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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126
telephone: 614-466-4143 fax: 614-752-4836 email: exec@bop.ohio.gov

Minutes of the April 4-6, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, April 4, 2011

10:04 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell R.Ph.; Michael A. Moné 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*.

R-2011-182 Mr. Winsley announced that the following Settlement Agreement with **Natalie Jane Fries**, R.Ph. (03-1-29472) West Chester, Ohio, had been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110211-166
in the matter of:

NATALIE JANE FRIES, R.Ph.
5369 Pinecastle Court
West Chester, Ohio 45069

R.Ph. Number 03-1-29472

This Settlement Agreement is entered into by and between Natalie Jane Fries 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.

Natalie Jane Fries 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. Natalie Jane Fries 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, Natalie Jane Fries is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 11, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Natalie Jane Fries 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. Natalie Jane Fries declined her right to a hearing. The February 11, 2011, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Natalie Jane Fries was originally licensed in the State of Ohio on July 16, 2009, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Natalie Jane Fries did, on or about June 24, 2010, misbrand a drug, to wit: when Natalie Jane Fries received a prescription for Ambien 5 mg #90, RX #C673039, she dispensed glimepiride 4 mg #90, which had not been specifically prescribed by the physician. The patient was subsequently harmed, and succumbed three months later. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Natalie Jane Fries neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 11, 2011; 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, Natalie Jane Fries knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Natalie Jane Fries agrees to the imposition of a monetary penalty of three hundred dollars (\$300.00) 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.
- (B) In addition, Natalie Jane Fries must obtain, within one year from the effective date of this Agreement, ten hours of approved continuing pharmacy education (1.0 CEUs), which may not also be used for license renewal.

If, in the judgment of the Board, Natalie Jane Fries 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.

Natalie Jane Fries 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.

Natalie Jane Fries 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. Natalie Jane Fries 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/ Natalie Jane Fries, R.Ph. Date Signed: 03/30/11
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 04/04/11
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 04/04/11
Ohio Assistant Attorney General

10:06 a.m. Mr. Joyce moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

11:17 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-183 Mr. Joyce moved that the Board accept a settlement offer in the matter of **Richard Carl Carano**, R.Ph. (03-3-11672) Poland, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 5; *Nay* – 2.

The Board recessed briefly.

11:32 a.m. The Board met with **Todd Raehtz**, president and CEO of **indispensable Healthcare** (Michigan) concerning after-hours pharmacy services/remote order-entry from home. No action was taken pending further consideration by the Board.

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

12:12 p.m. The Board recessed for lunch. Mr. Gahm left the meeting for personal reasons.

1:34 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 **Lucasville Medical Specialist** (TDDD pending) Lucasville, Ohio.

2:12 p.m. The hearing ended and the record was closed.

2:12 p.m. Mr. Mitchell 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. Joyce and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Joyce – *yes*; Lange – *recused*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

2:16 p.m. The Executive Session ended and the meeting was opened to the public.

2:17 p.m.
R-2011-184 After votes were taken in public session, the Board adopted the following order in the matter of **Lucasville Medical Specialist**, (TDDD pending) Lucasville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100809-140

in the matter of:

LUCASVILLE MEDICAL SPECIALIST

c/o Christopher Stegawski, M.D.

10940 State Route 104

Lucasville, Ohio 45648

INTRODUCTION

The matter of Lucasville Medical Specialist came for hearing on April 4, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Donald M. Casar, R.Ph., absent

