

**Minutes of the June 7-9, 2010
Meeting of the Ohio State Board of Pharmacy**

Monday, June 7, 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.; Troy A. Gahm, 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*; Chris Reed, *Compliance Supervisor*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Tracy Greuel, *Assistant Attorney General*.

Mr. Winsley announced that the following settlements have been signed and are now in effect.

R-2010-234 SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100423-096

in the matter of:

ALYCIA BILLS EVANS, R.Ph.

11421 Oakstand Drive
Cincinnati, Ohio 45240

R.Ph. Number 03-3-25490

This Settlement Agreement is entered into by and between Alycia Bills Evans 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.

Alycia Bills Evans 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. Alycia Bills Evans 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, Alycia Bills Evans is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010, Alycia Bills Evans, pursuant to Chapter 119. of the Ohio Revised Code, Alycia Bills Evans 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. Alycia Bills Evans accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Alycia Bills Evans originally licensed in the State of Ohio on September 10, 2002, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Alycia Bills Evans did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Alycia Bills Evans did not complete 0.1 Continuing Education Unit (C.E.U.) of Board approved continuing education until after Alycia Bills Evans signed her Continuing Pharmacy Education Report Form on April 10, 2009. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Alycia Bills Evans neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, Alycia Bills Evans knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Alycia Bills Evans agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Alycia Bills Evans will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Alycia Bills Evans' 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, Alycia Bills Evans 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.

Alycia Bills Evans 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.

Alycia Bills Evans 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. Alycia Bills Evans 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/ Alycia Bills Evans, R.Ph. Date Signed: 05/12/10
Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/06/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

R-2010-235**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-100430-091

in the matter of:

SARAH J. HANGEN, R.Ph.

1702 Turner Road
Xenia, Ohio 45385

R.Ph. Number 03-3-22137

This Settlement Agreement is entered into by and between Sarah J. Hangen 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.

Sarah J. Hangen 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. Sarah J. Hangen 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, Sarah J. Hangen is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010 Sarah J. Hangen, pursuant to Chapter 119. of the Ohio Revised Code, Sarah J. Hangen 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. Sarah J. Hangen accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Sarah J. Hangen was originally licensed in the State of Ohio on January 28, 1997, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Sarah J. Hangen did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Sarah J. Hangen did not complete 0.2 Continuing Education Units (C.E.U.s) of Board approved continuing education until after Sarah J. Hangen signed her Continuing Pharmacy Education Report Form on April 3, 2009. 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.

Sarah J. Hangen neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, Sarah J. Hangen knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Sarah J. Hangen agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Sarah J. Hangen will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Sarah J. Hangen'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, Sarah J. Hangen 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.

Sarah J. Hangen 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.

Sarah J. Hangen 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. Sarah J. Hangen 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/ Sarah J Hangen, R.Ph. Date Signed: 05/16/10

Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10

Ohio Assistant Attorney General

R-2010-236

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100423-097

in the matter of:

David E. Hoffman, R.Ph.

3024 Southfork Drive
Cincinnati, Ohio 45248

R.Ph. Number 03-3-14230

This Settlement Agreement is entered into by and between David E. Hoffman 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.

David E. Hoffman 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. David E. Hoffman 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, David E. Hoffman is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010, pursuant to Chapter 119. of the Ohio Revised Code, David E. Hoffman 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. David E. Hoffman accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that David E. Hoffman was originally licensed in the State of Ohio on July 31, 1981, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) David E. Hoffman did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that David E. Hoffman did not complete 0.3 Continuing Education Units (C.E.U.s) of Board approved continuing education until after he signed his Continuing Pharmacy Education Report Form on May 12, 2009. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

David E. Hoffman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, David E. Hoffman knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) David E. Hoffman agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) David E. Hoffman will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else David E. Hoffman'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, David E. Hoffman 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.

David E. Hoffman 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.

David E. Hoffman 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. David E. Hoffman 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/ David E. Hoffman, R.Ph.

Date Signed: 05/04/10

Respondent

/s/ Elizabeth I. Gregg

Date Signed: 06/07/10

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel

Date Signed: 06/07/10

Ohio Assistant Attorney General

R-2010-237

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100430-098

in the matter of:

CHARLES BERNARD HOWARD, R.Ph.

7253 Raynham Drive

Oakwood Village, Ohio 44146

R.Ph. Number 03-3-10034

This Settlement Agreement is entered into by and between Charles Bernard Howard 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.

Charles Bernard Howard 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. Charles Bernard Howard 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, Charles Bernard Howard is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Charles Bernard Howard 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. Charles Bernard Howard accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Charles Bernard Howard was originally licensed in the State of Ohio on March 6, 1972, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Charles Bernard Howard did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Charles Bernard

Howard did not complete 0.5 Continuing Education Units (C.E.U.s) of Board approved continuing education until after Charles Bernard Howard signed his Continuing Pharmacy Education Report Form on May 14, 2009. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Charles Bernard Howard neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, Charles Bernard Howard knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Charles Bernard Howard agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Charles Bernard Howard will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Charles Bernard Howard'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, Charles Bernard Howard 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.

Charles Bernard Howard 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.

Charles Bernard Howard 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. Charles Bernard Howard 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/ Charles Bernard Howard, R.Ph. Date Signed: 05/28/10
Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

R-2010-238

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100430-080

in the matter of:

SIAMAK KAZEMI, R.Ph.

224 River Inlet Road
Suffolk, VA 23434

R.Ph. Number 03-3-19799

This Settlement Agreement is entered into by and between Siamak Kazemi 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.

Siamak Kazemi 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. Siamak Kazemi 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, Siamak Kazemi is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Siamak Kazemi 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. Siamak Kazemi accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Siamak Kazemi was originally licensed in the State of Ohio on July 28, 1993, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Siamak Kazemi did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Siamak Kazemi was short three continuing education hours (0.3 CEUs) on board approved

Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Siamak Kazemi neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, Siamak Kazemi knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Siamak Kazemi agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Siamak Kazemi will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Siamak Kazemi'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, Siamak Kazemi 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.

Siamak Kazemi 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.

Siamak Kazemi 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. Siamak Kazemi 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/ Siamak Kazemi, R.Ph. Date Signed: 05/12/10
Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

R-2010-239 **SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-100217-071

in the matter of:

SARAH ANN MASETH, R.Ph.

