact; Jerome J. Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0/ Abstain-1).

Elizabeth I. Gregg moved for Conclusions of Law; Heather L. Pasquale seconded the motion. Motion passed (Aye-7/Nay-0/Abstain-1).

Gregory Braylock moved for Action of the Board; Deborah A. Lange seconded the motion. Motion passed (Aye-7/Nay-0/Abstain-1).

8:39 a.m. The Board was joined by Assistant Attorney General Tracy Marie Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jonathan Price Shelton**, R.Ph. (03-3-11927) Dayton, Ohio.

9:32 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. 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*.

10:00 a.m. The Executive Session ended and the **Jonathan Price Shelton** adjudication hearing resumed.

11:21 a.m. The adjudication hearing was continued to a date and time certain, 8:00 a.m., June 10, 2009.

11:22 a.m. The Board recessed for lunch.

1:30 p.m.

R-2009-256

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 to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. McMillen.

Diane Benedict	<i>Pennsylvania</i>	Mary Ellen Colleen Mitchell	<i>Pennsylvania</i>
Seth Patrick Brownlee	<i>Maryland</i>	Erica Elizabeth Nelson	<i>Illinois</i>
Tracey L. Cardone	<i>Pennsylvania</i>	Stacie Boudreaux Palmer	<i>West Virginia</i>
Kristen Carmichael	<i>Texas</i>	Amanda Mae Shaw	<i>Tennessee</i>
Sylvain Casimir	<i>Massachusetts</i>	Matthew Steven Shaw	<i>Tennessee</i>
Andrea B. Conte	<i>Illinois</i>	Jess E. Slack	<i>Oklahoma</i>
Brenda Kay Foster	<i>Arkansas</i>	Jami Melissa Snider	<i>Tennessee</i>
Kiley Nicole Grafton	<i>Pennsylvania</i>	Bojana Stevich	<i>Tennessee</i>
Charles Semo Imhoff III	<i>Louisiana</i>	Carol Tice	<i>Pennsylvania</i>

1:57 p.m. The Board meeting resumed in Room East B.

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

3:20 p.m. The Executive Session ended and the meeting was opened to the public.

R-2009-257 After consideration, Mr. Braylock moved that an extension request from **Alexis Lee Kay**, intern (06-0-05884) Medina, Ohio to the allotted time to take NAPLEX, be granted. The motion was seconded by Ms. Lange and approved by the Board: *Aye – 7; Nay – 1.*

R-2009-258 After consideration, Mr. Braylock moved that an extension request from **Stephen David Powers**, intern (06-0-05742) Portland, Ohio to the allotted time to take NAPLEX, be granted. The motion was seconded by Ms. Lange and approved by the Board: *Aye – 7; Nay – 1.*

Mr. Winsley announced that the following Settlement Agreements had been signed by all parties, making them effective.

R-2009-259 SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
Docket Number D-090123-038

in the matter of:

Mullaney's Pharmacy
6096 Montgomery Road
Cincinnati, Ohio 45213

TDDD Number 02-0602900

This Settlement Agreement is entered into by and between Mullaney's Pharmacy 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.

Mullaney's Pharmacy voluntarily enters into this Agreement being fully informed of its 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. Mullaney's Pharmacy acknowledges that by entering into this agreement it has waived its 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, Mullaney's Pharmacy is licensed as a Terminal Distributor of Dangerous Drugs in the State of Ohio.

Whereas, on or about January 23, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Mullaney's Pharmacy was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Mullaney's Pharmacy requested a hearing; it was scheduled. The Notice of Opportunity contains the following allegations attached hereto and are incorporated herein.

Mullaney's Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Mullaney's Pharmacy has taken all necessary to resolve the deficiencies of recordkeeping alleged in the Notice of Opportunity for Hearing. The Board has completed a follow-up inspection and has confirmed this averment.
- (B) Mullaney's Pharmacy agrees to the imposition of a monetary penalty of Five Thousand Dollars (\$5,000.00) due and owing within thirty days from the effective date of this Agreement. 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.

