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Minutes of the February 7-9, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, February 7, 2011

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

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

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

R-2011-147 Mr. Winsley announced that the following Settlement Agreement with **Mary A. Casey**, R.Ph. (03-3-22059) Uniontown, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100614-125
in the matter of:

MARY A. CASEY, R.Ph.
3589 Eagles Nest Circle NW
Uniontown, Ohio 44685

R.Ph. Number 03-3-22059

This Settlement Agreement is entered into by and between Mary A. Casey 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.

Mary A. Casey 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. Mary A. Casey 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, limit, 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, Mary A. Casey is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 14, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Mary A. Casey 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. Mary A. Casey requested a hearing; it was scheduled and continued. The June 14, 2010 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Mary A. Casey was originally licensed in the State of Ohio on September 17, 1996, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Mary A. Casey did, on or about October 14, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Mary A. Casey did, on or about November 11, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Mary A. Casey did, on or about December 28, 2008, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620 and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Mary A. Casey did, on or about January 15, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Mary A. Casey did, on or about February 26, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (7) Mary A. Casey did, on or about March 21, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620,

and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (8) Mary A. Casey did, on or about April 14, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) Mary A. Casey did, on or about May 5, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey performed DUR (Drug Utilization Review) at Giant Eagle Pharmacy #1620, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (10) Mary A. Casey did, on or about June 4, 2009, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Mary A. Casey did not renew her license to practice pharmacy, Mary A. Casey dispensed RX #4025696 for hydrocodone/APAP 5/500 mg at Giant Eagle Pharmacy #1605, and Mary A. Casey performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Mary A. Casey neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 14, 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, Mary A. Casey knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Mary A. Casey agrees to the imposition of a monetary penalty of two thousand two hundred fifty dollars (\$2,250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

If, in the judgment of the Board, Mary A. Casey 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 probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board 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.

Mary A. Casey 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.

Mary A. Casey 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. Mary A. Casey 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/ Mary A. Casey, R.Ph. Date Signed: 01/19/11
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 02/07/11
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 02/07/11
Ohio Assistant Attorney General

10:04 a.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Casar and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*.

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

R-2011-148 The Board considered a request from **Mark Todd Gary**, R.Ph. (03-3-18639) Hamilton, Ohio, for modification of his March, 2008 Board Order. Mr. Joyce moved that the request be denied. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 5.

R-2011-149 Mr. Gahm moved that the settlement offer in the matter of **Michael Robert Krusling**, R.Ph. (03-1-10023) Bethel, Ohio, be denied. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 5.

The Board recessed briefly.

11:22 a.m. Mrs. Droz presented the Ohio Automated Prescription Reporting System update.

Mr. Keeley presented the Legislative Report.

Ms. Lange and Mr. Keeley discussed the Technician Exam Status Report with the Board.

R-2011-150 Mr. Keeley presented the assignment of members to the 2011 Ad Hoc Committee on Rule Review:

OSHP:

Kathy Donley, R.Ph./Akron General Medical Center

Margaret Huwer, R.Ph./Doctor's Hospital, Columbus

Steve Smith, R.Ph./Toledo Hospital Family Medicine Residency

Jim Jones, R.Ph./Nationwide Children's Hospital, Columbus

OPA:

Matt Fettman, R.Ph./Davie's Pharmacy, Canton

Megan Marchal, R.Ph./Walgreens, Columbus

Pete Ratycz, R.Ph./Discount Drug Mart, Medina

Joe Sabino, R.Ph./ retired

Board Members:

Troy Gahm, R.Ph./Chair

Don Casar, R.Ph.

Mr. Gahm moved that the member list be accepted as presented. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 5.*

R-2011-151 Mr. Joyce moved that the National Association of Boards of Pharmacy 2011 dues be approved as payable. Mr. Casar seconded the motion and it was approved by the Board: *Aye – 5.*

12:15 p.m. The Board recessed for lunch.

1:20 p.m. The meeting resumed.

1:30 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 **David Loring Persinger, R.Ph., Washington C.H., Ohio.**

4:17 p.m. The hearing ended and the record was closed.

