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Minutes of the January 4-6 , 2010 **Meeting of the Ohio State Board of Pharmacy**

Monday, January 4, 2010

10:03 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:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; Mark Keeley, *Legislative Affairs Administrator*; Kyle Parker, *Licensing Administrator*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Tracy Greuel, *Assistant Attorney General*.

Board President Elizabeth Gregg introduced the new Public Member, Edward T. Cain, and administered the Oath of Office.

R-2010-101

OATH OF NEW MEMBER

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

10:10 a.m. Mr. Casar 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. Joyce and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:02 a.m. The Executive Session ended and the meeting was opened to the public. The Board recessed briefly.

R-2010-102

The Board considered a request from **Karen Paula Littman**, R.Ph. (03-3-14408) Cincinnati, Ohio, suspended November 6, 2009, for a Settlement Agreement in lieu of a previously filed appeal to her suspension order. Mr. Casar moved that the request be denied. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 7.

R-2010-103 Mr. Joyce moved that the Board accept a settlement offer in the matter of **Daniel Lee Burt**, R.Ph. (03-2-12740) Waterloo, Ohio, as amended by the Board. The Board's acceptance of the settlement would be contingent on the respondent agreeing to the changes made by the Board. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye – 7*.

R-2010-104 The Board considered a request from **Noah Lee Sharp**, R.Ph. (03-3-28869) Chillicothe, Ohio, seeking the Board's approval of an employment offer, if it did not violate the terms of his Board Order of November 2009. After discussion, Ms. Lange made a motion stating that the request would violate the order. The motion was seconded by Mr. Kolezynski. It was approved by the Board: *Aye – 7*.

11:13 a.m. Mr. Casar reported that the Nursing Board Committee on Prescriptive Governance did not meet in December.

Ms. Lange reported that the Medical Board's Physician-Assistant Policy Committee did not meet in December.

Mr. Keeley presented the Legislative Report.

Mr. Benedict said the Medical Board Prescribing Committee December agenda did not contain any items pertaining to the Pharmacy Board.

Mr. Keeley and Ms. Lange presented the technician exam report.

Mrs. Droz presented the Ohio Automated Prescription Reporting System update.

Mr. Keeley announced that on December 17, 2009, the new and amended rules were final-filed and became effective January 1, 2010.

11:57 a.m. The Board recessed for lunch.

1:45 p.m. The Board reconvened with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Waynecharles K. Kuikahi, Jr.**, R.Ph. (03-2-26502) Canton, Ohio.

4:12 p.m. The hearing ended and the record was closed.

4:12 p.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 Ms. Lange and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

4:38 p.m. The Executive Session ended and the meeting was opened to the public.

R-2010-105 After votes were taken in public session, the Board adopted the following order in the matter of **Waynecharles K. Kuikahi, Jr.**, R.Ph. (03-2-26502) Canton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070213-033

in the matter of:

Waynecharles K. Kuikahi, Jr., R.Ph.

6107 Wiclif Street, N.E.

N. Canton, Ohio 44721

R.Ph. Number 03-2-26502

INTRODUCTION

The matter of Waynecharles K. Kuikahi, Jr. came for hearing on January 4, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Troy A. Gahm, R.Ph., absent.

Waynecharles K. Kuikahi, Jr. was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Thomas Miksch, Ohio State Board of Pharmacy
Waynecharles K. Kuikahi, Jr., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [02-13-07]
1A-1G. Procedurals
2. Ohio State Board of Pharmacy Order in re Waynecharles K. Kuikahi, Jr., R.Ph. [04-05-01]
3. Indictment: Direct, Court of Common Pleas County of Summit, Ohio, Case No. 2006-07-2427 [07-18-06]
4. Journal Entry, The State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [11-15-06]
5. Sentencing Recommendation, State of Ohio vs. Wayne C. Kuikahi, Case No. 06 07 2427 [11-15-06]
6. Defendant's answer to Sentencing Recommendation, State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [12-13-06]
7. Journal Entry, The State of Ohio vs. Wayne C. Kuikahi, Case No. CR 06 07 2427 [12-20-06]
8. Letter from Wayne K. Kuikahi [05-09-07]
9. Complaint and disposition, Portage County Municipal Court No. 94-16401 [11-03-94]
10. Criminal Case Information, Massillon Municipal Court District, Stark County, Ohio, Case No. CRB 9601167 [06-13-96]
11. Complaint and Disposition, State of Ohio vs. Waynecharles K. Kuikahi, Jr., State of Ohio Portage County Municipal Court, Case No., 97CRB1909 [10-31-96]
12. Journal Entry and Summons, State of Ohio vs. Waynecharles K. Kuikahi, Jr., Case No. 96CRB-18455 [12-31-96]
13. Journal Entry, State of Ohio vs. Waynechar (sic) K. Kuikahi, Case No. CR 345572, Cuyahoga County, Ohio Court of Common Pleas [04-28-97]