Troy A. Gahm, R.Ph., absent

Deborah A. Lange, R.Ph., recused

Lucasville Medical Specialist was not present and submitted its contentions in writing by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [08-09-10] 1A-1F. Procedurals
2. Application for Registration as a Distributor of Dangerous Drugs [05-10-10]
3. Employee List [not dated]
4. Price List [not dated]
5. Physicians Total Care, Inc., Invoice [05-13-10]
6. Patient Drug Receipt Example [05-27-10]
7. Lucasville Medical Specialist Drug Dispensing Report for All Drugs [04-28-10 to 05-27-10]
8. Sample prescription from Lucasville Medical Specialist [not dated]
9. Judgment Entry, State of Ohio vs. John R. Callihan, Case No. 90-CR-137, Scioto County Common Pleas Court [10-25-90]
10. Docket Sheet, Ohio vs. John Randy Callihan, Case No. 90CR000137, Scioto County Common Pleas Court [06-02-10]
11. Change of Plea, State of Ohio vs. John R. Callihan, Case No. 97CR17277, Warren County Common Pleas Court [08-14-97]
12. Case Inquiry Details, State of Ohio -vs- Callihan, John R., Case No. 97CR17277, Warren County Common Pleas Court [06-02-10]

Respondent's Exhibit: A. Letter from Christopher Stegawski, M.D. to Ohio State Board of Pharmacy [03-31-11]

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 State Board of Pharmacy indicate that Christopher Stegawski has signed an application for licensure indicating that Christopher Stegawski 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) Lucasville Medical Specialist 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 stock and drug safe. Christopher Stegawski, the sole physician and only licensed health professional at the practice, does not check medications that leave the facility with patients, and Christopher Stegawski only initials prescriptions when he "gets a minute." Such indicates that Lucasville Medical Specialist does not meet the qualifications for a Terminal Distributor of Dangerous Drugs set forth in Section 4729.55(C) of the Ohio Revised Code.
- (3) Lucasville Medical Specialist has not furnished satisfactory proof to the Board that they meet the requirements of a Terminal Distributor of Dangerous Drugs, since an agent or employee of Lucasville Medical Specialist has been found guilty of violating provisions of the federal drug abuse control laws and/or Chapter 2925. of the Ohio Revised Code. Specifically, an employee with Lucasville Medical Specialist, John R. Callihan, has been convicted of Possession of Marijuana, a third degree felony in Warren County, Ohio. Additionally, John R. Callihan has been convicted of aggravated trafficking in drugs, a third degree felony in Scioto County, Ohio. Lucasville Medical Specialist has offered no satisfactory proof of any safeguards to assure preventing its recurrence. Such indicates that Lucasville Medical Specialist 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

The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute 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 Lucasville Medical Specialist; and therefore denies the Application for a Terminal Distributor of Dangerous Drugs license submitted by Christopher Stegawski on May 5, 2010.

Michael Moné moved for Findings of Fact; Brian Joyce seconded the motion. Motion passed (Aye-5/Nay-0).

Kevin Mitchell moved for Conclusions of Law; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-5/Nay-0).

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

2:19 p.m. Mr. Joyce 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. Mitchell and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

2:36 p.m. The Executive Session ended and the meeting was opened to the public.

2:37 p.m.

R-2011-185 Mr. Moné moved that an amended settlement offer be made in the matter of **Timothy J. Heenan**, R.Ph. (03-1-11138) West Chester, Ohio. The Board's acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mr. Wiesenbahn and approved by the Board: *Aye* – 5; (*recused* – Lange).

R-2011-186 Mr. Moné moved that the Board approve the continuance request received in the matter of **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 6.

2:39 p.m. Mr. Parker presented requests for approvable status for the following electronic prescribing systems:

R-2011-187 **Alton Healthcare, LLC-VMN Prescription V.3.** Mr. Joyce moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 6.

R-2011-188 **Medical Informatics Engineering – Webchart HER.** Ms. Lange moved that the system be found approvable pending final inspection. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 6.

R-2011-189 **Altos – "Onco EMR".** Mr. Joyce moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 1.

R-2011-190 **digichart OBGYN.** Ms. Lange moved that the system be found approvable pending final inspection. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 1.

R-2011-191 **Siemens – Soarian E Prescribing.** Mr. Mitchell moved that the system be found approvable pending final inspection. Mr. Cain seconded the motion and it was approved by the Board: *Aye* – 6.

R-2011-192 **Soren Technology – Biolite.** Ms. Lange moved that the system be found approvable pending final inspection. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 1.

Mr. Winsley announced that the emergency revised language for Rule 4729-5-24 had been filed.

Mr. Winsley presented the Legislative Report.