Mullaney's Pharmacy acknowledges that it 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.

Mullaney's Pharmacy waives any and all claims or causes of action it 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. Mullaney's Pharmacy 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/ Mullaney's Pharmacy Date Signed: 04/10/09

*Mullaney's Pharmacy, Respondent
Responsible Pharmacist*

/s/ Monica H. McPeek Date Signed: 04/13/09

Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 05/05/09

President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk by Tracy Marie Greuel Date Signed: 05/12/09

Ohio Assistant Attorney General

in the matter of:

Martin J. Mullaney, R.Ph.

8838 Kenwood Road

Cincinnati, Ohio 45242

R.Ph. Number 03-1-07777

This Settlement Agreement is entered into by and between Martin J. Mullaney, R.Ph. 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.

Martin J. Mullaney, R.Ph. 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. Martin J. Mullaney, R.Ph. 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, Martin J. Mullaney, R.Ph. is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 23, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Martin J. Mullaney, R.Ph. 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. Martin J. Mullaney, R.Ph. requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto and are incorporated herein.

Martin J. Mullaney, R.Ph. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Martin J. Mullaney, R.Ph. knowingly and voluntarily agrees to the imposition of a monetary penalty of Five Hundred Dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. 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

Martin J. Mullaney, R.Ph. 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.

Martin J. Mullaney, R.Ph. 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. Martin J. Mullaney, R.Ph. 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/ Martin J. Mullaney, R.Ph. Date Signed: 04/10/09
Respondent

/s/ Monica H. McPeck Date Signed: 04/13/09
Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 05/05/09
President; Ohio State Board of Pharmacy

/s/ Sally Ann Steuk/by Tracy Greuel Date Signed: 05/12/09
Ohio Assistant Attorney General

R-2009-261

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-080911-019

in the matter of:

Eastside Urgent Care
c/o Noor Hassan, M.D.
872 Ohio Pike
Cincinnati, Ohio 45245

TDDD Number 02-1611800

This Settlement Agreement is entered into by and between Eastside Urgent Care 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.

Eastside Urgent Care voluntarily enters into this Agreement being fully informed of its 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. Eastside Urgent Care acknowledges that by entering into this agreement it has waived its 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, Eastside Urgent Care is licensed as a Terminal Distributor of Dangerous Drugs in the State of Ohio.

Whereas, on or about September 11, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Eastside Urgent Care was notified of the allegations or charges

against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Eastside Urgent Care requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto, which are incorporated herein.

Eastside Urgent Care neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; 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, Eastside Urgent Care knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Eastside Urgent Care agrees to the imposition of a monetary penalty of Two Thousand Five Hundred Dollars (\$2,500.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty should be made payable to "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.
- (B) Within three weeks of the date of the preparation and presentment of this agreement, said period to commence no later than April 13, 2009, the owner of the facility Tasnim Weldon will have transitioned out of the facility and will not physically enter back into the facility or direct or operate any functions performed within the facility for a minimum period of six months. Tasnim Weldon is banished from the facility and its operations until such time as she has petitioned the Board to lift this term, and she demonstrates to the satisfaction of the Board that she can and will comply with all applicable state and federal laws and regulations pertaining to the distribution of dangerous drugs. At such hearing, Tasnim Weldon must also demonstrate that she has complied with the terms of this Agreement.
- (C) All activity within the facility will be conducted in compliance with all applicable state and federal laws and regulations pertaining to the distribution of dangerous drugs. A Responsible Person must be designated and must function so as to oversee the operations of Eastside Urgent Care and compliance with said laws and regulations.
- (D) During the next six months, the Board will conduct at least two unannounced inspections at Eastside Urgent Care. All violations noted in the Notice of Opportunity for Hearing must have been, and remain, corrected. Board agents must be given immediate access to the facility and its records.
- (E) During the term of this Agreement, if Board agents are denied access to the facility during normal business hours for any reason, or if Tasnim Weldon physically appears at the facility or attempts to operate the facility in any manner prior to Board approval, Eastside Urgent Care agrees to the immediate and permanent revocation of its T.D.D.D license. It is further agreed that such revocation shall not be appealable under Chapter 119. of the Ohio Revised Code or any other Provision of law or rule.