Respondent's Exhibits:

- A-1. Letter from Susan Kirksey, LPCC, LICDC [12-23-09]
- A-2. Victim impact statement [not dated]
- A-3. Ten letters of support [11-24-06 to 07-21-09]
- A-4. Placement Approval, State of Ohio Division of Parole and Community Services [07-13- 09]; Adult Parole Authority Conditions of Supervision [11-26-09]
- A-5. Seven certificates of completion for Anger Management/Emotional and Psychological Rehabilitation programs [10-01-07 to 08-10-09]
- A-6. Recovery attendance records and certificates [01-25-08 to 12-30-09]
- A-7. Extracurricular activities and volunteer services certificates [04-06-07 to 04-17-08]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Waynecharles K. Kuikahi, Jr. was originally licensed in the State of Ohio on August 31, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Waynecharles K. Kuikahi, Jr. was previously disciplined by the Board on April 5, 2001.
- (2) Waynecharles K. Kuikahi, Jr. was, on or about December 18, 2006, convicted of Felonious Assault in violation of Section 2903.11 of the Ohio Revised Code, a felony of the second degree. State of Ohio vs. Wayne C. Kuikahi, Case No. CR-06-07-2427, Summit County Common Pleas Court. Waynecharles K. Kuikahi, Jr. was sentenced to three years incarceration.
- (3) Waynecharles K. Kuikahi, Jr. is physically or mentally unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code, to wit: Waynecharles K. Kuikahi, Jr. has had numerous occasions of violence in his past during which the police were called to resolve the situations; Waynecharles K. Kuikahi, Jr. has indicated to a Board agent that he gets agitated at work and with everyone at work to the point that he hates his life, job, and customers, both arguing with and belittling his customers.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being impaired mentally to such a degree as to render Waynecharles K. Kuikahi, Jr. unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-26502, held by

Waynecharles K. Kuikahi, Jr. and such suspension is effective as of the date of the mailing of this Order.

- (A) Waynecharles K. Kuikahi, Jr., 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) Waynecharles K. Kuikahi, Jr., 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 three years from the effective date of this Order, the Board will consider any petition filed by Waynecharles K. Kuikahi, Jr. 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) Waynecharles K. Kuikahi, Jr. 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, submit 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) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Waynecharles K. Kuikahi, Jr. must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Waynecharles K. Kuikahi, Jr. must provide, at the reinstatement petition hearing, documentation of the following:

- (1) A psychiatric evaluation from a licensed psychiatrist or psychologist, performed within 60 days from the date of this Order;
 - (2) Compliance with a licensed psychiatrist's or psychologist's recommended treatment plan;
 - (3) A report by the licensed psychiatrist or psychologist regarding Waynecharles K. Kuikahi, Jr.'s ability to deal with the stresses involved in the practice of pharmacy;
 - (4) Compliance with the contract required above (e.g. – proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - (5) 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;
 - (6) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within four years of the effective date of this Order, Waynecharles K. Kuikahi, Jr. must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Action of the Board; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-4/Nay-3).

4:47 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Neil Fredrick Stump**, R.Ph. (03-1-09301) Arcanum, Ohio.

6:54 p.m. The hearing ended and the record was closed.

6:55 p.m. Ms. Lange 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 Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

7:08 p.m. The Executive Session ended and the meeting was opened to the public.

