

Minutes of the May 6-8, 2013
Meeting of the Ohio State Board of Pharmacy

Monday, May 6, 2013

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

Brian M. Joyce, R.Ph., *President*; Kevin J. Mitchell, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Also present were Kyle Parker, *Executive Director*; Tracy Nave, *Director of Legal Affairs*; Eric Griffin, *Compliance Supervisor*; Chad Garner, *Information Technology Administrator*; Jennifer Utterdyke, *Director of Internship and Licensing Administrator*; Terri Ghitman, *OARRS Pharmacist* and Alan Schwepe, *Assistant Attorney General*.

Mr. Mitchell moved that the Board go into Executive Session to consider the employment of a public employee pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

10:08 a.m. The Executive Session ended and the meeting was opened to the public.

Mr. Parker introduced Ms. Jennifer Utterdyke as the new Director of Internship and Licensing Administrator to the Board and audience.

Mr. Moné stated that there was no Medical Board PAPC report.

Mr. Parker deferred the Legislative Report to next month.

Mr. Parker and Ms. Ghitman presented the Ohio Automated Prescription Reporting System update.

10:15 a.m. Board Member Troy A. Gahm, R.Ph. joined the meeting.

Mr. Parker provided the Licensing Report.

Mr. Garner presented the IT Report.

Mr. Gahm stated there was no Nursing Board CPG Committee meeting report and that the next meeting will be held on May 20, 2013.

R-2013-171 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Dr. Kevin Kriegel**, R.Ph. (03-2-30491) Cincinnati, Ohio, be the responsible person for the following pharmacies:

Mullaney's Pharmacy, West Chester, Ohio (02-223310)
The Compounding Center, West Chester, Ohio (license pending)

After discussion, Mr. Gahm moved that the Board approve the request for a period of one year. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5/Nay – 2.

10:37 a.m. Ms. Karen Mankowski *Meijer*, Mr. Joe Tammaro, R.Ph., *McKesson* and Mr. John Vandervoort, R.Ph., J.D., *Meijer* led a discussion about Central Fill pharmacies.

11:20 a.m. Mr. Gahm moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Gahm – yes; Huwer – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

11:50 a.m. The Executive Session ended and the meeting was opened to the public.

The Board chose to table the *Meijer* Central Fill discussion until an additional onsite visit of the central fill location could be completed. The requested license was not denied.

11:51 a.m. The Board recessed briefly.

12:02 p.m. The meeting reconvened in Room East B.

Mr. Donald L. Orleck, R.Ph., *C.E.O., Ohio Pharmacy Counseling Services, Ltd.*, led a discussion about Medication Therapy Management counseling and Category 2 licensing requirements for a site with no drugs. This license was not denied pending further inspection by Board staff.

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

1:30 p.m. The meeting reconvened in Room East B.

R-2013-172 Mr. Joyce announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2012-1360)

In The Matter Of:

William C. Perry, R.Ph.
46060 Country Lake Drive
St. Clairesville, Ohio 43950
(R.Ph. No. 03-2-25382)

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

William C. Perry voluntarily enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. William C. Perry 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, 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, William C. Perry is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 18, 2013, pursuant to Chapter 119. of the Ohio Revised Code, William C. Perry was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. William C. Perry requested a hearing; it was scheduled and continued. The January 18, 2013 Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that William C. Perry was originally licensed in the State of Ohio on June 7, 2002, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) William C. Perry did, on or about July 16, 2012, misbrand a drug within the meaning of Section 3715.64 of the Revised Code, to wit: when William C. Perry received a prescription for Strattera 10mg, RX #7094042, he dispensed Strattera 100mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

(3) William C. Perry did, on or about July 16, 2012, fail to review the patient profile and conduct prospective drug utilization review, to wit: William C. Perry failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Specifically, when William C. Perry received a prescription for Strattera 10mg, RX #7094042, he dispensed Strattera 100mg, which had not been

specifically prescribed by the physician. William C. Perry further overrode the electronic warning on the drug utilization review software available to assist in the prevention of such errors. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

William C. Perry admits to the allegations stated in the Notice of Opportunity for Hearing letter dated January 18, 2013 and the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

(A) William C. Perry agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) 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, William C. Perry must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in Patient Safety, which may not also be used for license renewal.