Eastside Urgent Care acknowledges that it 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.

Eastside Urgent Care waives any and all claims or causes of action it 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. Eastside Urgent Care 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/ Eastside Urgent Care, by Noor Hassan, MD Date Signed: 04/29/09
Respondent

/s/ Douglas E. Graff Date Signed: 04/30/09
Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 05/05/09
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 05/12/09
Ohio Assistant Attorney General

R-2009-262

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
Docket Number D-090219-106

in the matter of:

LISA ELAINE WOJTOWICZ, R.Ph.
9902 Fairmont Boulevard
Newbury, Ohio 44065

R.Ph. Number 03-2-16588

This Settlement Agreement is entered into by and between Lisa Elaine Wojtowicz 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.

Lisa Elaine Wojtowicz 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. Lisa Elaine Wojtowicz acknowledges that by entering into this agreement she 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, Lisa Elaine Wojtowicz is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 19, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Lisa Elaine Wojtowicz 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. Lisa Elaine Wojtowicz accepted this offer for settlement rather than a hearing. The February 19, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Lisa Elaine Wojtowicz was originally licensed in the State of Ohio on August 6, 1986, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Lisa Elaine Wojtowicz 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 Lisa Elaine Wojtowicz submitted 0.1 Continuing Education Unit (C.E.U.) of continuing education 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.

Lisa Elaine Wojtowicz neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 19, 2009; she avers that it was simply oversight. 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, Lisa Elaine Wojtowicz knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Lisa Elaine Wojtowicz herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Lisa Elaine Wojtowicz will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Lisa Elaine Wojtowicz'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, Lisa Elaine Wojtowicz 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.

Lisa Elaine Wojtowicz 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.

/s/ Lisa Elaine Wojtowicz, R.Ph. Date Signed: 04/27/09
Respondent

/s/ Nathan S. Lipsyc Date Signed: 05/05/09
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 05/12/09
Ohio Assistant Attorney General

R-2009-263

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
Docket Number D-080916-021

in the matter of:

James G. Koehl, R.Ph.
449 Melmore Street
Tiffin, Ohio 44883

R.Ph. Number 03-3-13386

This Settlement Agreement is entered into by and between James G. Koehl, R.Ph. 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.

James G. Koehl, R.Ph. 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. James G. Koehl, R.Ph. 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, James G. Koehl, R.Ph. is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about September 16, 2008, pursuant to Chapter 119. of the Ohio Revised Code, James G. Koehl, R.Ph. 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. James G. Koehl, R.Ph. requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto and are incorporated herein.

James G. Koehl, R.Ph. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, James G. Koehl, R.Ph. knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) James G. Koehl, R.Ph. agrees to the imposition of a monetary penalty of One Thousand Dollars (\$1,000.00) due and owing within thirty days from the effective date of this Agreement. 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
- (B) James G. Koehl, R.Ph. must obtain, within six (6) months time from the effective date of this Agreement, 3 hours of continuing education (0.3 CEUs) in Board-approved jurisprudence, which may not also be used for license renewal.

James G. Koehl, R.Ph. 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.

James G. Koehl, R.Ph. 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. James G. Koehl, R.Ph. 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/ James G. Koehl, R.Ph. Date Signed: 04/23/09
Respondent

/s/ Kevin P. Beyers Date Signed: 04/22/09
Attorney for Respondent

/s/ Nathan S. Lipsyc Date Signed: 05/05/09
President; Ohio State Board of Pharmacy

/s/ Tracy M. Greuel Date Signed: 05/12/09
Ohio Assistant Attorney General

R-2009-264 Mr. Braylock moved that the citation issued to **Michael Robert Barnett**, R.Ph. (03-2-23507) Bowling Green, Ohio be withdrawn. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 8.