Ms. Lange said there was no report from the Medical Board's Physician-Assistant Policy Committee this month and that the committee is scheduled to meet the week of April 11, 2011.

R-2011-193 The Board continued its discussion of the **indispensable Healthcare** (Michigan) proposal concerning after-hours pharmacy services/remote order-entry from home. The Board agreed to approve the proposal subject to the following: if the company's pharmacists are working from their homes, they must be licensed as pharmacists in Ohio; if the pharmacists are working from a central location, the facility must acquire an Ohio Terminal Distributor of Dangerous Drugs license; the company must report quality-analysis metrics quarterly for one year, and the computer screen must go to black after a period of one minute of inactivity. Mr. Moné moved that the request be approved subject to the above conditions. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 6.

Mr. Mitchell asked whether the Board would be interested in meeting with the Department of Health to discuss disaster preparedness issues. It was suggested that Department of Health representatives be invited to the Board's June 2011, meeting, with a specific date and time to be confirmed later. The Board agreed that such a meeting would be informative.

3:57 p.m. The Board recessed for the day.

Tuesday, April 5, 2011

9:00 a.m. The meeting 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 Kolezynski, *President*; Donald Casar, *Vice-President*; Edward Cain; Troy Gahm; Deborah Lange; Kevin Mitchell; Michael Moné; and Jerome Wiesenhahn. Mr. Joyce was absent while representing the Board at an Accreditation Council for Pharmacy Education site visit at Northeastern Ohio Universities College of Pharmacy.

9:03 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 **Myra Joy Hindes**, R.Ph. (03-3-17035) Chester, West Virginia.

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 Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

10:19 a.m. The Executive Session ended and the meeting was opened to the public.

10:20 a.m.

R-2011-194 After votes were taken in public session, the Board adopted the following order in the matter of **Myra Joy Hindes**, R.Ph. (03-3-17035) Chester, West Virginia.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110112-156

in the matter of:

MYRA JOY HINDES, R.Ph.

934 Neptune Avenue
Chester, West Virginia 26034

R.Ph. Number 03-3-17035

INTRODUCTION

The matter of Myra Joy Hindes came for hearing on April 5, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent

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

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witness: Myra Joy Hindes, R.Ph., Respondent

State's Exhibits:

1. Reinstatement hearing request letter [01-06-11]
1A-1B. Procedurals
2. Order of the State Board of Pharmacy in re Myra Joy Hindes, R.Ph. [02-10-10]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Myra Hindes [02-15-10]
- B. FirstLab Test History Report [10-29-09 to 02-24-11]; Note from Dr. Theodore Chrobak in re Myra Hindes [03-08-11]
- C. Support Group Calendars [January 2010 to February 2011]
- D. Meeting Attendance Records [01-03-10 to 02-24-11]
- E. Continuing education credits and certificates [12-13-09 to 03-09-11]
- F. Christian 12-Step Recovery Class Certification of Completion [09-03-10]
- G. Three letters of support [12-20-10 to 03-11-11]
- H. FirstLab Test History Report [10-29-09 to 03-12-11]
- I. Support Group Calendar [March 2011]
- J. Meeting Attendance Record [03-01-11 to 03-30-11]
- K. Continuing education credits and certificates [03-31-11 to 04-03-11]

FINDING 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 Myra Joy Hindes has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. 091008-022, effective February 10, 2010.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-17035, held by Myra Joy Hindes to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Myra Joy Hindes must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before

Myra Joy Hindes' pharmacist identification card is issued. The contract must provide that:

- (1) Random, **observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and its results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Myra Joy Hindes 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 Myra Joy Hindes' progress towards recovery and what Myra Joy Hindes has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Myra Joy Hindes' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) Myra Joy Hindes may not serve as a responsible pharmacist.
 - (3) Myra Joy Hindes may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Myra Joy Hindes must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Myra Joy Hindes must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Myra Joy Hindes must abide by the rules of the State Board of Pharmacy.

(7) Myra Joy Hindes must comply with the terms of this Order.