If, in the judgment of the Board, William C. Perry 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.

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

William C. Perry waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. William C. Perry 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.

_____ William C. Perry, Respondent	<u>04/26/2013</u> Date of Signature
_____ Elizabeth Y. Collis, Attorney for Respondent	<u>04/30/2013</u> Date of Signature
_____ Brian M. Joyce, R.Ph., President Ohio State Board of Pharmacy	<u>05/06/2013</u> Date of Signature
_____ Alan P. Schwepe, Ohio Assistant Attorney General	<u>05/06/2013</u> Date of Signature

R-2013-173 Mr. Joyce announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2011-1411)

In The Matter Of:

Sanford P. Horvat, R.Ph.
1288 Giess Dr.
Mayfield Heights, Ohio 44124
(R.Ph. No. 03-2-07604)

This Settlement Agreement is entered into by and between Sanford P. Horvat, R.Ph. 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.

Sanford P. Horvat 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. Sanford P. Horvat 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, 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, Sanford P. Horvat is licensed to practice pharmacy in the State of Ohio.

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

Sanford P. Horvat hereby agrees to permanently surrender his license to practice pharmacy in the state of Ohio. In exchange for Sanford P. Horvat's agreement to permanently surrender his license, the Board will dismiss the allegations set forth in the Notice of Opportunity for Hearing letter issued on February 1, 2013 and hold the entire matter for naught. Sanford P. Horvat's record before the Board will not reflect disciplinary matters relating to the allegations contained in the February 1, 2013 letter.

If, in the judgment of the Board, Sanford P. Horvat 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.

Sanford P. Horvat 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.

Sanford P. Horvat 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. Sanford P. Horvat 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.

_____ Sanford P. Horvat, Respondent	04/30/2013 _____ Date of Signature
_____ Robert J. Garrity, Attorney for Respondent	04/30/2013 _____ Date of Signature
_____ Brian M. Joyce, R.Ph., President Ohio State Board of Pharmacy	05/06/2013 _____ Date of Signature

05/06/2013

Alan P. Schwepe, Ohio Assistant Attorney General

Date of Signature

1:32 p.m. The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Fadi Rada Smiley**, R.Ph. (03-1-27510) Dublin, Ohio.

5:30 p.m. The hearing ended and the record was closed.

Mr. Gahm moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

6:15 p.m. The recess ended and the meeting was opened to the public.

6:25 p.m. The Board recessed for the day.

Tuesday, May 7, 2013

8:33 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:

Brian M. Joyce, R.Ph., *President*; Kevin J. Mitchell, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

R-2013-174 Ms. Yarosh moved that the Board minutes of April 8-9, 2013, be approved as amended. Mr. Kolezynski seconded the motion and it was approved by the Board: Aye – 7.

8:45 a.m. Mr. Mitchell presented an update on Cedarville University's ACPE School Evaluation and application for accreditation.

Mr. Mitchell also provided an update related to the Opiate Summit Conference which occurred on April 30, 2013, where he and Mr. Parker delivered a presentation.

Mr. Parker led a discussion about central fill and CVS Caremark.

8:55 a.m. The Board recessed briefly.

9:00 a.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mary C. Hendricks**, Westerville, Ohio.

9:37 a.m. The hearing ended and the record was closed.

Mr. Gahm moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Moné and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

9:41 a.m. The recess ended and the meeting was opened to the public.