4:17 p.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 Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*.

4:30 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-152 After votes were taken in public session, the Board adopted the following order in the matter of **David Loring Persinger, R.Ph. Washington C.H., Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090825-013

in the matter of:

DAVID LORING PERSINGER

7105 State Route 729 N.W.

Washington C.H., Ohio 43160

INTRODUCTION

The matter of David Loring Persinger came for hearing on February 7, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph.

Jerome J. Wiesenhahn, R.Ph., absent

David Loring Persinger was represented by Daniel D. Connor. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

Kevin Kinneer, Ohio State Board of Pharmacy
David Loring Persinger, Respondent

Respondent's Witness: Julie Mosny

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [08-25-09] 1A-1E. Procedurals
2. Application for Examination as a Pharmacist for David Loring Persinger with attachments [05-28-08]
3. Copy of letter from Michael Burleson, R.Ph., Executive Director, Kentucky Board of Pharmacy [06-30-08]; Agreed Order with the Kentucky Board of Pharmacy in re David L. Persinger [05-31-91]; Agreed Order with the Kentucky Board of Pharmacy in re David L. Persinger [06-09-93]; Agreed Order with the Kentucky Board of Pharmacy in re David L. Persinger [04-21-99]; Agreed Order with the Kentucky Board of Pharmacy in re David L. Persinger [06-30-99]
4. Certified copies of documentation for Commonwealth vs. Persinger, David Loring, Case No. DI 04-T-05322, Pike County, Kentucky [various dates]
5. Indictment, Pike County Court, Commonwealth of Kentucky vs. Melvina Myers, David Myers (sic) Persinger and Troy Wayne Salyers, Case No. 05-CR-00200-002 [06-23-05]; Motion to Enter Guilty Plea, Commonwealth of Kentucky vs. David Persinger, Case No. 05-CR-00200-002 [03-22-07]; Plea of guilty, Commonwealth of Kentucky vs. David Persinger, Case No. 05 CR 0200 [03-21-07], Judgment on a Guilty Plea, Commonwealth of Kentucky vs. David Persinger, Case No. 05-CR-00200-002 [03-22-07]; Judgment on a Guilty Plea/Verdict and Final Judgment, Order of Imprisonment and Sentence of Supervised Probation, Commonwealth of Kentucky vs. David Persinger [08-22-07]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for David Loring Persinger [01-19-10]
- B. Fayette Recovery Center chart with attachments for David L. Persinger [2006]
- C. Fayette Recovery Center chart with attachments for David L. Persinger [2008 to 2009]
- D. Letter from Tanya Patton, CDCA, Fayette Recovery Center in re David L. Persinger [07-31-06]; Copy of letter from Barry Seymour, Fayette Recovery Center to Daniel D. Connor, Esq. in re David L. Persinger [01-25-11]
- E. Cornerstone of Recovery Contract for Persinger, David L. with attachments [various dates]
- F. Cornerstone of Recovery Report for David L. Persinger [09-28-09]; Letter from Todd B. Feasel, PCC-S in re David Persinger [01-20-11]
- G. FirstLab Test History Report [02-25-10 to 01-27-11]; FirstLab Drug Testing Panel [10-11-06]
- H. WAL-MART Urine Screen lab slip [10-11-06]; EScreen 123 Specimen Result Certificates [06-08-07 to 07-26-07]; Chain of Custody form for David Persinger [07-09-08]; Fayette County Memorial Hospital, Report of Urine Drug Screen [07-10-08]
- I. PRO Support Group Attendance Records [07-15-08 to 11-17-09]
- J. Cornerstone IOP Support Group Attendance Records [11-15-09 to 01-15-10]
- K. PRO Support Group Attendance Records [01-17-10 to 02-05-11]
- L. Continuing Education Credits and Certificates [04-25-10 to 01-30-11]
- M. Letter from Janet L. Clark, Ph.D. to Daniel D. Connor, Esq. in re David Persinger [01-25-11]
- N. Letter from Raleigh Smith, R.Ph. to Ohio State Board of Pharmacy in re David Persinger [01-24-11]; Letter from Fonda Fichthorn in re David Persinger [01-028-11]
- O. Five letters of support [01-23-11 to 01-28-11]

