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Minutes of the August 8-10, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, August 8, 2011

10:00 a.m. The Ohio State Board of Pharmacy convened in the Supreme Court Building, Room 101 of the Judicial Education Center, 65 South Front Street, Columbus, Ohio, with the following members present:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; 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*; John Whittington, *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 Nave, *Assistant Attorney General*.

10:03 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 Mr. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

10:55 a.m. The Executive Session ended and the Board recessed briefly.

11:06 a.m. The meeting resumed and was opened to the public.

R-2012-008 After discussion, Mr. Joyce moved that **Paul Rosman**, D.O., be permitted to withdraw his application for certification as a pain-management clinic. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 7.

The Board considered a request from **Dr. Clive Sinoff** to withdraw the application he submitted for registration as a pain-management clinic. Action was tabled pending review of further information.

R-2012-009 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:

SBH Medical, Worthington, Ohio (02-1260150)
Southwest General Health Center, Middleburg Heights, Ohio (02-0038550)

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. Joyce and approved by the Board: *Aye* – 7.

R-2012-010 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:

SBH Medical, Ltd., Worthington, Ohio	(02-1260150)
Orthopedic Associates of Southwestern Ohio, Inc. 7677 Yankee Street, Dayton, Ohio	(02-1781650)
Orthopedic Associates of Southwestern Ohio, Inc. 4160 Little York Road, Dayton, Ohio	(02-1805900)

After discussion, Mr. Wiesenhahn 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 – 7.*

R-2012-011 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:

SBH Medical, Worthington, Ohio	(02-1260150)
Toledo Pain Services, Toledo, Ohio	(02-1420200)

After discussion, Mr. Moné moved that the Board approve the request, for new and current pain management patients, and 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. Cain and approved by the Board: *Aye – 7.*

R-2012-012 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:

KRS Global Biotechnology, Boca Raton, Florida	(02-1978250)
Dr. Terry Chapel, Bluffton and Toledo, Ohio	(NA)

After discussion, Mr. Gahm moved that the Board approve the request, restricted solely to calcium gluconate, 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 – 7.*

R-2012-013 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:

Walgreens #06119, Blacklick, Ohio	(02-1297150)
University Option Care, L.L.C., Columbus, Ohio	(02-1543600)

After discussion, Mr. Moné 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 – 6; Abstain, Joyce.*

R-2012-014 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:

Humana RightSourceRx, West Chester, Ohio	(02-1826600)
Various Physicians' Letters on Request	

After Ms. Lange moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Gahm and approved by the Board: *Aye – 7.*

R-2012-015 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Darrell Lajuane Bryant**, Pharm. D., (03-3-25389) Hilliard, Ohio, be permitted to be the responsible person for the following sites:

Columbus Area Pharmacy , Columbus, Ohio	(02-1765550)
Health and Wellness Pharmacy , Dublin, Ohio	(pending)

After discussion, Mr. Joyce moved that the Board approve the request for 6 months. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye – 7.*

R-2012-016 Mr. Keeley presented the new and amended rules to the Board. After discussion, Ms. Lange moved that the rules be approved as presented and filed. The motion was seconded by Mr. Wiesenhahn and approved by the board: *Aye – 7.*

Mr. Keeley presented the Legislative Report.

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

Ms. Lange reported that the Medical Board Physician-Assistant Policy Committee met in July, but she was not able to attend as the Pharmacy Board was meeting at the same time. She reported that **Teresa K. Hoffmann**, Pharm. D. (03-2-25091) Lima, Ohio, has been appointed to the Medical Board Physician-Assistant Policy Committee.

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

Mr. Mitchell presented the Probation Report.

Mr. Parker presented the Licensing Report.

12:30 p.m. The Board recessed for lunch.

The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Christy T. Stricker**, R.Ph. (03-3-11706) Granville, Ohio.

1:34 p.m. Board member Richard Kolezynski joined the hearing in progress with the permission of the Board Chairman, the assistant attorney general and the defense counsel.

3:14 p.m. The hearing ended and the record was closed.

3:15 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. Kolezynski and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

3:36 p.m. The Executive Session ended and the meeting was opened to the public.

3:37 p.m.

R-2012-017 After votes were taken in public session, the Board adopted the following order in the matter of **Christy T. Stricker**, R.Ph. (03-3-11706) Granville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110602-181

in the matter of:

CHRISTY T. STRICKER, R.Ph.