R-2013-175 After votes were taken in public session, the Board adopted the following order in the matter of **Mary C. Hendricks**, Westerville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1648)

In The Matter Of:

MARY C. HENDRICKS

509 Sand Broad Court
Westerville, Ohio 43081

INTRODUCTION

The Matter of Mary C. Hendricks came for hearing on May 7, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Mary C. Hendricks was represented by Elizabeth Trende. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witness:

1. Mary C. Hendricks, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing [01-17-13]
1A-1H. Procedurals
2. Pharmacy Intern Registration Application submitted by Mary C. Hendricks [10-01-12]

Respondent's Exhibits:

- A. Cleveland Clinic Substance Abuse Evaluation Report [03-20-13]
- B. Letter of support [03-19-13]
- C. 2013 Performance Excellence Discussion [03-26-2013]
- D. Transcript from Ohio State University [Autumn 2013]
- E. Letter of support from Kimberly d'Infante, Big Brothers Big Sisters of Central Ohio [04-04-13]

Records of the Board of Pharmacy indicate that Mary C. Hendricks applied to the Board for registration as an intern in the State of Ohio on October 1, 2012.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing evidence and testimony presented to the Board, the State Board of Pharmacy hereby approves the issuance of a certificate of registration or an identification card to practice as a pharmacy intern in Ohio and, therefore, approves the Pharmacy Intern Registration Application submitted by Mary C. Hendricks on or about October 1, 2012, effective immediately upon the verbal announcement of the Board's decision..

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

The Board recessed briefly.

9:56 a.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Daniel M. Kelly**, Columbus, Ohio.

10:35 a.m. The hearing ended and the record was closed.

Ms. Huwer moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

10:45 a.m. The recess ended and the meeting was opened to the public.

R-2013-176 After votes were taken in public session, the Board adopted the following order in the matter of **Daniel M. Kelly**, Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number 2012-1755)

In The Matter Of:

DANIEL M. KELLY
2246 Neil Ave.
Columbus, Ohio 43201

INTRODUCTION

The Matter of Daniel M. Kelly came for hearing on May 7, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Daniel M. Kelly was represented by Elizabeth Trende. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Kevin Flaharty, Ohio State Board of Pharmacy

Respondent's Witness:

1. Daniel M. Kelly, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing [04-02-13]
1A-1E. Procedurals
2. Pharmacy Intern Registration Application submitted by Daniel M. Kelly
[09-19-12]
3. Franklin County Municipal Court Entry [06-25-12]

Respondent's Exhibits:

None

Records of the Board of Pharmacy indicate that Daniel M. Kelly applied to the Board for registration as an intern in the State of Ohio on September 19, 2012.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the evidence and testimony presented to the Board, the State Board of Pharmacy hereby approves the issuance of a certificate of registration or an identification card to practice as a pharmacy intern in Ohio and, therefore, approves the Pharmacy Intern Registration Application submitted by Daniel M. Kelly on or about September 19, 2012, effective immediately upon the verbal announcement of the Board's decision.

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

The Board recessed briefly.

10:55 a.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Alan Schwepe to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jamie Raymond Kuhn**, R.Ph. (03-2-22939) Columbus, Ohio.

11:14 a.m. The hearing ended and the record was closed.

Mr. Mitchell moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

11:23 a.m. The recess ended and the meeting was opened to the public.

R-2013-177 After votes were taken in public session, the Board adopted the following order in the matter of **Jamie Raymond Kuhn, R.Ph.** (03-2-22939) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-120914-226)

In The Matter Of:

JAMIE RAYMOND KUHN, R.Ph.

3127 Gideon Lane

Columbus, Ohio 45342

(R.Ph. Number 03-2-22939)

INTRODUCTION

The Matter of Jamie Raymond Kuhn came for hearing on May 7, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Jamie Raymond Kuhn requested a hearing and afterwards declined to be present and was not represented by Counsel. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [09-14-12]
1A-1C. Procedurals
1D. Addendum Notice [12-18-12]
1E-1G. Procedurals
2. Order of the State Board of Pharmacy in re Jamie Raymond Kuhn, R.Ph.
[12-09-11]
3. Order of the State Board of Pharmacy in re Jamie Raymond Kuhn, R.Ph.
[11-06-09]
4. Pharmacists Rehabilitation Organization Inc. Contract in re Jamie Kuhn
[04-17-12]
5. Correspondence from Jarrod Grossman re Missed Urine Screen II [08-27-112]
6. Correspondence from Jarrod Grossman re Missed Urine Screen [08-10-12]

7. Notarized statement of Jamie R. Kuhn, R.Ph. [09-11-12]
8. Correspondence from Jarrod Grossman re Positive Urine Screen [11-04-12]

Respondent's Exhibits:

None

FINDINGS OF FACT

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

(1) Records of the Board of Pharmacy indicate that Jamie Raymond Kuhn was originally licensed in the State of Ohio on July 21, 1998, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Jamie Raymond Kuhn was previously disciplined by the Board of Pharmacy on November 6, 2009.