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 David Loring Persinger submitted an application for examination as a pharmacist on or about May 28, 2008. Records of the Board further indicate that David Loring Persinger was originally licensed to practice pharmacy in the State of Ohio on August 8, 1979, pursuant to examination; and, on September 15, 1999, David Loring Persinger's license lapsed. Further, David Loring Persinger's pharmacist license in Kentucky was suspended in 1999.
- (2) David Loring Persinger is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render David Loring Persinger unfit to practice pharmacy, to wit: David Loring Persinger has admitted the following facts to a Board agent:
 - While working as a "floater" pharmacist, David Loring Persinger began abusing marijuana to deal with stress of the day;
 - David Loring Persinger began abusing cocaine in 1989;
 - Due to cocaine abuse, David Loring Persinger was unable to make house payments because all of his money went to his cocaine addiction;
 - David Loring Persinger abused one to four grams of cocaine per day and practiced pharmacy while impaired;
 - David Loring Persinger has admitted that he is a "procrastinator" as his excuse for committing three infractions in the state of Kentucky by failing to report continuing education in a timely manner, such that David Loring Persinger was suspended by the Kentucky Board of Pharmacy.

Such conduct falls within the provisions of Rule 4729-5-04 of the Ohio Administrative Code; and that falls within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

- (3) David Loring Persinger was, on or about August 22, 2007, convicted of one count of Possession of a Controlled Substance, a class D felony; Count 2, Possession of a Controlled Substance, a class A misdemeanor; and Count 3, Possession of Drug Paraphernalia, a class A misdemeanor. Commonwealth of Kentucky vs. David Persinger, Case 05-CR-00200-002, Pike Circuit Court Division II.
- (4) David Loring Persinger did, on or about various dates between April of 2004 and May 15, 2005, knowingly sell or offer to sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: David Loring Persinger knowingly aided and abetted the sale of cocaine, a Schedule II Controlled Substance, when not for a legitimate medical purpose and in the course of a series of "street sales." Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (4) 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.

- (2) The State Board of Pharmacy concludes that paragraphs (2) and (4) of the Findings of Fact constitute being addicted to or abusing liquor or drugs to such a degree as to render him unfit to practice pharmacy as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State of Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by any professional licensing board as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.
- (4) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (5) The State Board of Pharmacy concludes that paragraphs (2) and (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (6) The State Board of Pharmacy concludes that paragraphs (2) and (4) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (7) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.
- (8) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code and having been convicted of a felony and violating any state or federal pharmacy or drug law within paragraphs (A) and (B) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Section 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 Registration by Examination submitted by David Loring Persinger submitted on or about May 28, 2008.

Donald Casar moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Brian Joyce moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

4:33 p.m. The Board recessed for the day.

Tuesday, February 8, 2011

8:50 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

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

Ms. Lange said that the Medical Board's Physician-Assistant Policy Committee is scheduled to meet today, February 8.

R-2011-153 Mr. Benedict presented a request from Kroger Pharmacy #014432 (02-1041550) Cincinnati, Ohio. The pharmacy is scheduled for remodeling March 1, 2011, continuing through June 1, 2011, and asks to use a secure pharmacy trailer in the interim. After discussion, Mr. Casar moved that the request be granted pending final inspection. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 5.

R-2011-154 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Brian Louis Stahl**, Pharm.D. (03-2-28089) Holland, Ohio, be permitted to be the responsible person for the following sites:

Giant Eagle Pharmacy,	Toledo, Ohio	(02-1373300)
PrescriptionGiant.com.,	Toledo, Ohio	(02-1957250)

After discussion, Mr. Gahm moved that the Board approve the request for 6 months. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5.

Mr. Parker said that a responsible person request from **Jon Robert Keeley**, R.Ph. (03-1-14983) Holland, Ohio, tabled in the January meeting, no longer required Board action.

