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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126
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Minutes of the October 4-5, 2010
Meeting of the Ohio State Board of Pharmacy

Monday, October 4, 2010

10:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

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

R-2011-082 Mr. Winsley announced that the following Settlement Agreement with **Saba Atnafe-Eskender**, R.Ph. (03-3-22630) Loveland, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100616-130

in the matter of:

SABA ATNAFE-ESKENDER, R.Ph.

1412 Miami Lake Drive
Loveland, Ohio 45140

R.Ph. Number 03-3-22630

This Settlement Agreement is entered into by and between Saba Atnafe-Eskender 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.

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

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

Whereas, Saba Atnafe-Eskender is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 16, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Saba Atnafe-Eskender 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. Saba Atnafe-Eskender requested a hearing; it was scheduled and continued. The June 16, 2010 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Saba Atnafe-Eskender was originally licensed in the State of Ohio on July 15, 1997, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Saba Atnafe-Eskender did, on or about September 16, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Saba Atnafe-Eskender did not renew her license to practice pharmacy, Saba Atnafe-Eskender dispensed RX # N9394120 for hydrocodone/APAP 5/500 mg, and Saba Atnafe-Eskender performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Saba Atnafe-Eskender did, on or about October 8, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Saba Atnafe-Eskender did not renew her license to practice pharmacy, Saba Atnafe-Eskender dispensed RX # N9474207 for fentanyl, and Saba Atnafe-Eskender performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Saba Atnafe-Eskender did, on or about November 24, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Saba Atnafe-Eskender did not renew her license to practice pharmacy, Saba Atnafe-Eskender dispensed RX # N9648872 for fentanyl 50-100 mcg, and Saba Atnafe-Eskender performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Saba Atnafe-Eskender did, on or about December 15, 2009, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Saba Atnafe-Eskender did not renew her license to practice pharmacy, Saba Atnafe-Eskender dispensed RX # N9725713 for morphine 2 mg, and Saba Atnafe-Eskender performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Saba Atnafe-Eskender did, on or about January 15, 2010, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Saba Atnafe-Eskender did not renew her license to practice pharmacy, Saba Atnafe-Eskender dispensed RX # N9834379 for morphine 2-3 mg, and Saba Atnafe-Eskender performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Saba Atnafe-Eskender neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 16, 2010; 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, Saba Atnafe-Eskender knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Saba Atnafe-Eskender agrees to the imposition of a monetary penalty of one thousand two hundred fifty dollars (\$1,250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Saba Atnafe-Eskender 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.

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

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

<u>/s/ Saba Atnafe-Eskender, R.Ph.</u>	<u>Date Signed: 09/27/10</u>
<i>Respondent</i>	

<u>/s/ Richard F. Kolezynski, R.Ph.</u>	<u>Date Signed: 10/04/10</u>
<i>President; Ohio State Board of Pharmacy</i>	

<u>/s/ Tracy Marie Greuel</u>	<u>Date Signed: 10/04/10</u>
<i>Ohio Assistant Attorney General</i>	

10:04 a.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 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

10:06 a.m. Mr. Casar arrived and joined the meeting in progress.

10:56 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-083 After discussion, Mr. Gahm moved that a requested withdrawal of an application from **Medical Care Center, LLC**, for a Terminal Distributor of Dangerous Drugs license and subsequent submission of a revised application be accepted and that the Board cancel the scheduled hearing on this matter scheduled for this afternoon (October 4). Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-084 Mr. Moné moved that the Board approve the request for a hearing continuance received in the matter of **Stefan Nickolas Ourlian**, R.Ph., (03-1-16265) Avon, Ohio. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 8.

The Board recessed briefly.

11:09 a.m. The Board met with representatives of **e-PharmPro** concerning its remote prescription verification services.

12:18 p.m. The Board recessed for lunch.

1:37 p.m. The Board meeting resumed with all members present.

1:38 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Susan P. Blackford**, R.Ph., (03-1-09900) Sulphur Springs, Ohio. Mr. Kolezynski recused himself and Mr. Casar assumed the chair.

2:03 p.m. The hearing ended and the record was closed.

Mr. Keeley reported that the proposed new and amended rules were filed on September 30 and October 1, 2010.

Mr. Keeley presented the Legislative Report.

Mr. Keeley and Ms. Lange reported on the current status of the pharmacy technician exams.

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

R-2011-085 Mr. Parker presented a request for approvable status for the electronic prescribing system **Aria Oncology EMR (Varian)**. Mr. Gahm moved that the system be found approvable pending final inspection. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-086 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:

Ritzman Natural Health Pharmacy , Akron, Ohio	(02-1548700)
Ritzman Pharmacy , Uniontown, Ohio	(02-2035350)

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 Ms. Lange and approved by the Board: *Aye* – 8.

Mr. Casar said the Nursing Board's Committee on Prescriptive Governance did not meet in September.

Ms. Lange said the Medical Board's Physician-Assistant Policy Committee did not meet in September.