(2) Jamie Raymond Kuhn 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: in 2009, Jamie Raymond Kuhn admitted that he was addicted to hydrocodone, an opiate. In May of 2009, the Board summarily suspended Jamie Raymond Kuhn's license due in part to his addiction. In November of 2009, the Board imposed an indefinite suspension of Jamie Raymond Kuhn's license with various monitoring conditions. In December 2011 the Board reinstated Jamie Raymond Kuhn's license. The Board's Order required Jamie Raymond Kuhn to continue compliance with a treatment contract he had entered with an approved treatment provider. Such contract included random, observed urine drug screens conducted at least once each month for the first year and then at least once every three months thereafter. On or about July 31, 2012, while being on administrative probation with the Board and currently under a contract with PRO (the Pharmacist Rehabilitation Organization), Jamie Raymond Kuhn failed to provide a urine sample when notified via the laboratory's website to do so. As such, Jamie Raymond Kuhn falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code. Jamie Raymond Kuhn also falls directly under the control of Ohio Administrative Code Section 4729-6-10(2) for his failed compliance with his treatment contract from an approved treatment provider.

(3) On or about October 29, 2012, while summarily suspended as a result of Jamie Raymond Kuhn's failure to provide a urine sample in violation of his 2011 Board Order, Jamie Raymond Kuhn submitted a urine sample which tested positive for the presence of cocaine. Jamie Raymond Kuhn further admitted to a Board agent that he had ingested (snorted) cocaine on or about the evening of October 27, 2012. As such, Jamie Raymond Kuhn falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code. Jamie Raymond Kuhn also falls directly under the control of Ohio

Administrative Code Section 4729-6-10(A)(2) for his failed compliance with his treatment contract from an approved treatment provider.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of acts constituting a felony and of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

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

(3) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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 Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. 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 Jamie Raymond Kuhn on September 14, 2012.

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 Jamie Raymond Kuhn as follows:

(1) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-22939, held by Jamie Raymond Kuhn effective as of the date of the mailing of this Order.

(2) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-22939, held by Jamie Raymond Kuhn effective as of the date of the mailing of this Order.

(3) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-22939, held by Jamie Raymond Kuhn effective as of the date of the mailing of this Order.

Jamie Raymond Kuhn, 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.

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

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

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

11:25 a.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts. 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. Rob Amiet, *Compliance Specialist* and the Board.

Susan Allen	Maryland
Bonnie S. Arbuckle	Pennsylvania
Ryan Balmat	Indiana
Kelli S. Boley	West Virginia
Justin Blake Gillum	Virginia
Zhe Han	Illinois
Maya Aly Issa	New Jersey
Matthew J. Koca	Pennsylvania
Joseph Christopher Kues	Kentucky
Thomas T. Manley	Kentucky
Lindsay M. Minich	Pennsylvania
Linda Anne Musick	West Virginia
Joshua Chidozie Ononuju	Kentucky
Lesley Ann Pahs	South Carolina
Robert Alan Parsons	Virginia
Alex Reinmann	Arizona
Michael O. Salako	Texas
Jennifer Elise Townsell	Illinois
Gina Marie Ventre	Pennsylvania
Jacqueline D. Welsh	West Virginia
Heather Lynn Westendorf	Maryland

1:52 p.m. The meeting reconvened in Room East B with the following members present:

Brian M. Joyce, R.Ph., *President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

The Board was joined by Assistant Attorney General Alan Schwepe to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Samuel K. Gothke**, Intern (06-0-09627) Whitehouse, Ohio.