1432 Terrance Drive
Naperville, IL 60565

R.Ph. Number 03-3-21651

This Settlement Agreement is entered into by and between Sarah Ann Maseth 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.

Sarah Ann Maseth 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. Sarah Ann Maseth 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, Sarah Ann Maseth is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 17, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Sarah Ann Maseth 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. Sarah Ann Maseth accepted this offer for settlement rather than a hearing. The February 17, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Sarah Ann Maseth was originally licensed in the State of Ohio on July 30, 1996, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Sarah Ann Maseth did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Sarah Ann Maseth

was short six continuing education hours (0.6 CEUs) on board approved continuing education. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Sarah Ann Maseth neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 17, 2010; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same. Records show that Sarah Ann Maseth did in fact obtain the required continuing education hours, but through clerical error failed to submit the necessary evidence prior to the due date.

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

- (A) Sarah Ann Maseth agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Sarah Ann Maseth will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Sarah Ann Maseth'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, Sarah Ann Maseth 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.

Sarah Ann Maseth 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.

Sarah Ann Maseth 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. Sarah Ann Maseth 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/ Sarah Ann Maseth, R.Ph. Date Signed: 05/03/10
Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

R-2010-240**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-100423-094

*in the matter of:***WILLIAM STEPHEN SHINTON, R.Ph.**7586 Foxchase Drive
West Chester, Ohio 45069

R.Ph. Number 03-3-25850

This Settlement Agreement is entered into by and between William Stephen Shinton 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.

William Stephen Shinton 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. William Stephen Shinton 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, William Stephen Shinton is licensed to practice pharmacy, in the State of Ohio.

Whereas, on or about April 23, 2010, pursuant to Chapter 119. of the Ohio Revised Code, William Stephen Shinton 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. William Stephen Shinton accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that William Stephen Shinton was originally licensed in the State of Ohio on July 23, 2003, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) William Stephen Shinton did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that William Stephen

Shinton did not complete 0.4 Continuing Education Units (C.E.U.s) of Board approved continuing education until after William Stephen Shinton signed his Continuing Pharmacy Education Report Form on May 11, 2009. 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.

William Stephen Shinton neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 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, William Stephen Shinton knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) William Stephen Shinton agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$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 form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) William Stephen Shinton will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else William Stephen Shinton'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, William Stephen Shinton 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.

William Stephen Shinton 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.

William Stephen Shinton 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. William Stephen Shinton 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/ William Stephen Shinton, R.Ph. Date Signed: 05/18/10

Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10

Ohio Assistant Attorney General

**R-2010-241 SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING**

PERMANENT SURRENDER

Docket Number D-090416-131

in the matter of:

BRUCE ALAN THOMAS, R.Ph.

818 Hillview Avenue

Minerva, Ohio 44657

R.Ph. Number 03-3-14551

This Settlement Agreement is entered into by and between Bruce Alan Thomas 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.

Bruce Alan Thomas enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Bruce Alan Thomas is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Bruce Alan Thomas' license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Bruce Alan Thomas neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated April 16, 2009; however, the Board has duly filed the allegations in its Summary Suspension/Notice of Opportunity as stated therein and will not conduct an adjudication hearing according to the terms of this agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Bruce Alan Thomas knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE**

PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.

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

Bruce Alan Thomas 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.

Bruce Alan Thomas 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. Bruce Alan Thomas waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

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

s/ Bruce Alan Thomas, R.Ph. Date Signed: 04/27/10
Respondent

/s/ Daniel D. Connor Date Signed: 05/10/10
Attorney for Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

R-2010-242

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

Docket Number D-080319-039

in the matter of:

JULIE MICHELLE HELKOWSKI, R.Ph.

469 Delaney's Circle
Powell, Ohio 43065

R.Ph. Number 03-2-23120

This Settlement Agreement is entered into by and between Julie Michelle Helkowski and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Julie Michelle Helkowski 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 and the right to a formal adjudication hearing on the issues contained herein.

Julie Michelle Helkowski is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Julie Michelle Helkowski's license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Julie Michelle Helkowski neither admits nor denies the allegations stated in the Summary Suspension Order/Notice of Opportunity for Hearing letter dated March 19, 2008; 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, Julie Michelle Helkowski knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HER LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

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

Julie Michelle Helkowski 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.

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

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

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

s/ Julie Michelle Helkowski, R.Ph. Date Signed: 05/04/10
Respondent

/s/ Sam B. Weiner Date Signed: 05/04/10
Attorney for Respondent

/s/ Elizabeth I. Gregg Date Signed: 06/07/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 06/07/10
Ohio Assistant Attorney General

10:09 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:24 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

11:30 a.m.
R-2010-243 The Board discussed a request from **Geoffrey Stephen Santangelo**, R.Ph., (03-2-26254) Columbus, Ohio, for an extended payment schedule owing from a Settlement Agreement in April 2010. Mr. Gahm moved that the Board approve the request for six months and the motion was seconded by Ms. Pasquale: *Aye* – 7.

R-2010-244 Mr. Cain moved that the Board accept a settlement offer in the matter of **Joseph Michael Mink**, R.Ph., (03-2-18072) Mansfield, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent's agreement to the changes made by the Board. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

R-2010-245 After discussion, Mr. Casar moved that the following amended Board Order for **Jonathan Price Shelton**, R.Ph., (03-3-11927) Dayton, Ohio, be approved. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 7.

ORDER OF THE STATE BOARD OF PHARMACY AFTER REMAND

Docket Number D-090313-124

in the matter of:

JONATHAN PRICE SHELTON, R.PH.