7:09 p.m.

R-2010-106

After votes were taken in public session, the Board adopted the following order in the matter of **Neil Fredrick Stump**, R.Ph. (03-1-09301) Arcanum, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090908-017

in the matter of:

NEIL FREDERICK STUMP, R.Ph.

202 Maple Lane

Arcanum, Ohio 45304

R.Ph. Number 03-1-09301

INTRODUCTION

The matter of Neil Frederick Stump came for hearing on January 4, 2010 before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Troy A. Gahm, R.Ph., absent.

Neil Frederick Stump was represented by Jeffrey A. Swillinger. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Jesse Wimberly, Ohio State Board of Pharmacy
Neil Frederick Stump, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [09-09-09]
- 1A-1E. Procedurals
2. Decision and Order of Intervention in Lieu of Conviction, The State of Ohio vs. Neil F. Stump, Case No. 2009 CR 01516, Common Pleas Court of Montgomery County, Ohio [08-17-09]
3. Copy of RX #C704477 [03-02-07]
- 3a. Original RX #C704477 [03-02-07]
4. Copy of RX #C730700 [08-26-07]
5. Copy of RX #C754933 [02-06-08]
6. Copy of RX #C781897 [08-11-08]
7. Copy of RX #C805483 [01-26-09]
8. Copy of RX #797989 and RX #797991 [12-03-08]
9. Copy of RX #717626 [05-28-07]
10. Copy of RX #779304 [07-22-08]
11. Copy of RX #804857 [01-21-09]
12. Notarized Statement of Dr. Kamran Riaz [03-11-09]
13. Notarized Statement of Dr. Daniel Elshoff [03-11-09]
14. Notarized Statement of Dr. James Mayo [03-12-09]
15. CVS Pharmacy #6141 Patient Prescription Record for Neil F. Stump [01-01-07 thru 03-18-09]

Respondent's Exhibits:

- A. Copy of Montgomery County Adult Probation Attendance Card for Neil Stump [08-28-09 to 12-11-09]

- B. Letter from Murray Lynn Satterfield II BA, CDCA and Cynthia Moore, MS, LICDC of Darke County Recovery Services to Montgomery County Adult Probation in re Neil Stump [08-20-09]
- C. Termination Entry, State of Ohio vs. Neil F. Stump, Case No. 2009CR01516, Montgomery County, Ohio Common Pleas Court [12-21-09]

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 Board of Pharmacy indicate that Neil Frederick Stump was originally licensed in the State of Ohio on August 4, 1969, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended on September 9, 2009.
- (2) In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Montgomery County, Ohio, has submitted to this Board information which indicates that on August 13, 2009, Neil Frederick Stump plead guilty in the Common Pleas Court of Montgomery County, Ohio to ten (10) counts of Illegal Processing of Drug Documents, a felony of the fifth degree under Section 2925.23(B) of the Ohio Revised Code. Neil Frederick Stump was found eligible for, and granted, Intervention in Lieu of Conviction. State of Ohio vs. Neil F. Stump, Case No. 2009 CR 01516, Montgomery County Common Pleas Court.
- (3) Neil Frederick Stump is abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Neil Frederick Stump has admitted to Board agents that he created false prescriptions so as to obtain alprazolam to consume before going to bed so he can sleep "due to his work schedule." Such conduct indicates that Neil Frederick Stump is within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (4) Neil Frederick Stump did, on or about March 2, 2007, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #C704477, with 5 refills, for 60 alprazolam 0.5 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (5) Neil Frederick Stump did, on or about August 26, 2007, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #C730700, with 5 refills, for 60 alprazolam 0.5 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (6) Neil Frederick Stump did, on or about February 6, 2008, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #C754933, with 5 refills for 60 alprazolam 0.5 mg tablets, when not authorized by a prescriber. Neil Frederick Stump

dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (7) Neil Frederick Stump did, on or about August 11, 2008, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #C781897, with 5 refills, for 60 alprazolam 0.5 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925 of the Ohio Revised Code.
- (8) Neil Frederick Stump did, on or about January 26, 2009 [amended from 2008], intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #C805483, with 5 refills for 60 alprazolam 0.5 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (9) Neil Frederick Stump did, on or about May 28, 2007, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #717626, with 6 refills, for 30 Caduet 10 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (10) Neil Frederick Stump did, on or about July 22, 2008 intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #779304, with 4 refills, for 6 azithromycin 250 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (11) Neil Frederick Stump did, on or about January 21, 2009, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Neil Frederick Stump created RX #804857, with 4 refills, for 6 azithromycin 250 mg tablets, when not authorized by a prescriber. Neil Frederick Stump dispensed the drugs and maintained the document purporting to be a prescription on file at the pharmacy. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2), and (4) through (11) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2), and (4) through (11) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraphs (2), and (4) through (11) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Neil Frederick Stump on September 9, 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 adjudicates the matter of Neil Frederick Stump as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Neil Frederick Stump a monetary penalty of two thousand dollars (\$2,000.00) 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.
- (B) Neil Frederick Stump must obtain and submit, within six months from the effective date of this Order, five hours (0.5 CEUs) of approved continuing pharmacy education in Jurisprudence, which may not also be used for license renewal.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Neil Frederick Stump's practice of pharmacy in that he may not dispense prescriptions for himself or for any member of his family.
- (D) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby places Neil Frederick Stump on probation for three years. The terms of probation are as follows:
 - (1) Neil Frederick Stump must not violate the drug laws of Ohio, any other state, or the federal government.
 - (2) Neil Frederick Stump must abide by the rules of the State Board of Pharmacy.
 - (3) Neil Frederick Stump must comply with the terms of this Order.
 - (4) Neil Frederick Stump's license is deemed to be not in good standing until successful completion of the probationary period.
 - (5) 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.

Neil Frederick Stump 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.

Donald Casar moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

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

Donald Casar moved for Action of the Board; Brian Joyce seconded the motion. Motion passed (Aye-7/Nay-0).

7:12 p.m. The meeting adjourned for the day.

Tuesday, January 5, 2010

9:57 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:

Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Vice-President Heather L. Pasquale chaired the meeting in the absence of *President* Gregg.

The Board agreed to change the July 2010 meeting dates to July 7th and 8th, from the 12th and 13th.

R-2010-107 A request to be registered as a Continuing Pharmacy Education provider was received from **Jessica Shimman, University of Toledo College of Pharmacy**. After discussion, Mr. Kolezynski moved that the request be approved. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 6.

R-2010-108 Mr. Keeley presented a request for approvable status for the electronic prescribing system **MinuteClinic**. Mr. Casar moved that the system be found approvable pending final inspection. Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye* – 6.

R-2010-109 Mr. Keeley presented a request for approvable status for the electronic prescribing system **SRSsoft**. Ms. Lange moved that the system be found approvable pending final inspection. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 6.

R-2010-110 Mr. Keeley presented a request for approvable status for the electronic prescribing system **Pinestar Nuclear Medicine Information System**. Ms. Lange moved that the system be found approvable pending final inspection. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 6.

R-2010-111 Mr. Keeley presented a request for approvable status for the electronic prescribing system **Pinestar eDOSECONNECT**. Mr. Joyce moved that the system be found approvable pending final inspection. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 6.

R-2010-112 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:

Central Ohio Compounding Pharmacy, Columbus, Ohio (02-1050650)
Atrium Medical Center, Middletown, Ohio (02-1735000)

After discussion, Ms. Lange 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* – 6.

R-2010-113 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:

Uvanta Pharmacy, Eastlake, Ohio (02-1501350)
Central Admixture Pharmacy Services, Valley View, Ohio (02-1312700)

After discussion, Mr. Wiesenbahn 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. Joyce and approved by the Board: *Aye* – 6.

R-2010-114 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Shawn Roe**, R.Ph., Iowa, be permitted to be the responsible person for the following sites:

NuCara Pharmacy, Coralville, Iowa (02-1520500)
Vet RX Pharmacy, Coralville, Iowa (02-1757400)

After discussion, Mr. Casar moved that the Board approve the request for one year. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 6.

R-2010-115 After discussion, Mr. Kolezynski moved that the Board minutes of December 7-9, 2009, be approved as amended. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 6.