(8) Myra Joy Hindes' license is deemed not in good standing until successful completion of the probationary period.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Myra Joy Hindes 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.

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

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

10:21 a.m. The Board recessed briefly.

10:36 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 **Ryan Andrew Stout**, R.Ph. (03-3-29086) Perkasio, Pennsylvania.

12:03 p.m. The hearing ended and the record was closed.

12:03 p.m. Mr. Moné moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

12:17 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-195 After votes were taken in public session, the Board adopted the following order in the matter of **Ryan Andrew Stout**, R.Ph. (03-3-29086) Perkasio, Pennsylvania.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110121-162

in the matter of:

RYAN ANDREW STOUT, R.Ph.

452 E. Walnut Street

Perkasio, Pennsylvania 18944

R.Ph. Number 03-3-29086

INTRODUCTION

The matter of Ryan Andrew Stout came for hearing on Tuesday, April 5, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent

Ryan Andrew Stout was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witnesses: Ryan Andrew Stout, R.Ph., Respondent
Thomas Joseph

State's Exhibits:

1. Reinstatement hearing request letter [01-13-11]
1A-1C. Procedurals
2. State Board of Pharmacy Board Order in re Ryan Andrew Stout, R.Ph. [07-17-09]
3. Pennsylvania S.A.R.P.H. contract in re Ryan Stout, R.Ph. with attachments [02-24-09]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract in re Ryan Stout [03-12-09]
- B. Letter from David Newton-Gates, LICDC Primary Counselor at Glenbeigh with treatment documentation in re Ryan Stout [06-09-09 to 12-17-09]
- C. Support Group Attendance Records [03-02-09 to 02-24-11]; FirstLab Test History Report [05-30-09 to 02-16-10]; FirstLab SARPH/PA PMP Test History Report [03-12-10 to 03-02-11]
- D. FirstLab Test History Report [05-30-09 to 02-16-10]; FirstLab SARPH/PA PMP Test History Report [03-12-10 to 03-02-11]
- E. Restitution documentation [06-01-09]
- F. Continuing education credits and certificates [05-03-09 to 03-04-11]
- G. Six letters of support [05-29-09 to 03-22-11]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Ryan Andrew Stout has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-090204-083, effective July 9, 2009.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-29086, held by Ryan Andrew Stout to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

(A) Ryan Andrew Stout must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) **Random, observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and its results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Ryan Andrew Stout 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 Ryan Andrew Stout's progress towards recovery and what Ryan Andrew Stout has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Ryan Andrew Stout's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Ryan Andrew Stout may not serve as a responsible pharmacist.

(3) Ryan Andrew Stout may not destroy, assist in, or witness the destruction of controlled substances.

- (4) Ryan Andrew Stout must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Ryan Andrew Stout must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Ryan Andrew Stout must abide by the rules of the State Board of Pharmacy.
 - (7) Ryan Andrew Stout must comply with the terms of this Order.
 - (8) Ryan Andrew Stout's license is deemed not in good standing until successful completion of the probationary period.
- (D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Ryan Andrew Stout 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.

Michael Moné moved for Finding of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-1)

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

The Board recessed for lunch.

1:30 p.m.

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.

Makala Hansen Burkhart	<i>Oregon</i>
Robert S. Carden	<i>Tennessee</i>
Piotr Cymbalski	<i>Pennsylvania</i>
Elizabeth Deroo	<i>Michigan</i>
Jihad Victor Elkareh	<i>Connecticut</i>
Linda M. Hayes	<i>Indiana</i>
Lucy Schneller Hazebrook	<i>Michigan</i>
Anand Srinivas Katta	<i>Washington</i>
Robert Michael Masa	<i>Illinois</i>
Stephanie Nwamaka Nzeli	<i>Maryland</i>
Linaben Janak Patel	<i>Indiana</i>
Megan Duffin Phillips	<i>West Virginia</i>
Allison Sue Rowland	<i>Texas</i>
Benjamin C. Ryman	<i>Indiana</i>
Michael W. Smith	<i>North Carolina</i>
Timothy David Weber	<i>New Jersey</i>

2:00 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 **Lori Rae Johannesen-McEwen**, R.Ph. (03-3-25675) Conneaut Lake, Pennsylvania.