1613 Far Hills Avenue

Dayton, Ohio 45419

R.Ph. Number 03-3-11927

INTRODUCTION

The Board had issued its Order after the administrative hearing in this matter on July 17, 2010. The Montgomery County Common Pleas Court remanded this matter to

“clarify and expound upon the Board’s findings of fact and conclusions of law.... In particular, is instructed to address the facts underlying the factual conclusion regarding the lack of a valid physician-patient relationship, and to address the factual, legal, and pharmaceutical basis for the conclusions that Mr. Shelton’s actions, assuming the absence of a valid physician-patient relationship, constituted gross immorality, unprofessional and dishonest conduct, and violations of O.R.C. 2925.” The Board herein complies with the directions upon remand and issues the following:

OPINION AND ORDER

This Board opines that the testimony and evidence presented at the hearing clearly established that there was an utter lack of any physician-patient relationship concerning the prescriptions filled by Jonathan Shelton that were set forth in the Notice of Opportunity for Hearing. The education, training, and experience any pharmacist not only possesses but is required by law and professional standards to possess indicates such, and the evidence adduced at the hearing established that this necessary element that must exist before a pharmacist may fill a prescription was in fact non-existent. It is manifest and self-evident in the pharmacy profession that for a valid prescription to exist, and before a pharmacist may fill a prescription, there must be a valid physician-patient relationship having been established by a face-to-face examination between the prescriber and the patient, and the prescription must have been issued by said prescriber acting in the usual course of his/her professional practice. 4729.51(A) O.R.C.; 4731-11-09 and 4729-5-30 Ohio Administrative Code. Pharmacists know this and are required to know it due to their "corresponding responsibility" to ensure the legitimacy of prescriptions they fill. 4729-5-30 Ohio Administrative Code.

The Board received into evidence a signed a written statement by Mr. Shelton wherein he admitted that he was not personally aware of any doctor/patient relationship with any of the prescriptions he dispensed via the internet. (State Ex. 4). The Board also received into evidence a signed and written statement by Dr. William K. Smith, Jr., a podiatrist (a limited practitioner by law, limited in the scope of his practice), wherein the doctor admitted that he did not have any face-to-face visit with any of the patients for which he authorized prescriptions for via the internet. (State Ex. 8). Dr. Smith further admitted that he did not physically examine any of these patients, nor did he have any of the patient records. Exhibit 8 contains the following statement by the physician:

“I had no contact with the patient or the pharmacy.” (p. 1)

“[The prescriptions] were requested for various problems, not all were within my scope, and none of the patients were seen by me for the problem.” (p. 2)

- Q. Did you have a face to face visit with any of the patients for which you authorized prescriptions for via the internet?
A. No
- Q. Did you physically examine any of the patients for which you authorized prescriptions for via the internet?
A. No.
- Q. Do you have patient records for the patients?
A. No. (p. 3)

Additionally, at the hearing Mr. Shelton testified that he was not aware of any doctor/patient relationship for any of the internet prescriptions. (Tr. p. 125-26). He never called any of the prescribing doctors to verify any information. (Tr. 133-34). Mr. Shelton argued that telemedicine was in use and thus, created a doctor/patient relationship. However, Mr. Shelton admitted that he did not know, nor did he ask, what kind of communication any patient had with the prescribing doctor. Further, he did not do anything to independently verify the truthfulness of any information he received from the internet company. He did not even know if any particular patient was an actual person and not a made-up identity. (Tr. 207-09). This is in stark contrast to the manner in which Mr. Shelton handled his "normal" pharmacy practice. Mr. Shelton testified that a doctor/patient relationship, in the ordinary course, is established by "just going in and see[ing] the doctor." (Tr. 141-42). He further testified that he would not have filled a prescription for someone from Pennsylvania without calling the doctor because he did not know the patient or the doctor and he would "call and just be sure." (Tr. 137-38).

A Board agent testified that Mr. Shelton admitted he was not personally aware of any doctor/patient relationship between any of the internet doctors and any of the customers to whom he shipped dangerous drugs. (Tr. 28). Testimony and exhibits also show the results of an interview with one of the doctors issuing these prescriptions. Dr. Smith provided a written statement and verbally admitted that he did not believe the prescriptions he authorized to be legal. The primary reason Dr. Smith gave for the illegality of the prescriptions was the lack of a doctor/patient relationship. (Tr. 55).

The mere fact that the prescribing physician is located outside the state of Ohio and that a patient might reside in a different state, and the pharmacy is located in yet another state (Ohio) does not necessarily preclude the possibility that such patient could have gone to the physician and then to Dayton, Ohio, to get his/her prescription filled. However, this situation is different: Mr. Shelton knew the patients were in New York, California, Oregon, Georgia, New Jersey, Maine, Pennsylvania, Washington, North Carolina, etc., the physicians were in different, far away states, and his pharmacy in Ohio was receiving documents purporting to be prescriptions when face-to-face examinations for these patients were impossible to have occurred.

Mr. Shelton further testified at the hearing:

Q. You do not know, as you sit here today, correct, that there was a doctor/patient relationship between the doctors you received prescriptions from and the patients you sent drugs to?

A. No.

Q. But you're aware of your corresponding responsibilities as a pharmacist and what that means?

A. Yes (p. 125-26)

Board Member Casar: Did you ever pick up the phone and dial that number for Dr. Flores, or the other one is Dr. Smith, that you've received all these scripts for, whether they are controls or noncontrols, just to verify, seeing that they are from other parts of the country, you know, what their scope of practice is, what – what they are allowed to be dispensing? Did you ever dial that number from your pharmacy?

The Witness: No.

Board Member Casar: Never?

The Witness: No. (p. 133-34)

In response to Board Member Wiesenhahn's question about receiving "a hundred [prescriptions] from the same doctor from patients all over the country" raising a "red flag" Mr. Shelton testified as follows:

"Mr. Wimberly, in the interview said 'okay, I'm from Pennsylvania. I come here with a – from Pennsylvania with scripts for 90 Somas, will you fill it?' I said no. He said 'you're contradicting yourself.' I said why? He said 'I work at the base.' I said get it filled out there. He said, 'no, I want to support you.' I said number one, I don't know you, I don't know the doctor. I would call and just be sure." (p. 137-38)

Board Member Kaderly: Can you describe for me what constitutes a relationship between the doctor and the patient?

The Witness: (Inaudible) I don't know how to say it, just going in and see the doctor.

Board Member Kaderly: Do you have to go in to see the doctor to have your relationship with the doctor?

The Witness: Per the law, I'd have to say yes. (p. 141-42)

Board Member Pasquale: All right. So you never called the doctors ever to question them, to ask questions to determine who the doctor was or what this telemed process was? You've never talk to the doctor, correct?