2:08 p.m.

The hearing ended and the record was closed.

Mr. Moné moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

2:15 p.m.

The recess ended and the meeting was opened to the public.

R-2013-178

After votes were taken in public session, the Board adopted the following order in the matter of **Samuel K. Gothke**, Intern (06-0-09627) Whitehouse, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case No. 2012-1033)

In The Matter Of:

SAMUEL KYLE GOTHKE, INTERN

11230 Stiles Rd.

Whitehouse, Ohio 43571

(Intern Number 06-009627)

INTRODUCTION

The Matter of Samuel Kyle Gothke came for consideration on May 7, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Kevin J. Mitchell, R.Ph., Absent.

Samuel Kyle Gothke was not present nor was he represented by counsel. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witness:

1. Todd Knauss, Ohio State Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Notice of Opportunity for Hearing [01-18-13]
2. Pharmacy Intern Registration Application submitted by Samuel Kyle Gothke [0-13-10]
3. Findlay Police Department Ohio Uniform Incident Report [10-06-09]
4. Findley Police Department Ohio Uniform Incident Report [08-26-11]
5. Findlay Municipal Court Sentencing Entry [01-31-12]

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 Samuel Kyle Gothke was originally licensed as an Intern in the State of Ohio on September 24, 2010.
- (2) Samuel Kyle Gothke was, on or about January 7, 2008, charged with possession of marijuana in relation to an incident where he consumed marijuana brownies. This case was dismissed without prejudice in February of 2008. Such behavior, and underlying factual situation, indicates that Samuel Kyle Gothke is not of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code; further, that Samuel Kyle Gothke is abusing liquor and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Samuel Kyle Gothke was, on or about October 6, 2009, convicted of operating a vehicle while intoxicated in Hancock County, Ohio. At approximately 1:00 a.m., after drinking with his friends, Samuel Kyle Gothke decided to drive home and crashed his vehicle. The Findlay Police Department investigated the accident and administered a BAC test which showed that Samuel Kyle Gothke had a blood alcohol level of .134. Such conviction, and underlying factual situation, indicates that Samuel Kyle Gothke is not of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio

Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code; further, that Samuel Kyle Gothke is abusing liquor and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) Samuel Kyle Gothke was, on or about August 26, 2011, convicted of operating a vehicle while intoxicated in Hancock County, Ohio. After drinking at a bar, Samuel Kyle Gothke decided to drive to the Findlay Reservoir and was stopped at a DUI checkpoint at 2:35 a.m. At the checkpoint, Samuel Kyle Gothke refused to take a breathalyzer test. Samuel Kyle Gothke was subsequently sentenced to 3 days confinement at the Hancock County Jail, 17 days with WORC program referral, Samuel Kyle Gothke's license was suspended and he was required to obtain a mental evaluation as well as an alcohol evaluation. Such conviction, and underlying factual situation, indicates that Samuel Kyle Gothke is not of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code; further, that Samuel Kyle Gothke is abusing liquor and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

On the basis of the Findings of Fact set forth above, the State Board of Pharmacy hereby suspends the Intern license of Samuel Kyle Gothke until such time as he appears before the Board. At any hearing of reinstatement, Samuel Kyle Gothke must present a chemical dependency evaluation conducted within 60 days of his appearance before the Board.

Michael Moné moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0).

Troy Gahm moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Michael Moné moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-5/Nay-1).

2:20 p.m.

Mr. Mitchell joined the meeting.

The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119, and 4729, in the matter of **Ronald Joe Whitt**, Louisa, Kentucky.

3:03 p.m.

The hearing ended and the record was closed.

Mr. Kolezynski moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119, of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Moné and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

3:11 p.m.

The recess ended and the meeting was opened to the public.