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

R-2011-087 After discussion, Mr. Gahm moved that the **e-PharmPro** remote prescription verification service system be found approvable on final inspection and verification of its positive ID system. Ms. Woodson seconded the motion and it was approved by the Board: *Aye* – 7; Abstain – 1 (Moné).

3:24 p.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. Moné. President Kolezynski recused himself from

the session and Mr. Casar assumed the chair. A roll-call vote was conducted by Vice-President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

3:30 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-088

AMENDED ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100614-121

in the matter of:

SUSAN P. BLACKFORD, R.Ph.

4770 State Route 98
Sulphur Springs, Ohio 44881

R.Ph. Number 03-1-09900

INTRODUCTION

The matter of Susan P. Blackford came for consideration on October 4, 2010, before the following members of the Board: Donald M. Casar, R.Ph. (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Richard F. Kolezynski, R.Ph., Recused.

Susan P. Blackford was not present nor was she represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: John Whittington, R.Ph., D.O., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity for Hearing letter [06-14-10]
- 1A-1B. Procedurals
2. Copy of RX #735440 with black tag [03-15-10]
3. CVS/pharmacy A Note From Your Pharmacist [03-15-10]
- 4a. Bottle of amitriptyline 100 mg tablets [not dated]
- 4b. Receipt for physician evidence
5. Drugs.com Pill Identifier page [04-06-10]
6. CVS Pharmacy #3406 Patient Prescription Record [03-24-10]

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 Susan P. Blackford was originally licensed in the State of Ohio on July 26, 1971, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) Susan P. Blackford did, on or about March 15, 2010, misbrand a drug, to wit: when Susan P. Blackford received a prescription for amitriptyline 10 mg, RX #735440, Susan P. Blackford dispensed amitriptyline 100 mg, which had not been specifically prescribed by the physician. The patient, a twelve year old, took two tablets initially as directed, and was hospitalized. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Susan P. Blackford did, on or about March 15, 2010, prior to dispensing RX #735440, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Susan P. Blackford failed to review the patient profile for over-utilization and/or incorrect drug dosage. The patient, a twelve year old child, received ten times the dosage of amitriptyline. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Susan P. Blackford 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 Susan P. Blackford a monetary penalty of two hundred and fifty dollars (\$250.00) 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) Susan P. Blackford must obtain and submit, within six months from the effective date of this Order, three hours (0.3 CEUs) of approved continuing pharmacy education in medication errors, which may not also be used for license renewal.

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

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

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

3:32 p.m. The Board recessed for the day.

Tuesday, October 5, 2010

8:57 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:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

R-2011-089 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Vincent DiMaggio**, R.Ph. (03-3-12975) Cincinnati, Ohio be permitted to be the responsible person for the following sites:

RightSourceRX Speciality Group , Eden Park Drive, West Chester, Ohio	(02-1293000)
RightSource , Windisch Road,	West Chester, Ohio (02-1826600)

After discussion, Ms. Lange moved that the Board approve the request until May 1, 2011. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7.

9:00 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

9:24 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-090 Mr. Joyce moved that the Board approve the continuance request received in the matter of **B. Elise Miller**, R.Ph., (03-1-12257) Coshocton, Ohio. The motion was seconded by Mr. Cain and approved by the Board: *Aye* – 4; *Nay* – 3.

9:28 a.m. The Board recessed briefly.

9:45 a.m.

R-2011-091 Mr. Joyce moved that the conference call minutes of September 9, 2010, be approved as written. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 6; *Abstain* – 1 (Lange).

R-2011-092 Mr. Joyce moved that the Board minutes of September 13-15, 2010, be approved as amended. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7.

10:15 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

11:30 a.m. The Executive Session ended and the Board recessed for lunch.

1:30 p.m.

R-2011-093 The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center. The following candidates for licensure by reciprocity introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator and the Board.

Lindsey Ann Andrusky	<i>Virginia</i>
Ravichand Yalamanchili	<i>North Carolina</i>
Jennifer Denise Lester	<i>Virginia</i>
Conroy Whitely	<i>Georgia</i>
Renee Marie Russo	<i>Pennsylvania</i>
Tessa Sturgill	<i>Kentucky</i>
John Matthew Scola	<i>Pennsylvania</i>
Stephanie Marie Nameth	<i>Tennessee</i>
David Richard Dobbins	<i>West Virginia</i>
Benjamin Chibulu Mgboh	<i>Indiana</i>

1:55 p.m. Mr. Gahm moved that the Board receive Per Diem as follows:

PER DIEM	09/21	10/04	10/05	Total
Cain	-	1	1	2
Casar	-	1	1	2
Gahm	-	1	1	2
Joyce	-	1	1	2
Kolezynski	-	1	1	2
Lange	-	1	1	2
Moné	-	1	-	1
Wiesenhahn	1	1	1	3
Woodson	-	1	1	2

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

1:56 p.m. Mr. Casar moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

The Ohio State Board of Pharmacy approved these Minutes November 3, 2010