The Witness: Right. (p. 150)

If Mr. Shelton had called Dr. Smith, he would have discovered that Dr. Smith was indeed a podiatrist, with no actual doctor-patient relationship with any of the internet customers. Further, it would have been abundantly clear that Dr. Smith was authorizing prescriptions for medical problems far outside the scope of his podiatry practice. For example, Dr. Smith authorized acyclovir for "cold sores," atarax for "anxiety attacks," flexeril for "back spasms," and fluoxetine for "PMDD" (premenstrual dysphoric disorder). (State Ex. 8). The most basic inquiry into Dr. Smith's practice and license would have revealed the utter lack of legitimacy for any of the internet prescriptions Mr. Shelton filled. Mr. Shelton failed to make this inquiry despite his admitted understanding of his corresponding responsibility and duties as a pharmacist to have done so.

In response to a line of questions from Board Member Braylock regarding the process of filling internet prescriptions, Mr. Shelton admitted that he had two completely separate prescription systems in his pharmacy, one for his normal customers and one for the internet prescriptions. (p. 158) He used two different sets of serial numbering sequences. (p. 158) The internet company printed the labels for the prescription bottles and dated them as well. (p. 159-61). Despite his contention that telemedicine allowed him fill prescriptions from patients all over the country he admitted that at the time he was filling these prescriptions he did not know the laws in the State of Ohio governing telemedicine. (p. 170-71).

In response to questioning by Board Member Lange regarding the definition of physician-patient relationship, Mr. Shelton claimed he had never received a copy of a pharmacy board newsletter containing the legal definition. Board Member Lange went on to ask: But as a pharmacist, it's your responsibility to know what the current laws are in the State of Ohio, correct, whether you received the newsletter or not?

The Witness: That's correct. (p. 191)

In response to questioning about Mr. Shelton's contention that telemedicine provided assurance of a physician-patient relationship, Mr. Shelton admitted that he did not know, nor was he told, that the alleged patients had any kind of communication (email, fax, webcam, phone or face-to-face) with the prescribing physicians. (p. 206-07). Further, he did not do anything to independently verify the truthfulness of any of the information contained on the alleged prescriptions. (p.207-09). He did not even know if the alleged patient was an actual person and not a made-up identity. (p. 209).

On direct examination, Mr. Shelton admitted that the only steps he took to verify the validity of the prescription was to review the information provided by the internet company and check the completeness and consistency of the internet questionnaire. (p. 229-30)

The testimony from Board Agent Jesse Wimberly was equally telling. In explaining his investigation regarding how the prescription and questionnaire form worked, he said:

"The patient has to answer these questions for the doctor to review the questions in another state. And once the questions are answered, then it's submitted on to – so the questions are basically just for the patient to answer, to give the reason why they want this particular drug." A "computerized signature" is then affixed to the form and the whole form is then sent to the pharmacy. (p. 25).

This testimony verbalizes the impropriety of Mr. Shelton's dispensing: it shows that people could fill out a questionnaire and get the drugs "that they wanted" rather than what is normal practice in the medical/pharmacy field: a physician should diagnose a patient and prescribe **what is appropriate**; a pharmacist should dispense **what is appropriate** rather than "what a person wants."

Agent Wimberly further confirmed by testimony the statements of the doctor and Mr. Shelton in that neither believed there was a valid physician-patient relationship. In describing the interview with Dr. Smith, Mr. Wimberly testified as followed:

"What I did is I just pointed out a sample, a few prescriptions, to show him if he authorized these, and questioned the fact that, of course, when he's in Oklahoma, the patient's in, in this case on the first one, New York, and the pharmacy's in Dayton, Ohio, do you –'Knowing this, do you believe these prescriptions are – are legal?', and he said, 'No, they're not legal.'"

"And I asked him why they're not legal, and he says, 'Because I never saw this patient, never had a doctor/patient relationship with this patient. I never spoke to this patient. I don't know who they are.' He said, 'I'm just being completely honest. I made a mistake and I'm (inaudible).'" (p. 55).

Equally important is Agent Wimberly's testimony, when describing a second interview with Mr. Shelton, that he specifically asked Mr. Shelton if a patient is in one state and the prescribing doctor is in another "do you see this as being a problem?" and Mr. Shelton answered "Yes." In short, Mr. Shelton knew he was wrong.

CONCLUSION

The Board herein has expounded and clarified, and thereby interpreted its Order. The lack of the physician-patient relationship made each of the questioned prescriptions "not for a legitimate medical purpose issued by said prescriber acting in the usual course of his/her professional practice" and therefore should not have been dispensed. Further, the admitted authorization of prescriptions far outside the scope of Podiatrist Smith's practice compounds the illegitimacy of the prescriptions Mr. Shelton dispensed. To dispense these medications as did Mr. Shelton constituted grossly immoral conduct for a pharmacist who has been educated and trained to act differently. Legitimately practicing pharmacists simply know better. These acts were clearly unprofessional when interpreting the standards of practice for pharmacists as the law requires this board to do. These acts were not done in the honest practice of pharmacy where the rule of law and the mandates of good pharmacy practice would have dictated that Mr. Shelton refuse to engage in such conduct. Not engaging in the honest practice of pharmacy is "dishonesty in the practice of pharmacy." As well, since his conduct in filling these prescriptions were outside the scope of Chapters 4729. and 4731. of the Revised Code, his actions violate the provisions of Chapters 4729. and 2925. of the Ohio Revised Code.

Accordingly, the Board reasserts its findings of fact, conclusions of law, and its order of permanent revocation.

Don Casar voted for issuance of the foregoing; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-0).

Ms. Lange and Mr. Keeley discussed the technician exam status report with the Board.

Mr. Keeley presented the Legislative Report.

Mr. Casar discussed the May 10, 2010, meeting of the Nursing Board's Committee on Prescriptive Governance.

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

1:31 p.m. The Board meeting 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.; Troy A. Gahm, 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 **Justin David Yingling**, Intern (06-0-08626) Beachwood, Ohio.

1:54 p.m. The hearing ended and the record was closed.

1:55 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. Wiesenhahn and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

2:00 p.m. The Executive Session ended and the meeting was opened to the public.