R-2011-155 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Shawn Roe**, Pharm.D. Indiana, be permitted to be the responsible person for the following sites:

NuCara Pharmacy # 1,	Coralville, Indiana	(02-1520500)
Vet RX,	Coralville, Indiana	(02-1757400)

After discussion, Mr. Joyce moved that the Board approve the request for one year. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 5.

Mr. Casar said there was no report from the Nursing Board Committee on Prescriptive Governance.

9:01 a.m. The Board recessed briefly.

- 9:10 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 **Michael John Grieselding**, R.Ph. (03-3-15817) Holland, Ohio.
- 9:48 a.m. The hearing ended and the record was closed.
- 9:48 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 Mr. Casar and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*.
- 10:07 a.m. The Executive Session ended and the meeting was opened to the public.
- R-2011-156** After votes were taken in public session, the Board adopted the following order in the matter of **Michael John Grieselding**, R.Ph. (03-3-15817) Holland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-101108-151

in the matter of:

MICHAEL JOHN GRIESELING, R.Ph.

117 Hidden Meadow Drive
Holland, Ohio 43528

R.Ph. Number 03-3-15817

INTRODUCTION

The matter of Michael John Grieselding came for hearing on February 8, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph.

Jerome J. Wiesenhahn, R.Ph., absent

Michael John Grieselding was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Don Newton, Ohio State Board of Pharmacy
Michael John Grieselding, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity for Hearing letter [11-08-10]
- 1A-1C. Procedurals
2. Documentation packet for RX #566179
3. Documentation packet for RX #54130
4. Documentation packet for RX #78475
5. Documentation packet for RX #687876
6. Documentation packet for RX #572503
7. Documentation packet for RX #71369
8. Documentation packet for RX #56526
9. Notarized written statement of Dr. Jennifer Murtagh [04-08-10]
10. Notarized written statement of Dr. Cathy Cantor [04-07-10]

11. Notarized written statement of Dr. Ronica Neuhoff [04-07-10]
12. Notarized written statement of Matt Roth, MD [03-23-10]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Michael John Grieselding was originally licensed in the State of Ohio on March 1, 1985, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Michael John Grieselding did, on or about April 2, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #566179 for azithromycin 250 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (3) Michael John Grieselding did, on or about September 3, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #54130 for azithromycin 250 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (4) Michael John Grieselding did, on or about July 1, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #78475 for Augmentin 875 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (5) Michael John Grieselding did, on or about August 24, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #687876 for Augmentin 875 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (6) Michael John Grieselding did, on or about January 8, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #572503 for Lutera without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (7) Michael John Grieselding did, on or about January 11, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #71369 for azithromycin 250 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Michael John Grieselding did, on or about January 13, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Michael John Grieselding created RX #56526 for azithromycin 250 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Michael John Grieselding as follows:

- (A) Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand seven hundred fifty dollars (\$1,750.00) on Michael John Grieselding and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Attempt at restitution to Walgreens' Pharmacy;
- (C) Michael John Grieselding must obtain, within six months from the effective date of this Order, three additional hours (0.3 CEUs) of approved continuing pharmacy education in ethics, which may not also be used for license renewal.
- (D) On the basis of the findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Michael John Grieselding's practice of pharmacy in that he may not dispense prescriptions for himself or for any member of his family.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Donald Casar moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

10:09 a.m. The Board recessed briefly.

10:20 a.m.

R-2011-157 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Buderer Drug Company, Inc.,	Sandusky, Ohio	(02-1106900)
Buderer Drug Company, Inc.,	Perrysburg, Ohio	(02-1198400)
Cleveland Indians Baseball Company,	Cleveland, Ohio	(02-0059550)

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 5.

R-2011-158 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Buderer Drug Company, Inc.,	Sandusky, Ohio	(02-1106900)
Buderer Drug Company, Inc.,	Perrysburg, Ohio	(02-1198400)
James Roberts, M.D.,	Sandusky, Ohio	

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5.