R-2013-179

After votes were taken in public session, the Board adopted the following order in the matter of **Ronald Joe Whitt**, Louisa, Kentucky.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1495)

In The Matter Of:

RONALD JOE WHITT

136 Tomahawk Drive
Louisa, Kentucky 41230

INTRODUCTION

The Matter of Ronald Joe Whitt came for hearing on May 7, 2013 before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Ronald Joe Whitt was not represented by Counsel. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witness:

1. Don Newton, Ohio State Board of Pharmacy

Respondent's Witness:

1. Ronald Joe Whitt, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing [01-23-13]
1A-1D. Procedurals
2. Pharmacy Intern Registration Application submitted by Ronald Joe Whitt [08-20-12]
3. Guilford Co., NC Superior Court Documents and Letter from Ronald Joe Whitt [various dates]
4. Citation Records, Lawrence Co., KY Sheriff's Office [09-01-08]
5. Citation Records, Martin Co., KY Sheriff's Office [06-09-94]
6. Citation Records, Inez City, KY Police [06-09-94]

Respondent's Exhibits:

- A. Letter of Support [02-19-13]
- B. Dean's List Certification [December 2012]
- C. Background check via Marshall University School of Pharmacy [09-20-12]

- (1) Records of the Board of Pharmacy indicate that Ronald Joe Whitt applied to the Board for registration as an intern in the State of Ohio on August 20, 2012.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the evidence and testimony presented to the Board, the State Board of Pharmacy hereby approves the issuance of a certificate of registration or an identification card to practice as a pharmacy intern in Ohio and, therefore, approves the Pharmacy Intern Registration Application submitted by Ronald Joe Whitt on or about August 20, 2012.

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

The Board recessed briefly.

3:19 p.m.

The meeting reconvened in Room East B.

Mr. Kolezynski moved that the Board go into Executive Session to consider the employment of a public employee pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

3:33 p.m. The Executive Session ended and the meeting was opened to the public.

The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mark D. Steingass, R.Ph.** (03-2-18175) Miamisburg, Ohio.

4:50 p.m. The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Mitchell and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

5:06 p.m. The recess ended and the meeting was opened to the public.

R-2013-180 After votes were taken in public session, the Board adopted the following order in the matter of **Mark D. Steingass, R.Ph.** (03-2-18175) Miamisburg, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number 2012-1263)

In The Matter Of:

MARK D. STEINGASS, R.Ph.
10613 Toucan Street
Miamisburg, Ohio 45342
(R.Ph. Number 03-2-18175)

INTRODUCTION

The Matter of Mark D. Steingass came for hearing on May 8, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Mark D. Steingass was not represented by Counsel. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Betty Jones, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Steven Weeks, IHS Pharmacy Owner
2. Mark D. Steingass, R.Ph. Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [01-18-13]
- 1A-1E. Procedurals
2. Dangerous Drug Distributor Inspection Report for IHS Pharmacy & Wellness Center [05-31-12]
3. Written statement of Gregory G. Fiely, R.Ph. [06-15-12]
4. Dispensing Error Incident Report [not dated]
5. Copy of RX #6387672 [05-16-12]
6. Price sheet for RX #6387672 [05-16-12]
7. Patient Medical Expenses Report and Prescription Profile [03-30-12 to 05-29-12]
8. Notarized statement of Mark D. Steingass [06-04-12]

Respondent's Exhibits:

- A. Copy of invoice for RX30 system [04-18-13]
- B. Order Review Procedure for IHS Pharmacy [11-30-12]

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 Mark D. Steingass was originally licensed in the State of Ohio on December 8, 1989, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Mark D. Steingass did, on or about May 16, 2012, misbrand a drug within the meaning of Section 3715.64 of the Revised Code, to wit: when Mark D. Steingass received a prescription for Coumadin 2.5mg, RX #6387672, he dispensed Coumadin 7.5mg, which had not been specifically prescribed by the physician. The prescription was ingested and the patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Mark D. Steingass did, on or about May 16, 2012, fail to review the patient profile and conduct prospective drug utilization review, to wit: Mark D. Steingass failed to review the patient profile for over-utilization, incorrect drug dosage and duration of

drug treatment, and misuse. Specifically, when Mark D. Steingass received a prescription for Coumadin 2.5mg, RX #6387672, he dispensed Coumadin 7.5mg, which had not been specifically prescribed by the physician. This dispensing was three times higher than previous dispensings of the same drug to the same patient. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

The Board further finds, as a result of the testimony and evidence presented at the hearing that individuals other than pharmacists conducted DUR, which is an essential aspect of the practice of pharmacy.