R-2009-265 Mrs. Gregg moved that the citation issued to **Marilyn Dix Smith**, R.Ph. (03-2-08931) Voorhees, New Jersey be withdrawn. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 8.

3:20 p.m. The Board recessed for the day.

Wednesday, May 6, 2009

- 9:00 a.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Cent 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*; Donald M. Casar, R.Ph.; Barton G. Kaderly, Public Member; Deborah A. Lange, R.Ph.; Richard F. Kolezynski, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.
- Mrs. Droz discussed the Prescription Drug Monitoring Program.
- 9:36 a.m. A **CVS Caremark Corporation** Work-Delivery program was presented to the Board by CVS representatives.
- 9:47 a.m. Mr. Braylock arrived and joined the meeting in progress.
- 10:29 a.m. The meeting concerning **CVS Caremark Corporation** ended and the Board recessed briefly.
- 10:37 a.m.
R-2009-266 Mrs. Gregg moved that annual dues to the Alliance of States with Prescription Drug Monitoring Programs be authorized. The motion was seconded by Mr. Braylock and approved by the Board: *Aye* – 8.
- 10:39 a.m. The Board was joined by Assistant Attorney General Elizabeth Hartnett to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Janet Stickler**, R.Ph., (03-2-13279) Lewiston, Idaho.
- 10:59 a.m. The hearing concluded and the record was closed.
- 11:02 a.m. The Board was joined by Assistant Attorney General Elizabeth Hartnett to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **James Crider**, R.Ph., (03-3-23797) Aliquippa, Pennsylvania. Mr. Lipsyc recused himself from the considerations.
- 11:25 a.m. The hearing concluded and the record was closed.
- 11:26 a.m. Mr. Kolezynski 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 Wiesenbahn – *yes*.
- 12:00 noon The Executive Session ended and the meeting was opened to the public.

R-2009-267 After votes were taken in public session, the Board adopted the following order in the matter of **James Crider, R.Ph.**, (03-3-23797) Aliquippa, Pennsylvania.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090324-125

in the matter of:

JAMES SCOTT CRIDER, R.Ph.

3057 Kane Road
Aliquippa, PA 15001

R.Ph. Number 03-3-23797

INTRODUCTION

The matter of James Scott Crider came for consideration on May 6, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, 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. Wiesenhahn, R.Ph.

Nathan S. Lipsyc, R.Ph., recused.

James Scott Crider was not present nor was he represented by counsel. The State of Ohio was represented by Elizabeth G. Hartnett, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity For Hearing letter [03-24-09]
 - 1A. Procedural
2. State Board of Pharmacy Order in re James Scott Crider, R.Ph. [12-09-04]
4. Indictment, Court of Common Pleas County of Summit, Ohio, Case No. 2009-03-0757 [03-24-09]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that James Scott Crider was originally licensed in the State of Ohio on August 3, 1999, pursuant to reciprocity, and that his license to practice pharmacy in Ohio was summarily suspended effective March 24, 2009. Records further reflect that James Scott Crider was previously disciplined by the Board on December 9, 2004.

- (2) James Scott Crider 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: James Scott Crider has admitted that he is addicted to the use of OxyContin, a Schedule II Controlled Substance. James Scott Crider has admitted to stealing, consuming, and being impaired due to abusing controlled substances while practicing pharmacy. Such conduct indicates that James Scott Crider is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) James Scott Crider did, on or about March 11, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Village Green Pharmacy, beyond the express or implied consent of the owner, to wit: James Scott Crider has admittedly stolen at least 2 tablets of OxyContin, a Schedule II Controlled Substance, on this date. 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 paragraph (3) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to James Scott Crider on March 24, 2009.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-23797, held by James Scott Crider and such suspension is effective as of the date of the mailing of this Order.