R-2011-159 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Buderer Drug Company, Inc.,	Sandusky, Ohio	(02-1106900)
Buderer Drug Company, Inc.,	Perrysburg, Ohio	(02-1198400)
Susan Graham, M.D.,	Sandusky, Ohio	

After discussion, Mr. Casar moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 5.

R-2011-160 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Buderer Drug Company, Inc.,	Sandusky, Ohio	(02-1106900)
Buderer Drug Company, Inc.,	Perrysburg, Ohio	(02-1198400)
Aultman Hospital-Ambulatory Surgery,	N. Canton, Ohio	(02-1051550)

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5.

11:17 a.m. The Board recessed for lunch.

1:30 p.m.

R-2011-161 The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center. The following candidates for licensure by reciprocity introduced themselves, and then participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator.

Matthew W. Becken	Arizona
Tiffany Becken	Arizona
Suzanne P. Kluge	Illinois
Megan Ashley Kramer	Michigan
Steven Bradley Lewis	Georgia
John Allen Nawrocki	Pennsylvania
Toluwalope Mary Onadeko	Arizona
Lesha Simmons	New Jersey
Christina Marie Shomin	Pennsylvania
Robert Michael Shrum	Pennsylvania
Aaron R Stalets	Missouri
Dorothy Lee Watts-Johnson	West Virginia
Matthew Braden Zimmerman	Pennsylvania

1:54 p.m. The Board meeting reconvened.

1:55: p.m.

R-2011-162 Mr. Keeley presented a request from the Ohio Pharmacists Foundation for approval of a home-study course, *Adult Immunizations for Selected Vaccine-Preventable Diseases* replacing *Immunizations for Selected Infectious Diseases*. After discussion, Mr. Casar moved that the request be approved. The motion was seconded by Mr. Gahm and approved by the Board: *Aye – 5*.

1:58: 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 **Erica M. Kremer**, R.Ph. (03-3-29132) Erie, Pennsylvania.

3:35 p.m. The hearing ended and the record was closed.

3:35 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*.

4:00 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-163 After votes were taken in public session, the Board adopted the following order in the matter of **Erica M. Kremer**, R.Ph. (03-3-29232) Erie, Pennsylvania.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100908-145

in the matter of:

ERICA M. KREMER, R.Ph.

1325 Spring Lake Drive
Erie, Pennsylvania 16589

R.Ph. Number 03-3-29132

INTRODUCTION

The matter of Erica M. Kremer came for hearing on February 8, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph.

Jerome J. Wiesenhahn, R.Ph., absent

Erica M. Kremer was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Trey Edwards, Ohio State Board of Pharmacy
Erica M. Kremer, R.Ph., Respondent

Respondent's Witnesses: Erica M. Kremer, R.Ph., Respondent
Krista Kremer

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [09-08-10]
- 1A-1D. Procedurals
2. Written Rite Aid Statement Form of Erica M. Kremer [08-23-10]
3. Internal Loss Incident Report at Rite Aid Pharmacy #712 [08-23-10]; Drug Inventory Audit for hydrocodone/APAP 5/500 mg [06-03-10]; Drug Inventory Audit for hydrocodone/APAP 7.5/750 mg [06-03-10]

Respondent's Exhibits:

- A. S.A.R.P.H. Monitoring/Treatment Contract for Erica Kremer, R.Ph. [08-17-10]
- B. Greenbriar Treatment Center Discharge Summary for Erica Kremer [10-08-10]; Letter from George J. Dowd, MS, LPC, CC/COD Diplomate, Saint Vincent Outpatient Recovery Center, Serenity Recovery Center [02-01-11]; Letter from Mary Beth Moreland, CRNP, Saint Vincent Outpatient Behavioral Sciences [01-25-11]
- C. Support Group Meeting Attendance Records [10-04-10 to 01-30-11]
- D. S.A.R.P.H. Progress Report for Erica Kremer [01-18-11]; Letter from Kathie Simpson, S.A.R.P.H. Executive Director of Operations to Robert J. Garrity, Esq. in re Erika [sic] Kremer, R.Ph. [02-07-11]
- E. Letter from Kevin C. Knipe, MSW, LSW, CCDP Diplomate to Erica Kremer [01-10-11]
- F. Restitution documentation from Rite Aid [01-18-11]
- G. Cover letter and resume of Erica M. Kremer [February 2011]
- H. Five letters of support [01-28-11 to 02-04-11]