76 Falmouth Road SE
Granville, Ohio 43023

R.Ph. Number 03-3-11706

INTRODUCTION

The matter of Christy T. Stricker came for hearing on August 8, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph., Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenhahn, R.Ph.

Christy T. Stricker was represented by Daniel D. Connor. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witnesses: Mike Quigley, R.Ph., PRO
Christy T. Stricker, R.Ph., Respondent

State's Exhibits:

1. Reinstatement hearing request letter [05-23-11]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Christy T. Stricker, R.Ph. [07-17-09]

Respondent's Exhibits:

- A. PRO Pharmacist's Treatment Contract for Christy Stricker [08-09-09]
- B. Letter from Marjorie A. Stein, LISW, Licking County Alcoholism Prevention Program to Daniel Connor, Esq. [07-18-11]; Christy Stricker Status Report [07-18-11]
- C. FirstLab Test History Report [04-23-09 to 07-28-11]
- D. Support Group Attendance Records [04-30-09 to 08-06-11]
- E. Support Group Calendars [July 2009 to July 2011]
- F. Letter from Eric M. Layne, M.D., Licking Memorial Behavioral Health to Daniel D. Connor, Esq. [07-27-11]; Letter from Daniel D. Connor, Esq., Connor, Evans & Hafenstein LLP to Dr. Eric M. Layne [07-19-11]
- G. Fax coversheet and letter from Warren N. Morford, Jr., Morford Law Offices to Dan Connor, Esq. [08-01-11]; Docket, State of Ohio Stricker, Christy T DSB, Case No. 08CR000365 [08-01-11]; Judgment Entry, State of Ohio vs. Christy T. Stricker, Case No. 08-CR-365, Court of Common Pleas Lawrence County, Ohio [08-13-09]
- H. Continuing Education Credits and Certificates [05-03-09 to 07-22-11]
- I. Eight letters of support [07-02-11 to 08-03-11]

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 Christy T. Stricker has substantially complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-080910-018, effective July 17, 2009.

DECISION OF THE BOARD

Though considering continuing the hearing for an additional six months for further monitoring, 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. 03-3-11706, held by Christy T. Stricker 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) Christy T. Stricker 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 Christy T. Stricker's 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 their 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) Christy T. Stricker 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 Christy T. Stricker's progress towards recovery and what Christy T. Stricker 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 Christy T. Stricker'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) Christy T. Stricker may not serve as a responsible pharmacist.
 - (3) Christy T. Stricker may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Christy T. Stricker must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Christy T. Stricker must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Christy T. Stricker must abide by the rules of the State Board of Pharmacy.
 - (7) Christy T. Stricker must comply with the terms of this Order.
 - (8) Christy T. Stricker'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.

Christy T. Stricker 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; Deborah Lange seconded the motion. Motion passed (Aye-8/Nay-0).

Jerome Wiesenhahn moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-1).

3:38 p.m. The Board meeting then relocated to Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio.

Mr. Gahm left at this time for personal reasons.

- 3:58 p.m. Mr. Keeley and Ms. Droz presented to the Board the rules changes concerning the OARRS program.
- 4:16 p.m. The Board reconvened and The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Hatem N. Ebrahim**, R.Ph. (03-1-29382) Willoughby, Ohio.
- 5:39 p.m. The hearing ended and the record was closed.
- 5:39 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. Kolezynski and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.
- 5:50 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2012-018** After votes were taken in public session, the Board adopted the following order in the matter of **Hatem N. Ebrahim**, R.Ph. (03-1-29382) Willoughby, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110624-184

in the matter of:

HATEM N. EBRAHIM, R.Ph.
27500 Bishop Park Drive, Apt. 405
Willoughby Hills, Ohio 44092

R.Ph. Number 03-1-29382

INTRODUCTION

The matter of Hatem N. Ebrahim came for hearing on August 8, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenhahn, R.Ph.