6:31 p.m. The hearing ended and the record was closed.

6:31 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*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

6:55 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-196 After votes were taken in public session, the Board adopted the following order in the matter of **Lori Rae Johannesen-McEwen**, R.Ph. (03-3-25675) Conneaut Lake, Pennsylvania.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-101108-152

in the matter of:

LORI RAE JOHANESEN-MCEWEN, R.Ph.

10921 Lakefront Drive

Conneaut Lake, Pennsylvania 16316

R.Ph. Number 03-3-25675

INTRODUCTION

The matter of Lori Rae Johannesen-McEwen came for hearing on April 5, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent

Lori Rae Johannesen-McEwen 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: Lori Rae Johannesen-McEwen, R.Ph., Respondent
David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses: Lori Rae Johannesen-McEwen, R.Ph., Respondent
Kenneth McEwen

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [11-08-10]
- 1A-1B. Procedurals
- 1C. Addendum Notice/Summary Suspension Order/Notice of Opportunity for Hearing letter [02-04-11]
- 1D-1F. Procedurals
2. Notarized written statement of Lori McEwen [05-19-10]
3. Notarized written statement of Dr. James Perry, MD., FACP [05-11-10]
4. Notarized written statement of Dr. Victor Colaiaco, MD [05-11-10]

5. Notarized written statement of Monica Powell [05-11-10]
6. Fax coversheet regarding Vicodin [05-26-10]
7. Patient profile for Lori McEwen [04-26-10]
8. Patient profile for Rubie McEwen [04-26-10]
9. Copy of RX #6934125 [03-23-09]
10. Wal-Mart Pharmacy 10-2359 4Point Check Report [08-20-08 to 04-22-10]
11. 

Respondent's Exhibits:

- A. Greystone letter and memo [03-28-11]
- B. Dr. Perry's Medication Refill List [various dates]
- C. Medicine Shoppe receipts and RX bottles [07-24-07]
- D. FHP fax to Monica at Greystone [05-26-10]
- E. Letter from Dr. Colaiaco [03-25-11]
- F. Stark County docket [02-12-11]; Letter from PA probation officer [03-28-11]
- G. Resume [not dated]
- H. Letters of support [03-14-11 to 03-29-11]

FINDINGS OF FACT

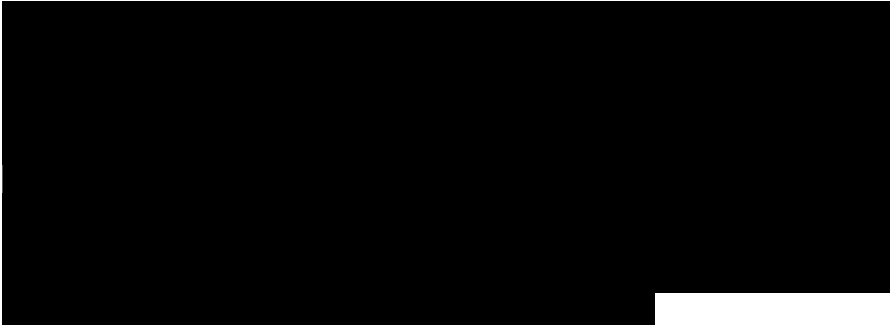
After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the State Board of Pharmacy indicate that Lori Rae Johannesen-McEwen was originally licensed in the State of Ohio on April 8, 2003, pursuant to reciprocity, and her license to practice pharmacy in Ohio was summarily suspended effective February 4, 2011.
- (2) Lori Rae Johannesen-McEwen did, on or about April 18, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4477236 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (3) Lori Rae Johannesen-McEwen did, on or about August 20, 2008, knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code, to wit: Lori Rae Johannesen-McEwen added five refills to RX #4437266 for hydrocodone/APAP 5/500 mg when two refills had been authorized by a prescriber. Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.
- (4) Lori Rae Johannesen-McEwen did, on or about September 29, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4437800 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (5) Lori Rae Johannesen-McEwen did, on or about December 31, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4483263 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization

from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (6) Lori Rae Johannesen-McEwen did, on or about July 15, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4441560 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (7) Lori Rae Johannesen-McEwen did, on or about November 11, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4403077 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Lori Rae Johannesen-McEwen did, on or about December 11, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created RX #4498053 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (9) Lori Rae Johannesen-McEwen did, on or about April 22, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #4430248 for hydrocodone/APAP 5/500 mg, a controlled substance without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (10) Lori Rae Johannesen-McEwen did, on or about March 23, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #6934125 for Nexium 40 mg, a dangerous drug without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (11) Lori Rae Johannesen-McEwen did, on or about December 11, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #7314122 for Nexium 40 mg, a dangerous drug without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (12) Lori Rae Johannesen-McEwen did, on or about January 7, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created telephone RX #6755654 for Nexium 40 mg, a dangerous drug without authorization from a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (13) Lori Rae Johannesen-McEwen did, on or about February 10, 2010, knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code, to wit: Lori Rae Johannesen-McEwen added a refill record to RX #6755654 for Nexium

40 mg when none had been authorized by a prescriber. Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.

- (14) Lori Rae Johannesen-McEwen did, on or about March 24, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created a transfer RX #6933145 for Nexium 40 mg, a dangerous drug from another transfer prescription, RX #6765654, which had not been authorized by a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (15) Lori Rae Johannesen-McEwen did, on or about March 25, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created a transfer RX #6709920 for Nexium 40 mg, a dangerous drug from another transfer prescription, RX #6933145, which had not been authorized by a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (16) Lori Rae Johannesen-McEwen did, on or about April 19, 2010, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lori Rae Johannesen-McEwen created a transfer RX #6768114 for Nexium 40 mg, a dangerous drug from another transfer prescription, RX #6709920, which had not been authorized by a prescriber. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (17) Lori-Rae Johannesen-McEwen did, from August 20, 2008, through April 22, 2010, when utilizing an alternate record keeping system while practicing pharmacy, fail to document positive identification, to wit: when dispensing, Lori Rae Johannesen-McEwen did not sign or initial the printouts of drugs dispensed. Such conduct is in violation of Rule 4729-5-27(I)(1) as required by Rule 4729-5-27(F)(1) of the Ohio Administrative Code.
- (18) 

The Board is aware of how a proper prescription comes into existence, and prescriptions did not exist here. It was apparent from the testimony that the Respondent was so evasive as to be dishonest. Respondent further displayed a lack of acknowledgment of wrong doing and utter lack of remorse for clear violations of law.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (16) and paragraph (18) of the Findings of Fact constitute being guilty of a  and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (17) of the Findings of Fact constitute being guilty of dishonesty and/or

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 (17) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Lori Rae Johannesen-McEwen on February 4, 2011.

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 the pharmacist identification card, No. 03-3-25675, held by Lori Rae Johannesen-McEwen and such suspension is effective from one year from the date of the Summary Suspension Order issued February 4, 2011.

- (A) Lori Rae Johannesen-McEwen, 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) Lori Rae Johannesen-McEwen, 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.

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 places Lori Rae Johannesen-McEwen on probation for three years effective upon reinstatement of her pharmacist identification card. The terms of probation are as follows:

- (A) Lori Rae Johannesen-McEwen must not violate the drug laws of Ohio, any other state, or the federal government.
- (B) Lori Rae Johannesen-McEwen must abide by the rules of the State Board of Pharmacy.
- (C) Lori Rae Johannesen-McEwen must comply with the terms of this Order.
- (D) Lori Rae Johannesen-McEwen's license is deemed to be not in good standing until successful completion of the probationary period.
- (E) 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.

Lori Rae Johannesen-McEwen 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.

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 five thousand dollars (\$5,000.00) on Lori Rae Johannesen-McEwen 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.

Lori Rae Johannesen-McEwen must obtain, within six months from the effective date of this Order, six hours (0.6 CEUs) of approved continuing pharmacy education in Jurisprudence, which may not also be used for license renewal. On the basis of the findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Lori Rae Johannesen-McEwen's practice of pharmacy in that she may not dispense prescriptions for herself or for any member of her family.