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 Erica M. Kremer was originally licensed in the State of Ohio on November 25, 2008, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Erica M. Kremer is addicted to the use of controlled substances, to wit: Erica M. Kremer has admitted to stealing and abusing hydrocodone with acetaminophen, a Schedule III Controlled Substance. Erica M. Kremer has admitted that Erica M. Kremer began using the drug in different strengths in early 2010 and continued through May 2010, and that Erica M. Kremer is addicted to the drug. Erica M. Kremer has also indicated to a Board agent that Erica M. Kremer abuses alcohol while abusing drugs, and that Erica M.

Kremer's alcohol usage is greater than her drug usage. Such conduct indicates that Erica M. Kremer is addicted to controlled substances within the meaning of Section 3719.121 of the Ohio Revised Code and/or abusing dangerous drugs to such an extent as to render Erica M. Kremer unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Erica M. Kremer on September 8, 2010.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-29132, held by Erica M. Kremer and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of the Summary Suspension Order/Notice of Opportunity for hearing letter issued September 8, 2010, the Board will consider any petition filed by Erica M. Kremer for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Erica M. Kremer must continue with her current S.A.R.P.H. contract or a Pennsylvania equivalent program.
- (B) Erica M. Kremer must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Erica M. Kremer must provide, at the reinstatement petition hearing, documentation of the following:

- (1) Compliance with the contract required above (e.g. proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Erica M. Kremer must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Upon such time as the Board may consider reinstatement, Erica M. Kremer will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

Donald Casar moved for Conclusions of Law; Edward Cain seconded the motion. Motion passed (Aye-5/Nay-0).

Donald Casar moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-3/Nay-2).

4:08 p.m. The Board recessed for the day.

Wednesday, February 9, 2011

9:06 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

9:07 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 **Heather Leigh Perrin**, R.Ph. (03-1-22493) Mason, Ohio; **Colleen Renee Lindholz**, R.Ph. (03-2-21166) Loveland, Ohio; **Kroger Pharmacy #14384**, (02-1042700) Cincinnati, Ohio.

12:50 p.m. The Board recessed for lunch.

1:30 p.m. The hearing in the matter of **Heather Leigh Perrin**, R.Ph. (03-1-22493) Mason, Ohio; **Colleen Renee Lindholz**, R.Ph. (03-2-21166) Loveland, Ohio; **Kroger Pharmacy #14384**, (02-1042700) Cincinnati, Ohio, resumed.

2:28 p.m. The hearing ended and the record was closed.

2:28 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio

3:15 p.m. Revised Code. The motion was seconded by Mr. Joyce and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*. The Executive Session ended and the meeting was opened to the public.

R-2011-164 After votes were taken in public session, the Board adopted the following order in the matter of **Kroger Pharmacy #14384**, (02-1042700) Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-101012-150

in the matter of:

KROGER PHARMACY #14384

c/o Stephen Albert Jungkunz, R.Ph.
150 Tricounty Parkway
Pharmacy Department
Cincinnati, Ohio 45246

T.D.D.D. Number 02-1042700

INTRODUCTION

The matter of Kroger Pharmacy #14384 came for hearing on February 9, 2011 before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph..