10:46 a.m. The Board recessed briefly.

10:56 a.m. A presentation concerning general Board issues was lead by David Rowland, *Legal Affairs Administrator*; and Tracy Greuel, *Assistant Attorney General*. No Board action was required.

11:42 a.m. The Board recessed for lunch.

1:30 p.m.

R-2010-116 The following candidates for licensure by reciprocity met with members of the Board in Room West B & C, 31st Floor of the Vern Riffe Center for Government and the Arts. The candidates introduced themselves to the Board. The candidates then participated in a discussion of pharmacy laws and rules with Mr. Parker.

Charles O. Aladesanmi	<i>Tennessee</i>
Robert Paul Brower, II	<i>Idaho</i>
Linda Sue Gray	<i>West Virginia</i>
Geetha Rani Kadiyala	<i>Washington</i>
Hui Gong Li	<i>Illinois</i>
Anupama Matthew	<i>Michigan</i>
Priti C. Shah	<i>New Jersey</i>
Matthew Alan Stanek	<i>Florida</i>
Sanoop Sunny	<i>New Jersey</i>
Amanda Jo Ward	<i>West Virginia</i>

2:00 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Myra Joy Hindes**, R.Ph. (03-3-17035) Chester, West Virginia.

3:29 p.m. The hearing ended and the record was closed.

3:30 p.m. Ms. Pasquale 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 Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

3:40 p.m. The Executive Session ended and the meeting was opened to the public.

R-2010-117 After votes were taken in public session, the Board adopted the following order in the matter of **Myra Joy Hindes**, R.Ph. (03-3-17035) Chester, West Virginia.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-091008-022

in the matter of:

MYRA JOY HINDES, R.Ph.

934 Neptune Avenue
Chester, West Virginia 26034

R.Ph. Number 03-3-17035

INTRODUCTION

The matter of Myra Joy Hindes came for hearing on January 5, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Troy A. Gahm, R.Ph., absent.

Myra Joy Hindes was represented by Dominic A. Frank. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
Myra Joy Hindes, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [10-08-09]
1A-1C. Procedurals
2. Thirty one copies of surveillance photographs of theft [06-08-09]

3. Drug Accountability Statement at Giant Eagle Pharmacy #1475 for tramadol 50 mg [07-12-09]
4. Copy of DEA 106 Report of Theft form [06-30-09]
5. Dangerous Drug Distributor Inspection Report at Giant Eagle Pharmacy #1475 [02-19-08]
6. Judgment Entry, State of Ohio vs. Myra J. Hines, Case No. 2009-CR-196, Court of Common Pleas, Columbiana County, Ohio [09-30-09]
7. Nineteen copies of surveillance photographs of theft [06-12-09]

Respondent's Exhibits:

- A. Judgment Entry, State of Ohio vs. Myra J. Hines, Case No. 2009-CR-196, Columbiana County, Ohio, Court of Common Pleas [09-30-09]
- B. Motion for Intervention In Lieu of Conviction, State of Ohio vs. Myra J. Hines, Case No. 2009CR196, Columbiana County, Ohio, Court of Common Pleas [09-28-09]
- C. Judgment Entry, State of Ohio vs. Myra J. Hines, Case No. 2009-CR-196, Columbiana County, Ohio, Court of Common Pleas [11-09-09]
- D. Letter from Don Ogden, MS, LSW, LICDC of Trinity Medical Center East to Dominic Frank [10-20-09]
- E. Letter from Don Ogden, MS, LSW, LICDC of Trinity Medical Center East to Mike Quigley [12-17-09]
- F. PRO Pharmacist's Recovery Contract for Myra Joy Hines [10-07-09]
- G. First Lab OHPRO Test History Report [10-29-09 to 12-24-09]
- H. Calendar Pages for June 2009 to December 2009; Support Group Attendance Records [06-26-09 to 12-31-09]
- I.-K. Three Letters of Support [12-21-09 to 12-28-09]
- L. Prosecutor's Information, State of Ohio vs. Myra J. Hines, (no case number listed) Columbiana County, Ohio, Court of Common Pleas [09-08-09]