If reinstatement is not accomplished within three years of the effective date of this Order, Lori Rae Johannesen McEwen must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

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

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

6:57 p.m. The Board recessed for the day.

Wednesday, April 6, 2011

9:00 a.m. The Ohio State Board of Pharmacy convened in Room South B & C, 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.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

R-2011-197 After discussion, Ms. Lange moved that the Conference Call Board minutes of March 21, 2011, be approved as amended. Mr. Gahm seconded the motion and it was approved by the Board: *Aye – 7*.

R-2011-198 Mr. Casar moved that the Board minutes of March 7-9, 2011, be approved as amended. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 7*.

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

Ms. Lange discussed the Technician Exam Status Report with the Board.

9:55 a.m. The Board recessed briefly.

10:09 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 **Robert C. Batchelor**, R.Ph. (03-1-09553) Batavia, Ohio.

10:30 a.m. The hearing ended and the record was closed.

10:33 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 Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

10:39 a.m. The Executive Session ended and the meeting was opened to the public.

10:41 a.m.
R-2011-199 After votes were taken in public session, the Board adopted the following order in the matter of **Robert C. Batchelor**, R.Ph. (03-1-09553) Batavia, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110112-157

in the matter of:

ROBERT C. BATCHELOR, R.Ph.

4526 Eastgate Oaks Drive
Batavia, Ohio 45103

R.Ph. Number 03-1-09553

INTRODUCTION

The matter of Robert C. Batchelor came for hearing on April 6, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Brian M. Joyce, R.Ph., absent

Robert C. Batchelor was not represented by counsel. The State of Ohio was represented by Tracy Greuel, Assistant Attorney General and Jim Heisel, Legal Intern.

SUMMARY OF EVIDENCE

State's Witness: Rick Haun, Ohio Board of Pharmacy

Respondent's Witness: Robert C. Batchelor, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [01-12-11]
1A-1D. Procedurals
2. Notarized Written Statement of Robert Batchelor [10-19-10]
3. Duplicate Renewal for Ohio Pharmacist License form [10-05-10]
4. Copy of RX #2221624 [09-18-10]
5. Copy of RX #2012033 [10-01-10]

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 Robert C. Batchelor was originally licensed in the State of Ohio on July 27, 1970, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Robert C. Batchelor did, on or about September 18, 2010, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy to wit, though Robert C. Batchelor did not renew his license to practice pharmacy, Robert C. Batchelor dispensed RX #2221624 for Vyvanse 50 mg, and Robert C. Batchelor performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Robert C. Batchelor did, on or about October 1, 2010, when not a registered pharmacist or pharmacist intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy to wit, though Robert C. Batchelor did not renew his license to practice pharmacy, Robert C. Batchelor dispensed RX #2012033 for oxycodone/APAP 5/325 mg tablets, and Robert C. Batchelor performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) through (3) 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 imposes a monetary penalty of two hundred fifty dollars (\$250.00) on Robert C. Batchelor 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.

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

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

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

R-2011-200 After discussion, Mr. Casar moved that the Board accept the amended Settlement Agreement in the matter of **Timothy J. Heenan**, R.Ph. (03-1-11138) West Chester, Ohio. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6; *Recused* – 1 (Lange).

10:51 a.m.

R-2011-201

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 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*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

11:57 a.m.

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

11:58 a.m.

Mr. Gahm moved that the Board receive Per Diem (*April 4 – 6, 2011*) as follows:

PER DIEM	April 4	April 5	April 6	Total
Cain	1	1	1	3
Casar	–	1	1	2
Gahm	1	1	1	3
Joyce	1	–	–	1
Lange	1	1	1	3
Kolezynski	1	1	1	3
Mitchell	1	1	1	3
Moné	1	1	1	3
Wiesenhahn	1	1	1	3

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

11:58 a.m.

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

**The Ohio State Board of Pharmacy
Approved These Minutes May 3, 2011**