Jerome J. Wiesenbahn, R.Ph., absent

Kroger Pharmacy #14384 was represented by Mary Barley-McBride. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Rick Haun, Ohio State Board of Pharmacy
Pamela Hughes
Heather Leigh Perrin, R.Ph., Respondent
Colleen Lindholz, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity for Hearing letter for Kroger Pharmacy #14384 [10-12-10]
- 1A-1D. Kroger Pharmacy #14384 Procedurals
- 2A-2C. Heather Leigh Perrin, R.Ph., Procedurals
- 3A-3D. Colleen Lindholz, R.Ph., Procedurals
4. Notarized written statement of Pamela Hughes [08-05-10]
5. Notarized written statement of Heather Perrin [08-11-10]
6. Notarized written statement of Cathy McKee [08-05-10]
7. Notarized statement of Jacquelyn Helmes, Intern [10-28-10]
8. Notarized statement of Alison Foster [10-27-10]
9. Transcribed testimony of Pamela Hughes and Colleen Lindholz, R.Ph. [11-03-10]
10. Recording of conversation with Colleen Lindholz, R.Ph. [not dated]

Respondent's Exhibits:

- A. Notarized Affidavit of John Michael Jackson [02-04-11]
- B. Notarized Affidavit of Ronald Huening [01-04-11]

- C. The Kroger Company internal audit form [not dated]
- D. The Kroger Company external/independent audit form [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 Board of Pharmacy indicate that Kroger Pharmacy #14384 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Stephen Albert Jungkunz is the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Kroger Pharmacy #14384 did, on or about July 28, 2010, fail to notify the Ohio State Board of Pharmacy by telephone immediately upon the discovery of the theft or significant loss of dangerous drugs or controlled substances, to wit: Pharmacy personnel was aware that pharmacist Jaime Lynn Morton stole significant amounts of Xanax, alprazolam, and other bottles of assorted pills, yet did not immediately notify the Board of Pharmacy. Such conduct is in violation of Rule 4729-9-15(A) of the Ohio Administrative Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes violating a rule of the Board as provided Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00) on Kroger Pharmacy #14384 and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Donald Casar moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-0).

Deborah Lange moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-0).

R-2011-165 After votes were taken in public session, the Board adopted the following order in the matter of **Heather Leigh Perrin**, R.Ph. (03-1-22492) Mason, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-101012-148

in the matter of:

HEATHER LEIGH PERRIN, R.Ph.

7886 Deer Crossing Drive
Mason, Ohio 45040

R.Ph. Number 03-1-22493

INTRODUCTION

The matter of Heather Leigh Perrin came for hearing on February 9, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph.

Jerome J. Wiesenhahn, R.Ph., absent

Heather Leigh Perrin was represented by Mary Barley-McBride. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

Rick Haun, Ohio State Board of Pharmacy
Pamela Hughes
Heather Leigh Perrin, R.Ph., Respondent
Colleen Lindholz, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity for Hearing letter for Heather Leigh Perrin, R.Ph. [10-12-10]
- 1A-1D. Kroger Pharmacy #14384 Procedurals
- 2A-2C. Heather Leigh Perrin, R.Ph., Procedurals
- 3A-3D. Colleen Lindholz, R.Ph., Procedurals
4. Notarized written statement of Pamela Hughes [08-05-10]
5. Notarized written statement of Heather Perrin [08-11-10]
6. Notarized written statement of Cathy McKee [08-05-10]
7. Notarized statement of Jacquelyn Helmes, Intern [10-28-10]
8. Notarized statement of Alison Foster [10-27-10]
9. Transcribed testimony of Pamela Hughes and Colleen Lindholz, R.Ph. [11-03-10]
10. Recording of conversation with Colleen Lindholz, R.Ph. [not dated]

Respondent's Exhibits:

- A. Notarized Affidavit of John Michael Jackson [02-04-11]
- B. Notarized Affidavit of Ronald Huening [01-04-11]
- C. The Kroger Company internal audit form [not dated]
- D. The Kroger Company external/independent audit form [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 Heather Leigh Perrin was originally licensed in the State of Ohio on August 13, 1997 pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Heather Leigh Perrin did, on or about July 28, 2010, knowing that a felony had been committed, knowingly fail to report such information to law enforcement authorities, to wit: though aware that pharmacist Jaime Morton stole significant amounts of Xanax, alprazolam, and other bottles of assorted pills, Heather Leigh Perrin did not notify the Board of Pharmacy or any other law enforcement agency. Such conduct is in violation of Section 2921.22 of the Ohio Revised Code. and if proven constitutes being guilty of unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Heather Leigh Perrin for her actions in this matter.