Troy A. Gahm, R.Ph., not present

Hatem N. Ebrahim was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Lynn Mudra, Ohio State Board of Pharmacy
Hatem N. Ebrahim, R.Ph., Respondent

Respondent's Witness: Hatem N. Ebrahim, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [06-24-11]

1A-1E. Procedurals

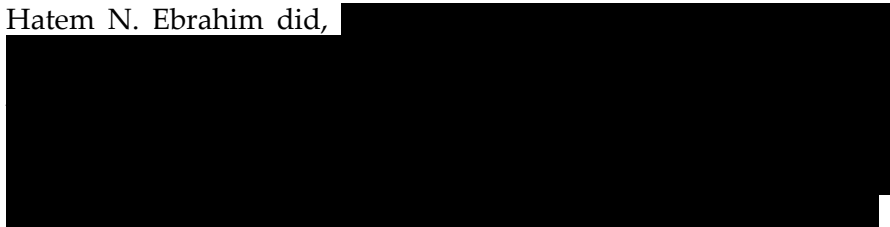
2. Voluntary Statement of Hatem Ebrahim [06-16-11]
3. List of drugs maintained by Hatem N. Ebrahim [06-17-11]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Hatem Ebrahim [07-22-11]
- B. Letter from Michael Pollak, PCC, LICDC, Psychological & Behavioral Consultants [07-09-11]; Letter from Michael Pollak, PCC, LICDC, LLC to Bob Garrity, Esq. [08-03-11]
- C. Support group attendance records [05-18-11 to 08-07-11]
- D. Urine drug screen results [06-16-11 to 07-18-11]; FirstLab monitoring enrollment instructions [not dated]
- E. E-mail from Matthew Soder, R.Ph., Cleveland West Pharmacy Supervisor to Robert J. Garrity, Esq. [08-01-11]
- F. Résumé of Hatem N. Ebrahim [not dated]
- G. Fourteen letters of support [07-26-11 to 08-02-11]

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 Hatem N. Ebrahim was originally licensed in the State of Ohio on August 14, 2009, pursuant to examination and that Hatem N. Ebrahim's license to practice pharmacy in Ohio was summarily suspended effective June 24, 2011.
- (2) Hatem N. Ebrahim is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Hatem N. Ebrahim has admitted to a Board agent that he is addicted to controlled substance stimulants. Hatem N. Ebrahim has admitted to stealing drugs from his employer, and Hatem N. Ebrahim has been observed, and has admitted, stealing drugs from patients' dispensed prescriptions so as to replace the drugs in the pharmacy's stock bottles from which Hatem N. Ebrahim had stolen. Hatem N. Ebrahim indicated that he started abusing drugs during his second year in college and that his addiction and tolerance has escalated. Such conduct indicates that Hatem N. Ebrahim is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Hatem N. Ebrahim did, 

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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 paragraph (2) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (1) 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 him 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 Hatem N. Ebrahim on June 24, 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 indefinitely the pharmacist identification card, No. 03-1-29382, held by Hatem N. Ebrahim and such suspension is effective as of the date of the mailing of this Order.

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

Further, after three years from the effective date of this Order, the Board will consider any petition filed by Hatem N. Ebrahim 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) Hatem N. Ebrahim 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, upon signing, mail a copy of the contract to the Board office. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

- (b) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all drug and alcohol screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
- (2) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Hatem N. Ebrahim must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
 - (C) Hatem N. Ebrahim must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Must attempt restitution to Walgreens' Pharmacy.
 - (2) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (3) 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;
 - (4) Compliance with the terms of this Order.
 - (D) If reinstatement is not accomplished within four years of the effective date of this Order, Hatem N. Ebrahim must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

Upon such time as the Board may consider reinstatement, Hatem N. Ebrahim 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.

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

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

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

5:57 p.m. The Board was joined by Assistant Attorney General Tracy Nave to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Brian Marcus Kins**, R.Ph. (03-3-26775) Norton, Ohio.

6:52 p.m. The hearing ended and the record was closed.

6:53 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 Ms. Lange and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

7:03 p.m. The Executive Session ended and the meeting was opened to the public.

7:04 p.m.
R-2012-019 After votes were taken in public session, the Board adopted the following order in the matter of **Brian Marcus Kins**, R.Ph. (03-3-26775) Norton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110127-163

in the matter of:

BRIAN MARCUS KINS, R.Ph.

3077 Loyal Oak Drive
Norton, Ohio 44203

R.Ph. Number 03-3-26775

INTRODUCTION

The matter of Brian Marcus Kins came for consideration on August 8, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenbahn, R.Ph.