R-2010-246 After votes were taken in public session, the Board adopted the following order in the matter of **Justin David Yingling**, Intern (06-0-08626) Beachwood, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100506-118

in the matter of:

JUSTIN DAVID YINGLING, INTERN

27060 Cedar Road, Apt. #811

Beachwood, Ohio 44122

Intern Number 06-0-08626

INTRODUCTION

The matter of Justin David Yingling came for hearing on June 7, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Justin David Yingling was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Justin David Yingling, Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Ohio State Board of Pharmacy Order n re Justin David Yingling [03-09-10] 1A-1B. Procedurals
2. Application for Examination as a Pharmacist submitted by Justin David Yingling [04-22-10]

Respondent's Exhibits:

- A. Letter from Kathie Simpson, Executive S.A.R.P.H. Director of Operations in re Justin Yingling [05-17-10]
- B. S.A.R.P.H. Monitoring/Treatment Contract in re Justin Yingling [03-06-09]
- C. Letter of successful completion of Intensive Outpatient Psychotherapy sessions for chemical dependency from George J. Dowd, Psychotherapist, of Saint Vincent Health Center in re Justin Yingling [04-23-10]

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 that Justin David Yingling has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-091222-036, effective March 9, 2010.

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Examination As A Pharmacist submitted by Justin David Yingling.

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

R-2010-247 Mr. Gahm moved that in the notice to Justin Yingling of his Board Order allowing him to take the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE), be expedited. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 7.

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

Ms. Lange said there was no report from the Medical Board's Physician-Assistant Policy Committee this month.

R-2010-248 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **David R. Baker**, R.Ph., (03-1-22567) Cleveland, Ohio, be permitted to be the responsible person for the following sites:

Rite Aid Pharmacy , Euclid, Ohio	(02-1924400)
Diabetic Promotion , Willowick, Ohio	(02-1380100)

After discussion, Mr. Gahm moved that the Board approve the request for one year. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

The Board discussed the **Glaxo SmithKline Recycle Program** for inhalers but the matter was tabled pending consideration of further information.

R-2010-249 After discussion, Mr. Gahm moved that the **EcoRex Waste Solution** system be found approvable pending final inspection. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 7.

R-2010-250 A request to be registered as a continuing pharmacy education provider was received from **Stacey Rae Schneider**, R.Ph., (03-2-22992) Northeastern Ohio Universities Colleges of Medicine and Pharmacy (NEOUCOM) Rootstown, Ohio. After discussion, Mr. Kolezynski moved that the request be approved. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 7.

The Board recessed briefly.

3:00 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 **Daryl Christopher Willmore**, R.Ph., Searcy, Arkansas.

- 4:34 p.m. The hearing ended and the record was closed.
- 4:35 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.
- 4:55 p.m. The Executive Session ended and the meeting was opened to the public.
- 4:57 p.m.
R-2010-251 After votes were taken in public session, the Board adopted the following order in the matter of **Daryl Christopher Willmore**, R.Ph., Searcy, Arkansas.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100312-102

in the matter of:

DARYL CHRISTOPHER WILLMORE

P.O. Box 732
Searcy, AR 72145

INTRODUCTION

The matter of Daryl Christopher Willmore came for hearing on June 7, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Daryl Christopher Willmore was represented by James C. McGovern. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Todd Knauss, Ohio State Board of Pharmacy
Daryl Christopher Willmore, Respondent

Respondent's Witnesses: Daryl Christopher Willmore, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing letter [03-12-10]
1A-1C. Procedurals
2. Application for Pharmacy Intern Registration with attachments submitted by Daryl Christopher Willmore [05-29-09]
3. Ada Police Department Ohio Uniform Incident Report [10-11-08]
4. Village of Ada Accident Report in re Daryl C. Willmore 10-11-08]
5. Mary Rutan Hospital drug screen in re Daryl C. Willmore [10-16-08]

Respondent's Exhibits:

- A. Copy of MapQuest internet map [04-13-10]
- B. St. Rita's Medical Center copy of discharge instructions and statement of benefits in re Daryl Willmore [10-11-08]

- C. Ryan D. Kauffman, M.D. patient information in re Daryl Willmore [10-16-08]
- D. M & W Auto Body, Ltd. auto damage assessment [10-17-08]
- E. Course outline from Eleventh Annual Conference On Chemical Dependency In The Profession of Pharmacy program [05-03-09]
- F. Letter from St. Rita's Medical Center to Attorney James McGovern [05-21-10]
- G. St. Rita's Medical Center Addiction Services evaluation in re Daryl Willmore [05-20-10]

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 Daryl Christopher Willmore applied to the Board for registration as an intern in the State of Ohio on May 29, 2009.
- (2) Daryl Christopher Willmore was, on or about January 5, 2009, convicted in the Hardin County Municipal Court of Driving Under the Influence in violation of Section 4511.19(A)(1) of the Ohio Revised Code.
- (3) Daryl Christopher Willmore did, on or about October 11, 2008, knowingly possess and/or use a controlled substance, to wit: Daryl Christopher Willmore possessed and/or used marijuana, a Schedule I Controlled Substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Daryl Christopher Willmore did, on or about May 6, 2009, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Daryl Christopher Willmore indicated in a letter to the Board appended to his pharmacy intern license application that criminal charges against him had been dismissed because of errors and mishandling of evidence by police officers. This was admittedly untrue, and Daryl Christopher Willmore admittedly left out other pertinent details of the arrest that Daryl Christopher Willmore had described in his letter. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (5) Daryl Christopher Willmore did, on or about August 11, 2009, knowingly make a false statement with purpose to secure the issuance of a license or registration, and to a public official with purpose to mislead him in his official investigation concerning his conduct, to wit: Daryl Christopher Willmore indicated to a Board agent that marijuana and a glass pipe used for smoking marijuana, which had been found in the glove box of a car Daryl Christopher Willmore had been operating, was not his. However, though Daryl Christopher Willmore had previously denied ownership and/or possession, Daryl Christopher Willmore had directed the officers to the contraband that was in his car. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute having been found by the Board of Pharmacy not to

be of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.08 of the Ohio Revised Code.

The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute having been found by the Board of Pharmacy to be abusing liquor or drugs as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the pharmacy intern registration application submitted by Daryl Christopher Willmore with the following conditions:

- (A) Daryl Christopher Willmore 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 two 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 for the first year and then once every three months for the remaining year.
 - (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 intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Daryl Christopher Willmore 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 Daryl Christopher Willmore's progress towards recovery and what Daryl Christopher Willmore has been doing during the previous three months.