CONCLUSIONS OF LAW

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

(2) The State Board of Pharmacy concludes that paragraph (2) and (3) of the Findings of Fact constitutes being guilty of permitting anyone other than a pharmacist or pharmacy intern to practice of pharmacy as provided in Division (A)(6) 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 five hundred dollars (\$500.00) on Mark D. Steingass 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.

In addition, Mark D. Steingass must submit to the Board, within ninety days from the effective date of this Board Order, six hours of approved continuing pharmacy education (0.6 CEUs), in patient safety and medication errors, which may not also be used for license renewal.

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

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

Troy Gahm moved for Action of the Board; Richard Kolezynski seconded the motion. Motion passed (Aye-6/Nay-1).

5:09 p.m. Mr. Moné moved that the Board go into Executive Session to consider the employment of a public employee and to confer with Board counsel regarding a pending or imminent court action pursuant to Section 121.22(G)(1) & (3) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

5:52 p.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed for the day.

Wednesday, May 8, 2013

8:59 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:

Brian M. Joyce, R.Ph., *President*; Kevin J. Mitchell, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

The Board was joined by Assistant Attorney General Alan Schwepe to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Lindsey Rose Meucci**, R.Ph. (03-2-26437) Cincinnati, Ohio.

8:59 a.m. The Board was presented with a Memorandum addendum Brief Notice from Ms. Meucci related to charges from December 2012.

9:15 a.m. Mr. Moné moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of Angerman v. State Medical Bd. (1990) 70 Ohio App.3d 346 and TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al. (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

9:20 a.m. The recess ended and the hearing was resumed.

R-2013-181 Mr. Moné moved to dismiss the December 2012 false application or false renewal charge against **Lindsey Rose Meucci**, R.Ph. (03-2-26437) Cincinnati, Ohio. The motion was seconded by Mr. Gahm and approved by the Board: Aye – 7.

The Board recessed briefly.

The hearing continued in Room East B.

10:15 a.m. The Board recessed briefly.

Mr. Moné left for professional reasons.

10:20 a.m. The hearing reconvened in Room East B.

11:22 a.m. The Board recessed for lunch.

Mr. Gahm moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Yarosh – yes.

11:45 a.m. The Executive Session ended and the meeting was opened to the public.

R-2013-182 Mr. Gahm moved to deny the Pharmacist license application for **Timothy Bos**. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

R-2013-183 Mr. Kolezynski moved to Summarily Suspend the license of **Lisa Baker**, R.Ph. (03-2-15516) Bolivar, Ohio. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 6.

R-2013-184 Mr. Gahm moved to Summarily Suspend the license of **Jill Caruso**, R.Ph. (03-2-26184) Middleburg Heights, Ohio. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

R-2013-185 Mr. Gahm moved to Summarily Suspend the license of **Ashley Devine**, R.Ph. (03-3-24059) Ladera Ranch, California. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

11:59 a.m. The Board recessed for lunch.

12:50 p.m. The meeting reconvened in Room East B.

The hearing continued in the matter of **Lindsey Rose Meucci**, R.Ph. (03-2-26437) Cincinnati, Ohio.

1:38 p.m. The hearing ended and the record was closed.

Mr. Mitchell moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Yarosh – yes.

2:05 p.m. The recess ended and the meeting was opened to the public.

R-2013-186 After votes were taken in public session, the Board adopted the following order in the matter of **Lindsey Rose Meucci**, R.Ph. (03-2-26437) Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-120314-242)

In The Matter Of:

LINDSEY ROSE MEUCCI, R.Ph.