- (A) James Scott Crider, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
- (B) James Scott Crider, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after a minimum of one year from the effective date of this Order, the Board will consider any petition filed by James Scott Crider for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) James Scott Crider must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, mail a copy of the contract to the Board office. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) James Scott Crider must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) James Scott Crider must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.

- (D) If reinstatement is not accomplished within three years of the effective date of this Order, James Scott Crider must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) examination.
- (E) Upon such time as the Board may consider reinstatement, James Scott Crider will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

Donald M. Casar moved for Findings of Fact; Deborah A. Lange seconded the motion. Motion passed (Aye-7/Nay-0).

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

Gregory Braylock moved for Action of the Board; Heather L. Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

R-2009-268 After votes were taken in public session, the Board adopted the following order in the matter of **Janet Stickler**, R.Ph., (03-2-13279) Lewiston, Idaho.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090313-122

in the matter of:

JANET E. STICKLER, R.Ph.

1221 Bryden Avenue
Lewiston, ID 82501

R.Ph. Number 03-2-13279

INTRODUCTION

The matter of Janet E. Stickler came for consideration on May 6, 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.

Janet E. Stickler was not present nor was she represented by counsel, rather, pursuant to Section 110.07 of the Ohio Revised Code Janet E. Stickler presented her position and contentions in writing. The State of Ohio was represented by Elizabeth G. Hartnett, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Homer Chapa, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity For Hearing letter [03-13-09]
 - 1A. Procedural
2. Renewal Application for Pharmacist License of Janet E. Stickler, R.Ph. [08-23-08]

3. Idaho Board of Pharmacy Report of Investigation in re Janet E. Stickler, R.Ph. [08-07-07]
4. Lewiston, Idaho Police Department Investigation Report in re Janet E. Stickler [07-26-07]
5. Idaho Board of Pharmacy Stipulation and Order, Case No. 07-65 in re Janet Stickler, R.Ph. [10-26-07]
6. Letter from Janet E. Stickler, R.Ph. [03-19-09]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Janet E. Stickler was originally licensed in the State of Ohio on August 9, 1978, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Janet E. Stickler was, on or about September 28, 2007, suspended from the practice of pharmacy by the Idaho Board of Pharmacy for one year, and placed on probation for four years with stipulations, for being impaired. Janet E. Stickler was found stealing wine and drugs from her employer pharmacy, and being under the influence of alcohol while practicing pharmacy. Janet E. Stickler self-reported this action to the Ohio Board during renewal in 2008. Such conduct constitutes being guilty of unprofessional conduct in the practice of pharmacy and/or being impaired physically or mentally to such a degree as to render her unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Janet E. Stickler submitted her position and contentions in writing which were considered.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

Pursuant to Section 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 Janet E. Stickler as follows:

On the basis of the Findings of Fact and Conclusions of Law set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby Orders that Janet E. Stickler must show continuous compliance with her October 26, 2007, State of Idaho Board of Pharmacy Stipulation and Order. In order to show compliance, Janet E. Stickler must submit quarterly progress reports to the Ohio State Board of Pharmacy (due January 10, April 10, July 10, and October 10 of each year until the termination of her State of Idaho Board of Pharmacy Stipulation and Order.

Further, prior to practicing pharmacy in Ohio, Janet E. Stickler must personally appear before the Ohio State Board of Pharmacy to show fitness to practice pharmacy.

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

Donald M. Casar moved for Conclusions of Law; Heather L. Pasquale seconded the motion. Motion passed (Aye-8/Nay-0).

Elizabeth I. Gregg moved for Action of the Board; Barton G. Kaderly seconded the motion. Motion passed (Aye-8/Nay-0).

After discussion, Mr. Braylock moved that the citation sent to **Rita McDonald** be withdrawn. The motion was seconded by Ms. Lange and it was approved by the Board: *Aye* – 8.

12:02 p.m. The Board recessed for lunch.