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 Myra Joy Hines was originally licensed in the State of Ohio on August 3, 1987, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Myra Joy Hines did, on or about June 8, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Giant Eagle Pharmacy #1475, beyond the express or implied consent of the owner, to wit: Myra Joy Hines has admitted to stealing 100 tablets of tramadol 50 mg, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Myra Joy Hines did, on or about June 12, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Giant Eagle Pharmacy #1475, beyond the express or implied consent of the owner, to wit: Myra Joy Hines has admitted to stealing 100 tablets of tramadol 50 mg, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Myra Joy Hines did, on or about the period of August 1, 2008 through June 17, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Giant Eagle Pharmacy #1475,

beyond the express or implied consent of the owner, to wit: Myra Joy Hindes stole approximately 613 tablets of tramadol 50 mg, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Myra Joy Hindes is abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Myra Joy Hindes has admitted to Board agents that for a period of approximately 10 months she stole tramadol tablets from Giant Eagle Pharmacy #1475 for her drug addiction. Such conduct indicates that Myra Joy Hindes is abusing drugs or 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.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes 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 hereby suspends indefinitely the pharmacist identification card, No. 03-3-17035, held by Myra Joy Hindes and such suspension is effective as of the date of the mailing of this Order.

- (A) Myra Joy Hindes, 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) Myra Joy Hindes, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Myra Joy Hindes 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) Myra Joy Hindes 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, submit 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) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Myra Joy Hindes must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Myra Joy Hindes 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 and alcohol 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, Myra Joy Hindes must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

Richard Kolezynski moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-7/Nay-0).

Jerome Wiesenhahn moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed (Aye-6/Nay-1).

The Board recessed briefly.

3:56 p.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 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 Ms. Lange and a roll-call vote was conducted by President Gregg, as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

4:39 p.m. The Executive Session ended and the meeting was opened to the public.

4:41 p.m. The Board recessed for the day.

Wednesday, January 6, 2010

8:50 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:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

8:58 a.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John Patrick Thomas**, R.Ph. (03-2-15436) Brookfield, Ohio.

11:28 a.m. The hearing ended and the record was closed.

11:29 a.m. Mr. Casar moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Wiesenhahn and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

11:38 a.m. The Executive Session ended and the meeting was opened to the public.

11:40 a.m.

R-2010-118

After votes were taken in public session, the Board adopted the following order in the matter of **John Patrick Thomas**, R.Ph. (03-2-15436) Brookfield, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-091105-026

in the matter of:

JOHN PATRICK THOMAS, R.Ph.

7443 Oakwood Drive, S.E.

Brookfield, Ohio 44403

R.Ph. Number 03-2-15436

INTRODUCTION

The matter of John Patrick Thomas came for hearing on January 6, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Troy A. Gahm, R.Ph., absent.

John Patrick Thomas was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: George Pavlich, Ohio State Board of Pharmacy
John Patrick Thomas, R.Ph., Respondent

Respondent's Witnesses: John Patrick Thomas, R.Ph., Respondent
David Merk, R.Ph.

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [11-05-09]
- 1A-1C. Procedurals
2. Dangerous Drug Distributor Inspection Report at Rite Aid Discount Pharmacy #4280 [05-04-09]
3. Written statement of John P. Thomas [07-02-09]
4. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #4280 [07-27-09]
5. Consent to search black Mercedes 2002 vehicle [07-02-09]
6. Drug Accountability Statement at Rite Aid Pharmacy #4280 for Vicodin ES 7.5/750 mg [08-18-09]
7. Drug Accountability Statement at Rite Aid Pharmacy #4280 for lorazepam 1 mg [08-18-09]
8. Drug Accountability Statement at Rite Aid Pharmacy #4280 for hydrocodone/APAP 7.5/750 mg [08-18-09]
9. Drug Accountability Statement at Rite Aid Pharmacy #4280 for hydrocodone/APAP 7.5/325 mg [08-18-09]
10. Drug Accountability Statement at Rite Aid Pharmacy #4280 for hydrocodone/APAP 10/500 mg [08-18-09]
11. Drug Accountability Statement at Rite Aid Pharmacy #4280 for clonazepam 0.5 mg [08-18-09]
12. Drug Accountability Statement at Rite Aid Pharmacy #4280 for alprazolam 0.5 mg [08-18-09]
13. Drug Accountability Statement at Rite Aid Pharmacy #4280 for alprazolam 0.25 mg [08-18-09]
14. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #713 [07-30-09]
15. Drug Accountability Statement at Rite Aid Pharmacy #713 for diazepam 10 mg [08-18-09]
16. Drug Accountability Statement at Rite Aid Pharmacy #713 for hydrocodone/APAP 7.5/750 mg [08-18-09]
17. Drug Accountability Statement at Rite Aid Pharmacy #713 for hydrocodone/APAP 7.5/325 mg [08-18-09]
18. Drug Accountability Statement at Rite Aid Pharmacy #713 for hydrocodone/APAP 10/500 mg [08-18-09]

19. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #3147 [07-30-09]
20. Drug Accountability Statement at Rite Aid Pharmacy #3147 for codeine/APAP 60 mg [08-19-09]
21. Drug Accountability Statement at Rite Aid Pharmacy #3147 for hydrocodone/APAP 7.5/750 mg [08-19-09]
22. Drug Accountability Statement at Rite Aid Pharmacy #3147 for hydrocodone/APAP 7.5/325 mg [08-19-09]
23. Drug Accountability Statement at Rite Aid Pharmacy #3147 for clonazepam 0.5 mg [08-19-09]
24. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #703 [07-30-09]
25. Drug Accountability Statement at Rite Aid Pharmacy #703 for lorazepam 1 mg [08-18-09]
26. Drug Accountability Statement at Rite Aid Pharmacy #703 for hydrocodone/APAP 7.5/750 mg [08-18-09]
27. Drug Accountability Statement at Rite Aid Pharmacy #703 for alprazolam 0.5 mg [08-18-09]
28. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #2404 [07-30-09]
29. Drug Accountability Statement at Rite Aid Pharmacy #2404 for hydrocodone/APAP 7.5/750 [08-19-09]
30. DEA 106 Report of Theft or Loss of Controlled Substances from Rite Aid Pharmacy #3146 [07-17-09]
31. Drug Accountability Statement at Rite Aid Pharmacy #3146 for hydrocodone/APAP 7.5/325 mg [08-19-09]
32. Drug Accountability Statement at Rite Aid Pharmacy #3146 for hydrocodone/APAP 10/500 mg [08-19-09]
33. Drug Accountability Statement at Rite Aid Pharmacy #3146 for alprazolam 0.25 mg [08-19-09]

Respondent's Exhibits:

- A. PRO Pharmacists Rehabilitation Organization Inc. Contract for John Thomas [09-21-09]
- B. Glenbeigh Hospital & Outpatient Centers treatment documentation for John Thomas [07-06-09 to 08-04-09]; Outpatient Progress Report [12-29-09]
- C. Support group attendance records [07-24-09 to 12-30-09]
- D. First Lab OHPRO Test History Report [10-29-09 and 12-18-09]
- E. Computer printout of CourtView2000, Trumbull County Ohio Case 2009 CR 00624 State of Ohio -vs- Thomas, John P PJK [09-04-09 to 12-22-09]; Restitution documentation from Rite Aid Corporation [08-19-09]
- F. Copies of continuing education credits and certificates [05-04-08 to 12-12-09]
- G. Resume of John Thomas [not dated]
- H. Twelve letters of support [01-03-09 to 01-03-10]

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 John Patrick Thomas was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended on November 5, 2009.

- (2) John Patrick Thomas 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: John Patrick Thomas has admitted to a Board agent that he is addicted to the use of controlled substances and John Patrick Thomas has admitted to stealing drugs while practicing pharmacy and that John Patrick Thomas has a drug addiction because of pain. Such conduct indicates that John Patrick Thomas is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) John Patrick Thomas did, on or about July 2, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #4280, beyond the express or implied consent of the owner, to wit: John Patrick Thomas admittedly stole 24 tablets of hydrocodone bitartrate/APAP 7.5/750 mg, a controlled substance, from his employer for his personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) John Patrick Thomas did, on or about July 2, 2009, knowingly possess or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: John Patrick Thomas was found in possession of and/or attempting to hide the following drugs.