Troy A. Gahm, R.Ph., not present

Brian Marcus Kins was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Lynn Mudra, Ohio State Board of Pharmacy
Christopher Reed, Ohio State Board of Pharmacy

Respondent's Witness: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-27-11]
- 1A. Procedural
2. Written statement of Brian Kins [10-18-10]
3. Written statement of Rebecca C. Bellflower [10-12-10]
4. Written statement of Vanessa Traxler [09-23-10]
5. Written statement of Christine Whigham [09-23-10]
6. Written statement of Alysha Tanasijevic [09-23-10]
7. NMS Labs Forensic Sample Submission Sheet [11-04-10]; NMS Labs Toxicology Report [12-03-10]
8. Notarized written statement of Rosetta Rowbottom [01-06-11]; Notarized written statement of Timothy J. Morley [01-05-11]; Written statement of Doctor Wei Lin [03-08-11]; Written statement of Dr. Jack Rutkowski [04-29-11]; Notarized written statement of Dr. Robert Jones [05-02-11]; Notarized written statement of Dr. Kim Brown [05-09-11]; Written statement of Dr. Charles Webb [05-03-11]; Notarized written statement of Dr. Brojesh Pakrashi [04-28-11]; Written statement of Dr. Syed Akhtar-Zaidi [04-29-11]; Written statement of Dr. Bryan J. Michelow [05-03-11]; Notarized written statement of Dr. Lori Pittinger [04-27-11]; Notarized written statement of Dr. Leroy J. LeFever [04-26-11]; Written statement of Nancy Albanese, Office Manager [04-29-11]; Notarized written statement of Dr. Thomas Wido [05-02-11]; Notarized written statement of Debra L. Macko, R.N. [01-12-11]; Notarized written statement of Kristen Nichols, LPN [01-12-11]
9. Altered prescriptions of patient Michael D. [various dates]
10. Altered prescriptions of various patients [various dates]

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 Board of Pharmacy indicate that Brian Marcus Kins was originally licensed in the State of Ohio on July 25, 2005, pursuant to examination and that Brian Marcus Kins' license to practice pharmacy in Ohio was summarily suspended effective January 27, 2011. Records further reflect during the relevant time periods stated herein, Brian Marcus Kins was the Responsible Pharmacist at Rite Aid Pharmacy #4764, 8082 Broadview Road, Broadview Heights, Ohio 44147, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Brian Marcus Kins is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Brian Marcus Kins was suspended from his employment at Rite Aid for being at work and appearing impaired; Brian Marcus Kins refused to take a drug test when directed to do so. Hair follicle samples subsequently given to Board agents for analysis indicated the presence of alprazolam, cocaine, hydrocodone, oxycodone, and oxymorphone. Brian Marcus Kins has admitted to Board agents that he is addicted to controlled

substances; that Brian Marcus Kins has stolen controlled substances from his employer for personal abuse; and that Brian Marcus Kins altered prescriptions to obtain controlled substances for his abuse and to sell. Such conduct indicates that Brian Marcus Kins is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

CONCLUSION 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 him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

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

- (A) On the basis of the Findings of Fact and the Conclusion of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-26775, held by Brian Marcus Kins effective as of the date of the mailing of this Order.

Brian Marcus Kins, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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.

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

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

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

7:05 p.m. The meeting recessed for the day.

Tuesday, August 9, 2011

9:00 a.m. The Ohio State Board of Pharmacy convened in the Supreme Court Building, Room 101, of the Judicial Education Center, 65 South Front Street, Columbus, Ohio, with the following members present:

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

9:04 a.m. Ms. Lange moved that the Board minutes of July 11-12, 2011, be approved as amended. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 8.

- 9:11 a.m. The Board reconvened and The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Tyler Jay Kaib**, R.Ph. (03-3-21901) Zanesville, Ohio.
- 11:04 a.m. The hearing ended and the record was closed.
- 11:05 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. The motion was seconded by Mr. Joyce and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.
- 11:30 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-020 **SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-110215-168

in the matter of:

TYLER JAY KAIB, R.Ph.
2615 Valleyview Circle
Zanesville, Ohio 43701

R.Ph. Number 03-3-21901

This Settlement Agreement is entered into by and between Tyler Jay Kaib 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.

Tyler Jay Kaib voluntarily enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Tyler Jay Kaib acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

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

Whereas, Tyler Jay Kaib is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 15, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Tyler Jay Kaib was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Tyler Jay Kaib requested a hearing; it was scheduled and continued.

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

The Board hereby issues Tyler Jay Kaib a verbal admonishment to continue his sobriety and to adhere to detail when renewing his license to practice pharmacy. In exchange for Tyler Jay Kaib's agreement to accept this admonishment, the Board will dismiss the allegations set forth in the Notice of Opportunity for Hearing and hold the entire matter for naught. Tyler Jay Kaib's record before the Board will not reflect disciplinary matters.