5711 Signal Point Dive, Apt. 109

Cincinnati, Ohio 45247

(R.Ph. Number 03-2-26437)

INTRODUCTION

The Matter of Lindsey Rose Meucci came for hearing on May 8, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph. and Kilee S. Yarosh, R.Ph.

Michael A. Moné, R.Ph., Absent.

Lindsey Rose Meucci was represented by Christopher W. Carrigg. The State of Ohio was represented by Alan P. Schwepe, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Cyma Khalily, M.D.
2. Hima Kode, M.D.
3. Craig Stiens, PharmD

Respondent's Witness:

1. Lindsey Rose Meucci, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [03-14-12]
- 1A-1B. Procedurals
2. Statement of Jennifer Landis [06-05-09]
3. Statement of Dave Parry [not dated]

4. Notarized correspondence from Randy Hammann, R.Ph. [12-20-11]
5. Notarized statement of Leah N. Whitener, PharmD, CACP [12-05-11]
6. Notarized statement of Heather Travis [12-01-11]
7. Notarized statement of Wm. W. Carroll, Reg.Ph. [12-01-11]
8. Notarized statement of Hima Kode [01-12-12]
9. Two notarized statement of Lindsey Rose Meucci, R.Ph. [05-16-09 and 01-03-12]
10. Order of the State Board of Pharmacy in re Lindsey Rose Meucci, R.Ph. [07-11-12]
- 10A-10B. Procedurals
11. Addendum Notice in re Lindsey Rose Meucci, R.Ph. [12-07-12]
- 11A-11B. Procedurals
12. Pharmacist renewal documentation [08-26-12]
13. Hearing continuance request from Christopher W. Carrigg, Esq. [01-04-13]
- 13A-13E. Procedurals
14. Notarized statement of Craig Stiens, PharmD [10-29-12]
15. Correspondence from Lindsey Meucci [08-28-12]
16. Correspondence from Cyma Khalily, M.D. [01-02-13]
17. Correspondence from Hima Kode, M.D. [01-11-13]

Respondent's Exhibits:

None

Records of the State Board of Pharmacy indicate that Lindsey Rose Meucci was originally licensed in the State of Ohio on August 3, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

DECISION OF THE BOARD

Pursuant to Section 4729.116 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Lindsey Rose Meucci as follows:

- (1) On March 14, 2012 Lindsey Rose Meucci was issued a Notice of Opportunity for hearing.
- (2) On December 7, 2012, Lindsey Rose Meucci was issued an Addendum Notice.

The Board hereby dismisses the Addendum Notice issued to Lindsey Rose Meucci dated December 7, 2012.

Further, Lindsey Rose Meucci is ordered to continue psychiatric care and must send quarterly reports from her treating psychiatrist concerning her fitness to practice pharmacy and therapy compliance to the Board for five years from the date of the Order.

Subject to these conditions, Lindsey Rose Meucci may continue to practice pharmacy in the State of Ohio.

Troy Gahm moved for Action of the Board; Richard Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Mr. Parker led a discussion about the Administrative Board Meeting scheduled for July 8-9, 2013. The July meeting will be closed session and will take place at Deer Creek State Park Lodge and Conference Center.

2:13 p.m.

Mr. Gahm moved that the Board go into Executive Session to consider the employment of a public employee and to confer with Board counsel regarding pending or imminent court action pursuant to Section 121.22 (G)(1) & (3) of the Ohio Revised Code. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Yarosh – yes.

3:48 p.m.

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

R-2013-187

Mr. Kolezynski moved that the Board receive Per Diem as follows:

PER DIEM	5/6	5/7	5/8	Total
Cain	1	1	1	3
Gahm	1	1	1	3
Huwer	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	1	3
Mitchell	1	1	1	3
Moné	1	1	1	3
Yarosh	1	1	1	3

Mr. Gahm seconded the motion and it was approved by the Board: Aye – 6.

R-2013-188

Ms. Yarosh moved that the meeting be adjourned. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

	Date: <u>6/4/13</u>
Brian M. Joyce, R.Ph., President	
	Date: <u>6/4/13</u>
Kyle W. Parker, M.B.A., R.Ph., Executive Director	