Drug	Strength	Quantity
clonazepam	0.5 mg	20
Hydrocodone bitartrate/APAP	7.5/750 mg	106
diazepam	10 mg	7

Such conduct violates Section 2925.11 of the Ohio Revised Code.

- (5) John Patrick Thomas did, from May 1, 2008 through July 3, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #4280, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of the drugs John Patrick Thomas admitted he stole from his employer.

Drug	Strength	Quantity
Vicodin ES	7.5/750 mg	48
lorazepam	1 mg	183
hydrocodone bitartrate/APAP	7.5/750 mg	3,440
hydrocodone bitartrate/APAP	7.5/325 mg	65
hydrocodone bitartrate/APAP	10/500 mg	154
clonazepam	0.5 mg	194
alprazolam	0.5 mg	115
alprazolam	0.25 mg	141

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

- (6) John Patrick Thomas did, from May 1, 2008 through July 3, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #713, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of the drugs John Patrick Thomas admitted he stole from his employer.

Drug	Strength	Quantity
diazepam	10 mg	96
hydrocodone bitartrate/APAP	7.5/750 mg	1,401
hydrocodone bitartrate/APAP	7.5/325 mg	50
hydrocodone bitartrate/APAP	10/500 mg	147

Such conduct violates Section 2913.02 of the Ohio Revised Code.

- (7) John Patrick Thomas did, from May 1, 2008 through April 30, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #3147, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of the drugs John Patrick Thomas admitted he stole from his employer.

Drug	Strength	Quantity
codeine/APAP	60 mg	207
hydrocodone bitartrate/APAP	7.5/750 mg	789
hydrocodone bitartrate/APAP	7.5/325 mg	202
clonazepam	0.5 mg	65

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

- (8) John Patrick Thomas did, from May 1, 2008 through July 23, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #703, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of the drugs John Patrick Thomas admitted he stole from his employer.

Drug	Strength	Quantity
lorazepam	1 mg	102
hydrocodone bitartrate/APAP	7.5/750 mg	380
alprazolam	0.5 mg	77

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

- (9) John Patrick Thomas did, from May 1, 2008 through July 23, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #2404, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of 174 tablets of hydrocodone bitartrate/APAP 7.5/750 mg that John Patrick Thomas admitted he stole from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised.

- (10) John Patrick Thomas did, from May 1, 2009 through July 23, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid #3146, beyond the express or implied consent of the owner, to wit: audit figures indicate shortages of the drugs John Patrick Thomas admitted he stole from his employer.

Drug	Strength	Quantity
hydrocodone bitartrate/APAP	7.5/325 mg	80
hydrocodone bitartrate/APAP	10/500 mg	70
alprazolam	0.25 mg	48

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

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (10) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) and (5) through (10) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to and abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to John Patrick Thomas on November 5, 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. 03-2-15436, held by John Patrick Thomas and such suspension is effective as of the date of the mailing of this Order.

- (A) John Patrick Thomas, 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) John Patrick Thomas, 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 three years from the effective date of this Order, the Board will consider any petition filed by John Patrick Thomas 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) John Patrick Thomas 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, submit 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) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) John Patrick Thomas must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) John Patrick Thomas 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 and alcohol 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 four years of the effective date of this Order, John Patrick Thomas must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

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

Deborah Lange moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-0).

11:43 a.m. Mr. Casar 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. Kolezynski and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

1:02 p.m. The Executive Session ended and the meeting was opened to the public.

1:02 p.m. Ms. Lange moved that the Board receive Per Diem as follows:

PER DIEM	01/04	01/05	01/06	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	-	-	-	0
Gregg	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	1	3
Lange	1	1	1	3
Pasquale	1	1	1	3
Wiesenhahn	1	1	1	3

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

1:03 p.m. Mr. Joyce moved that the meeting be adjourned. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7.

The Ohio State Board of Pharmacy approved these Minutes February 9, 2010