Further:

- (1) Daryl Christopher Willmore must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (2) Daryl Christopher Willmore must not violate the drug laws of Ohio, any other state, or the federal government.
 - (3) Daryl Christopher Willmore must abide by the rules of the State Board of Pharmacy.
 - (4) Daryl Christopher Willmore must comply with the terms of this Order.
 - (5) Daryl Christopher Willmore's license is deemed not in good standing until successful completion of the probationary period.
- (C) 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.

Daryl Christopher Willmore 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.

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

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

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

4:58 p.m. The meeting recessed for the day.

Tuesday, June 8, 2010

8:55 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.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

- 8:59 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 **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio
- 9:20 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 Ms. Pasquale and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.
- 9:37 a.m. The Executive Session ended and the meeting was opened to the public.
- 9:55 a.m. After questioning the respondent about some concerns the Board had with the documentation submitted, President Gregg announced that the hearing in the matter of **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio, would be continued to a future date for the respondent to present proof of compliance with the Board Order.
- 10:03 a.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 **Henry A. Miller**, R.Ph., Henderson, Nevada.
- 10:18 a.m. The hearing ended and the record was closed.
- 10:19 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 Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.
- 10:25 a.m. The Executive Session ended and the meeting was opened to the public.
- R-2010-252** After votes were taken in public session, the Board adopted the following order in the matter of **Henry A. Miller**, R.Ph., Henderson, Nevada.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100311-106

in the matter of:

HENRY A. MILLER, R.Ph.

864 Rainbolt Lane

Henderson, Nevada 89074

INTRODUCTION

The matter of Henry A. Miller came for consideration on June 8, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Henry A. Miller was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [03-11-10]
2. National Association of Boards of Pharmacy correspondence in re Henry Miller [07-07-09]
3. Nevada State Board of Pharmacy Findings of Fact, Conclusions of Law, and Order, in re Henry A. Miller, R.Ph., Case No. 08-006-RPH-S [07-03-08]
4. Nevada State Board of Pharmacy Order Granting Request for Reinstatement by Henry A. Miller, R.Ph., Case No. 08-006-RPH-S [06-30-09]

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) Henry A. Miller is a registered pharmacist in the state of Nevada, and on or about September 22, 2009, Henry A. Miller applied for reciprocal registration into the State of Ohio.
- (2) After a hearing on June 4, 2008, the Nevada Board of Pharmacy took action against Henry A. Miller's license to practice pharmacy in Nevada. The Board suspended his license for a minimum period of one year, and placed Henry A. Miller on probation for a period of five years. The Order indicates that Henry A. Miller had stolen a total of 35,173 dosage units of hydrocodone products and 2,240 dosage units of alprazolam 2 mg during the time period from May 2007 through March 5, 2008. Such Order indicates that Henry A. Miller is not of good moral character and habits and has been disciplined by a board of pharmacy within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been found by the Board of Pharmacy not to be of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.08 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by any board of pharmacy as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Sections 4729.09 and 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing

Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Official Application for Transfer of Pharmaceutic Licensure submitted by Henry A. Miller on or about September 22, 2009.

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

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

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

10:27 a.m. The Board recessed briefly.

10:34 a.m. The Board meeting reconvened.

R-2010-253 After discussion, Mr. Gahm moved that the Board meeting minutes of May 3-4, 2010, be approved as amended. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 7.

R-2010-254 Mr. Winsley presented a request for approvable status for the remote dispensing system, **Insite RX** for long-term care facilities. Mr. Casar moved that the system be found approvable pending final inspection showing that all the Board's requirements have been met. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 7.

11:04 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:20 a.m. The Executive Session ended and the meeting was opened to the public.

11:22 a.m.

R-2010-255 Mr. Gahm moved that a request for special accommodation submitted by an examination candidate be approved pending the recommendation of the National Association of Boards of Pharmacy. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

R-2010-256 Mr. Casar moved that the Board summarily suspend the license to practice pharmacy belonging to **Cathy Sue Brinkman**, R.Ph., (03-1-20796) Boliver, Ohio, pursuant to Ohio Revised Code 3719.121(A) and (B). Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 7.

R-2010-257 After discussion, Mr. Casar moved that the electronic prescribing system, **Glenwood System**, be found approvable pending final inspection. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.

The Board recessed for lunch.

The Board reconvened in Room East B 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

1:38 p.m.

R-2010-258

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.

Ayoola O. Aladesanmi	<i>Connecticut</i>
Erika Aldag	<i>Nebraska</i>
Christie Danielle Reynolds	<i>Kentucky</i>
Denise Lyons Rainey	<i>Virginia</i>
Brian Douglas Thurston	<i>Pennsylvania</i>
Navneet Sachdeva	<i>Pennsylvania</i>
Margaret Demaree	<i>Florida</i>
Jared Matthew Stroud	<i>Michigan</i>
Jennifer Ann Bryant	<i>Pennsylvania</i>
Kenneth Matthew Houdyschell	<i>West Virginia</i>
Ronald Lewis Jackson	<i>Alabama</i>
Venugopal Reddy Maheshwaram	<i>Michigan</i>
Brandy Lynn Farmer	<i>Alabama</i>
Benedict Anekwe	<i>Minnesota</i>
Emily Jeffrey	<i>West Virginia</i>
Mario Anthony Pisano	<i>Pennsylvania</i>
Kunal T. Patel	<i>Illinois</i>
Shanna Lee Olsen	<i>Tennessee</i>
Kylie Elizabeth Mueller	<i>Indiana</i>
Emily Jane Moran	<i>Colorado</i>
Randy John Osburn	<i>Wisconsin</i>
Heather Inestroza	<i>Florida</i>

2:04 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 **Joon H. Chong**, M.D.

3:12 p.m.

Respondent **Joon H. Chong**, M.D. and counsel Bradley Davis Barbin left the hearing.

3:13 p.m.

The Board recessed briefly.

3:25 p.m.

The hearing in the matter of **Joon H. Chong**, M.D. resumed.

4:53 p.m.

The hearing ended and the record was closed.

4:54 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 Mr. Casar and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

5:04 p.m.

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

5:06 p.m. After votes were taken in public session, the Board adopted the following order in the matter of **Joon H. Chong, M.D.**

R-2010-259

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100316-109

in the matter of:

JOON H. CHONG, M.D.