1:03 p.m. The Board reconvened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

R-2009-269 Mr. Keeley presented a request from **Home Care Pharmacy of Cincinnati**, (02-056600) to utilize remote pharmacy computer access. After discussion, Mrs. Gregg moved that the company be requested to meet with the Board for further discussion before a decision on the request can be made. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 7; *Nay* – 1.

1:17 p.m.

R-2009-270 Mr. McMillen presented a request from **Bogomir Kuhar**, R.Ph. (03-2-13105) Powell, Ohio, representing **Catalyst RX**, to be approved as a Continuing Education Provider. Ms. Pasquale moved that the request be approved and Mrs. Gregg seconded the motion. It was approved by the Board: *Aye* – 7; *Nay* – 1.

1:42 p.m.

R-2009-271 After discussion, Mrs. Gregg moved that the Board minutes of April 6-8, 2009, be approved as amended. Mr. Kaderly seconded the motion and it was approved by the Board: *Aye* – 8.

Mr. Braylock said the Nursing Board Committee on Prescriptive Governance did not meet in April, but is scheduled to meet May 11, 2009.

Ms. Lange said there was no Medical Board Physician Assistant Policy Committee meeting this month.

Mr. Benedict said there was no Medical Board Prescribing Committee report.

Mr. Keeley presented the Legislative Report.

R-2009-272 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 , Poland, Ohio	(02-1678950)
Cleveland Eye Specialists , South Euclid, Ohio	(02-1633600)

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. Kolezynski and approved by the Board: *Aye* – 8.

R-2009-273 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 , Poland, Ohio	(02-1678950)
Retina Vitreous Associates , Lima, Ohio	(02-1657250)
Retina Vitreous Associates , Lima, Ohio	(02-1936950)
Retina Vitreous Associates , Sandusky, Ohio	(02-1657300)
Retina Vitreous Associates , Bryan, Ohio	(02-1657200)
Retina Vitreous Associates , Mansfield, Ohio	(02-1657050)
Retina Vitreous Associates , Westerville, Ohio	(02-1657150)
Retina Vitreous Associates , Findlay, Ohio	(02-1657000)

After discussion, Mr. Casar 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. Wiesenhahn and approved by the Board: *Aye* – 8.

R-2009-274 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Troy Allen Shirley**, R.Ph. (03-2-22871) Powell, Ohio, be permitted to be the responsible person for the following sites:

Dublin Methodist Hospital Pharmacy , Dublin, Ohio	(02-1764100)
Grady Memorial Hospital Pharmacy , Delaware, Ohio	(02-0035800)

After discussion, Mr. Wiesenhahn moved that the Board deny the request. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 8.

R-2009-275 After further discussion, Mr. Kaderly moved that the **CVS Caremark Corporation** Work-Delivery program request be denied. The motion was seconded by Mr. Braylock and approved by the Board: *Aye* – 4; *Nay* – 2; *Abstain* – Kolezynski and Pasquale.

3:44 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 Wiesenhahn – *yes*.

4:30 p.m. The Executive Session ended and the meeting was recessed.

Thursday, May 7

9:05 a.m. The Ohio State Board of Pharmacy Public Hearing convened in the Administrative Hearing Room, 3rd Floor, of Rhodes Tower, 20 East Broad Street, Columbus, Ohio, with the following members present:

Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, 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. Wiesenhahn, R.Ph.

9:40 a.m. The public hearing ended and the record was closed.

9:41 a.m. Ms. Pasquale moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>05/04</u>	<u>05/05</u>	<u>05/06</u>	<u>05/07</u>	<u>Total</u>
Braylock	1	1	1	1	4
Casar	1	1	1	1	4
Gregg	1	1	1	1	4
Kaderly	-	1	1	1	3
Kolezynski	1	1	1	1	4
Lange	1	1	1	1	4
Lipsyc	1	1	1	-	3
Pasquale	1	1	1	1	4
Wiesenhahn	1	1	1	1	4

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

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

**The Ohio State Board of Pharmacy
approved these Minutes June 9, 2009**