Brian Joyce moved for Findings of Fact; Edward Cain seconded the motion. Motion passed (Aye-3/Nay-2).

Brian Joyce moved for Conclusions of Law; Edward Cain seconded the motion. Motion passed (Aye-3/Nay-2).

Brian Joyce moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-3/Nay-2).

R-2011-166 After votes were taken in public session, the Board adopted the following order in the matter of **Colleen Renee Lindholz**, R.Ph. (03-2-21166) Loveland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-101012-149

in the matter of:

COLLEEN RENEE LINDHOLZ, R.Ph.

797 Andrea Drive
Loveland, Ohio 45140

R.Ph. Number 03-2-21166

INTRODUCTION

The matter of Colleen Renee Lindholz came for hearing on February 9, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; and Deborah A. Lange, R.Ph.

Jerome J. Wiesenbahn, R.Ph., absent

Colleen Renee Lindholz was represented by Mary Barley-McBride. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Rick Haun, Ohio State Board of Pharmacy
Pamela Hughes
Heather Leigh Perrin, R.Ph., Respondent
Colleen Lindholz, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity for Hearing letter for Colleen Renee Lindholz, R.Ph. [10-12-10]
- 1A-1D. Kroger Pharmacy #14384 Procedurals
- 2A-2C. Heather Leigh Perrin, R.Ph., Procedurals
- 3A-3D. Colleen Lindholz, R.Ph., Procedurals
4. Notarized written statement of Pamela Hughes [08-05-10]
5. Notarized written statement of Heather Perrin [08-11-10]
6. Notarized written statement of Cathy McKee [08-05-10]
7. Notarized statement of Jacquelyn Helmes, Intern [10-28-10]
8. Notarized statement of Alison Foster [10-27-10]
9. Transcribed testimony of Pamela Hughes and Colleen Lindholz, R.Ph. [11-03-10]
10. Recording of conversation with Colleen Lindholz, R.Ph. [not dated]

Respondent's Exhibits:

- A. Notarized Affidavit of John Michael Jackson [02-04-11]
- B. Notarized Affidavit of Ronald Huening [01-04-11]
- C. The Kroger Company internal audit form [not dated]
- D. The Kroger Company external/independent audit form [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 Colleen Renee Lindholz was originally licensed in the State of Ohio on July 27, 1995, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Colleen Renee Lindholz did, on or about July 28, 2010, knowing that a felony had been committed, knowingly fail to report such information to law enforcement authorities, to wit: though aware that pharmacist Jaime Morton stole significant amounts of Xanax, alprazolam, and other bottles of assorted pills, Colleen Renee Lindholz did not notify the Board of Pharmacy or any other law enforcement agency. Such conduct is in violation of Section 2921.22 of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of

pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Colleen Renee Lindholz for her actions in this matter.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-4/Nay-1).

Deborah Lange moved for Conclusions of Law; Troy Gahm seconded the motion. Motion passed (Aye-4/Nay-1).

Deborah Lange moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-4/Nay-1).

3:21 p.m. The Board recessed briefly.

3:24 p.m.

R-2011-167 Ms. Lange moved that the Conference Call minutes of January 18, 2011, be approved as presented. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 5.

R-2011-168 Mr. Gahm moved that the Conference Call minutes of January 26, 2011, be approved as presented. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 5.

R-2011-169 Mr. Gahm moved that the Board minutes of January 10-12, 2011, be approved as amended. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 5.

3:40 p.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 Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*.

4:30 p.m. The Executive Session ended and the meeting was opened to the public.

4:51 p.m. Mr. Gahm moved that the Board receive Per Diem as follows:

PER DIEM	2/7	2/8	2/9	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	1	3
Lange	1	1	1	3
Wiesenhahn	-	-	-	

Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 5.

4:53 p.m. Mr. Joyce moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5.

**The Ohio State Board of Pharmacy
approved these Minutes February 7, 2011**