1405 11th Street

Portsmouth, Ohio 45662

INTRODUCTION

The matter of Joon H. Chong came for hearing on June 8, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Joon H. Chong was represented by Bradley Davis Barbin. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General. After opening statements, the State called Dr. Chong as a witness. Attorney Barbin addressed the Board, then he, his client, and potential witnesses declined to participate further. They then left the building; the hearing resumed in their elected absence.

SUMMARY OF EVIDENCE

State's Witness: Kevin Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [03-16-10] 1A-1B. Procedurals
2. Application for Registration as a Distributor of Dangerous Drugs submitted by Joon H. Chong, M.D. [01-12-10]
3. Lease Agreement between Adams Holdings Inc. and Harry Vaughn President and Bart Journey Vice President, dba Portsmouth Medical Solutions LLC. [07-17-09]
4. Portsmouth Medical Solutions, LLC blank prescription form [not dated]
5. Portsmouth Medical Solutions, LLC Pain Management Agreement [not dated]
6. Portsmouth Medical Solutions, LLC employee list [not dated]
7. Copy of photograph of Portsmouth Medical Solutions office door [not dated]
8. Locum Tenens.com Provider Agreement [01-30-10]
9. Physicians Total Care Folder and Documents [various dated]
- 10a. Recording of interview with Joon Chong, M.D. [02-18-10]
- 10b. Transcript of interview with Joon Chong, M.D. [02-18-10]
11. Scioto County, Ohio Common Pleas Court Criminal Division Judgment Entry of Sentence, State v. Bart Journey, Case No. 07CR000830 [03-27-00]

12. Pulaski County, Indiana Superior Court Certified Court Records, State v. Tracy Ray Bias, Cause #66D01-0702-FD-00015 [various dates]
13. Classified Ad [02-26-10]
14. Account activity for Woodforest National Bank for Joon Chong [02-11-10 to 03-11-10]
15. Articles of Incorporation, Joon Chong, MD, LLC [02-11-10]
16. State Board of Pharmacy Record of the Proceedings [04-05-101]

Respondent's Exhibits:

- A. Copy of check #1039 from Joon Chong to Portsmouth Medical Solutions [03-08-10]
- B. Copy of Acord Certificate of Liability Insurance for Locumtenens.Com, LLC [12-15-09]
- C.-D. Two copies of CME certificates for Joon Chong, MD [05-06-10 and 05-08-10]
- E. Copy of definition of insomnia [not dated]

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 Joon H. Chong signed an application for licensure indicating that he is the sole proprietor at the address indicated above and thereby the responsible person pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Joon H. Chong did, on or about January 12, 2010, knowingly make a false statement when made with purpose to secure the issuance by the Ohio State Board of Pharmacy of a license, to wit: Joon H. Chong submitted an application for licensure as a Terminal Distributor of Dangerous Drugs which contained false and/or misleading statements. Joon H. Chong's application indicates that Joon H. Chong is a "sole proprietor" when in fact the site to be licensed is leased by another unlicensed individual who employs Joon H. Chong by contract; the building in which Joon H. Chong intends to operate bears a sign saying "Portsmouth Medical Solutions." Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.
- (3) Joon H. Chong has not furnished satisfactory proof to the Board that a pharmacist or licensed health professional authorized to prescribe drugs will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by Joon H. Chong or on his behalf, to wit: Joon H. Chong has designated unlicensed persons to be a "dispensary manager" and "dispensary security." Persons other than a pharmacist or licensed health professional have keys to, and unfettered access to, the drug stock. Such indicates that Joon H. Chong does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(B) of the Ohio Revised Code.
- (4) Joon H. Chong has not furnished satisfactory proof to the Board that adequate safeguards are assured to prevent the sale or the distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs. Specifically, unlicensed persons have keys and unfettered access to the drug stock and drug safe.

Additionally, Joon H. Chong is the only licensed person at the facility, and though Joon H. Chong lists this as his site of practice, Joon H. Chong maintains his residence in Coldwater, Michigan. The building's lessee hired and manages the office staff. Joon H. Chong, the sole physician and only licensed health professional at the practice, does not check medications that leave the facility with patients, and Joon H. Chong only "initials" Schedule II Controlled Substance prescriptions/orders at the end of the business day. Such indicates that Joon H. Chong does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(C) of the Ohio Revised Code.

- (5) Joon H. Chong has not furnished satisfactory proof to the Board that, since an agent or employee of his has been found guilty of violating provisions of the federal drug abuse control laws and/or Chapter 2925. of the Ohio Revised Code (or its Indiana equivalent), adequate safeguards are assured to prevent the recurrence of the violation. Specifically, the building's lessee, and a contractual participant with Joon H. Chong, Bart Journey, has been convicted of Possession of Drugs, a 5th degree felony and Attempted Drug Trafficking, a 5th degree felony in Scioto County, Ohio.

As well, another associate of the business, Tracy Bias, has been convicted of Possession of Marijuana, a class D felony in the State of Indiana. Joon H. Chong has offered no satisfactory proof of any safeguards to assure preventing their recurrence. Such indicates that Joon H. Chong does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(E) 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) through (5) of the Findings of Fact constitute failure to meet the qualifications set forth in Section 4729.55(A) of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute having been found by the Board of Pharmacy not to be of good moral character and habits as provided in paragraph (A) of Rule 4729-9-19 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitutes failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs license as set forth in Section 4729.55 (B) (C) and (F) of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register Joon H. Chong. and, therefore, denies the Application for a Terminal Distributor of Dangerous Drugs license submitted by Joon H. Chong on January 12, 2010.

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

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

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

5:07 p.m. The Board meeting was recessed for the day.

Wednesday, June 9, 2010

9:15 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.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

9:16 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 **Sacha A. Koborsi-Tadros**, Intern (0-6-006885) Canal Winchester, Ohio.

10:07 a.m. The hearing ended and the record was closed.

10:08 a.m. Mr. Gahm 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*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

10:20 a.m. The Executive Session ended and the meeting was opened to the public.