Tyler Jay Kaib acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

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

Though this Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, it SHALL NOT be considered disciplinary and will not be published by the Board. This Agreement shall become effective upon the date of the Board President's signature below.

s/ Tyler Jay Kaib, R.Ph. Date Signed: 08/09/2011

Respondent

/s/ John L. Tanoury Date Signed: 08/09/2011

Attorney for Respondent

/s/ Donald M. Casar Date Signed: 08/09/2011

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Nave Date Signed: 08/09/2011

Ohio Assistant Attorney General

11:33 a.m. Mr. Kolezynski left the meeting for personal reasons.
The Board recessed for lunch.

1:30 p.m. The following candidates for licensure by reciprocity met in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts. They introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator.

Michael Ray Baze	Texas
Asuncion Dauag Borja-Barton	Nevada
Madilyn Wynne Bruening	Utah
Allison Ruth Campbell	Pennsylvania
Janet Bernice Clark	West Virginia
Stephen J. Cook	West Virginia
Kammy Denee Cunnigham	North Carolina
Karen Lynn Dusci-Famoso	West Virginia
Trang Nguyen Fojas	Pennsylvania

Amit Nat Gajipara	<i>New Jersey</i>
Mary Elizabeth Grisnik	<i>Pennsylvania</i>
Sonal Gupta	<i>Illinois</i>
Roseanna Borst Koehler	<i>Texas</i>
Danielle Loren Lazear	<i>Florida</i>
John Christopher Lockard	<i>West Virginia</i>
David Elias Mick	<i>West Virginia</i>
Michele D. Mosier	<i>Maryland</i>
Stephanie Ann Mrozek	<i>Pennsylvania</i>
Stephanie Lauren Myers	<i>Kentucky</i>
Jill Cathleen Popham	<i>Kentucky</i>
Cheryl Schultz	<i>Pennsylvania</i>
Sarah Kathryn Shockley	<i>Pennsylvania</i>
Jennifer Brooke Slavens	<i>Indiana</i>
Michael Paul Warden	<i>West Virginia</i>
Daniel Patrick Welch	<i>Florida</i>
Tiarra Denice Williams	<i>Georgia</i>
Brad F. Wooten	<i>Virginia</i>

2:12 p.m. The Board reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **James Scott Crider**, R.Ph. (03-3-23797) Aliquippa, Pennsylvania.

2:23 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. The motion was seconded by Mr. Mitchell and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

2:38 p.m. The Executive Session ended and the adjudication hearing continued.

2:40 p.m.

R-2012-021 Mr. Moné moved that the adjudication hearing in the matter of **James Scott Crider**, R.Ph. (03-3-23797) Aliquippa, Pennsylvania, be continued because the respondent, Mr. Crider, had failed to show a prima facie case that he had complied with his Board Order. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 7.

2:45 p.m. The meeting recessed for the day.

Wednesday, August 10, 2011

8:56 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, Columbus, Ohio, with the following members present:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, 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. Wiesenbahn, R.Ph.

8:56 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 Mr. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

10:37 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-022 Mr. Gahm moved that the FY 2013 Board meeting dates be approved. Mr. Wiesenhahn seconded the motion and it was approved: *Aye – 7*.

FY 2013

July 2012	9-10	January 2013	7-8-9
August 2012	6-7-8	February 2013	4-5-6
September 2012	10-11-12	March 2013	4-5-6
October 2012	11-12-13	April 2013	8-9-10
November 2012	5-6-7	May 2013	6-7-8
December 2012	3-4-5	June 2013	3-4-5

The Board discussed the Walgreens “stickerless” system of recordkeeping that had been tabled from the previous month’s meeting. After discussion, the Board members agreed that as long as the Walgreens system complied with the same requirements previously approved for other similar systems, then it would be considered to be acceptable practice.

The Board discussed the proposed new and amended rules. No action was required.

11:49 a.m. Mr. Gahm moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Mitchell and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

12:23 p.m. The Executive Session ended and the meeting was opened to the public.

12:23 p.m. Ms. Lange moved that the Board receive Per Diem as follows:

PER DIEM	8/8	8/9	8/10	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	-	2
Lange	1	1	1	3
Mitchell	1	1	1	3
Moné	1	1	1	3
Wiesenhahn	1	1	1	3

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

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

**The Ohio State Board of Pharmacy
approved these Minutes September 14, 2011**