R-2010-260 After votes were taken in public session, the Board adopted the following order in the matter of **Sacha A. Koborsi-Tadros**, Intern (0-6-006885) Canal Winchester, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100323-110

in the matter of:

SACHA A. KOBORSI-TADROS

6535 Dorothy's Creek

Canal Winchester, Ohio 43110

INTRODUCTION

The matter of Sacha A. Koborsi-Tadros came for hearing on June 9, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (presiding); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Sacha A. Koborsi-Tadros was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Sacha A. Koborsi-Tadros: Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [03-23-10]
1A-1C. Procedurals
2. Application for Examination as a Pharmacist [06-19-09]
3. Pharmacy Intern Registration Application [07-09-07]
4. Application for Examination as a Pharmacist [10-29-07]
5. Application for Examination as a Pharmacist [08-05-08]
6. Pharmacy Intern Registration Application [01-23-09]
7. Letter from William F. McMillen, R.Ph. to Sacha A. Koborsi [10-01-08]
8. Letter from William T. Winsley, M.S., R.Ph. to Sacha A. Koborsi [12-14-07]
9. Copy of Orland Park Police Department General Case Report in re Sasha
(sic) Koborsi with attachment [09-14-02]
10. Letter from George Sarolas to Sasha (sic) Koborsi-Tadros [02-01-10]

Respondent's Exhibits:

A.-C. Three letters of support [03-26-10 to 04-15-10]

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 Sacha A. Koborsi-Tadros submitted an application for examination as a pharmacist on or about June 19, 2009. Records further indicate that Sacha A. Koborsi-Tadros was originally licensed to practice pharmacy as an intern in the state of Ohio on July 18, 2007.
- (2) Sacha A. Koborsi-Tadros did, on or about July 18, 2007, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Sacha A. Koborsi-Tadros indicated on her pharmacy intern registration application that she had not been charged with a crime when in fact Sacha A. Koborsi-Tadros had been charged and/or convicted of theft. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (3) Sacha A. Koborsi-Tadros did, on or about October 29, 2007, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Sacha A. Koborsi-Tadros indicated on her application for examination as a pharmacist that she had not been charged with a crime when in fact Sacha A. Koborsi-Tadros had been charged and/or convicted of theft. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

- (4) Sacha A. Koborsi-Tadros did, on or about August 5, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Sacha A. Koborsi-Tadros indicated on her application for examination as a pharmacist that she had not been charged with a crime when in fact Sacha A. Koborsi-Tadros had been charged and/or convicted of theft. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (5) Sacha A. Koborsi-Tadros did, on or about January 23, 2009, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Sacha A. Koborsi-Tadros indicated on her pharmacy intern registration application that she had not been charged with a crime when in fact Sacha A. Koborsi-Tadros had been charged and/or convicted of theft. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (6) Sacha A. Koborsi-Tadros did, on or about June 19, 2009, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Sacha A. Koborsi-Tadros indicated on her application for examination as a pharmacist that she had not been charged with a crime when in fact Sacha A. Koborsi-Tadros had been charged and/or convicted of theft. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute being guilty of dishonesty 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 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Examination as a Pharmacist submitted by Sacha A. Koborsi-Tadros.

Deborah Lange moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-6/Nay-1).

Troy Gahm moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-6/Nay-1).

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

- 10:23 a.m. The Board recessed briefly.
- 10:33 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 **Joe Anthony Murphy**, Intern (06-0-07027) Toledo, Ohio.
- 11:06 a.m. The hearing ended and the record was closed.

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*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

11:15 a.m. The Executive Session ended and the meeting was opened to the public.

R-2010-261 After votes were taken in public session, the Board adopted the following order in the matter of **Joe Anthony Murphy**, Intern (06-0-07027) Toledo, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100428-111

in the matter of:

JOE ANTHONY MURPHY, INTERN

7616 Ivandale
Parma, Ohio 44129

Intern Number 06-0-07027

INTRODUCTION

The matter of Joe Anthony Murphy came for hearing on June 9, 2010, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent.

Joe Anthony Murphy was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Joe Anthony Murphy, Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Ohio State Board of Pharmacy Order in re Joe Anthony Murphy [05-15-09]
 - 1A. Procedural
2. Ohio State Board of Pharmacy Application for Examination as a Pharmacist submitted by Joseph Murphy [04-19-10]

Respondent's Exhibits:

- A-E. Five (5) preceptor evaluations in re Joe Murphy [August 2009 through February 2010]
- B. E-Mail communication from Mandy Young, Pharm.D. to Jacquelynn Salem-Newman and Timothy Heimann in re Joe Murphy [06-03-10]

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 that Joe Anthony Murphy has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-090211-087, effective May 15, 2009.

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Licensure as a Pharmacist submitted by Joe Anthony Murphy.

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

11:16 a.m. The Board recessed briefly.

11:30 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

12:18 p.m. The Executive Session ended and the meeting was opened to the public.

The discussion of the **Glaxo SmithKline Recycle** Program for inhalers was tabled and will be reviewed at the July 2010 Board meeting.

Election of Officers for FY 2011:

R-2010-262 Mr. Gahm moved that Richard Kolezynski be named President of the Board of Pharmacy for fiscal year 2011. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 6; *Abstain*, Kolezynski.

R-2010-263 Mr. Cain moved that Donald Casar be named Vice-President of the Board of Pharmacy for fiscal year 2011. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 6; *Abstain*, Casar.

President Gregg administered the Oath of Office to the president-elect, Richard Kolezynski.

Oath of President

I, Richard F. Kolezynski, as President of the Ohio Board of Pharmacy, do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the State of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the State of Ohio without bias or prejudice, so help me God.

President Gregg then administered the Oath of Office to Vice-President-elect, Donald Casar.

Oath of Vice-President

I, Donald M. Casar, as Vice-President of the Ohio Board of Pharmacy, do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the State of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the State of Ohio without bias or prejudice, so help me God.

12:27 p.m. Ms. Pasquale moved that the Board receive Per Diem as follows:

PER DIEM	06/07	06/08	06/09	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	1	1	1	3
Gregg	1	1	1	3
Joyce	-	-	-	0
Kolezynski	1	1	1	3
Lange	1	1	1	3
Pasquale	1	1	1	3
Wiesenhahn	1	1	1	3

Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7.

12:28 p.m. Ms. Pasquale moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

Elizabeth I. Gregg, R.Ph., President

Date: _____

William T. Winsley, M.S. R.Ph., Executive Director