

Minutes of the June 3-5, 2013
Meeting of the Ohio State Board of Pharmacy

Monday, June 3, 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*; Troy A. Gahm, 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*; Robert Amiet, *Compliance Specialist* and Charissa Payer, *Assistant Attorney General*.

Mike DeWine, *Attorney General* led a discussion about illegal substances and the scheduling of controlled substances.

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

10:30 a.m. The meeting reconvened in Room East B.

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: Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

11:25 a.m. The Executive Session ended and the meeting was opened to the public.

Mr. Moné requested a new representative be appointed to the Medical Board PAPC.

Ms. Nave and Mr. Mitchell provided the Legislative Report.

Mr. Gahm presented the Nursing Board CPG Committee meeting report from May 20, 2013.

Mr. Griffin provided the Compliance and Enforcement report.

Mr. Parker presented the Licensing Report.

Mr. Garner provided the Ohio Automated Prescription Reporting System update and the I.T. report.

12:13 p.m. The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Darrell Bryant, R.Ph.** (03-3-25389) Hilliard, Ohio, be the responsible person for the following pharmacies:

Columbus Area Pharmacy #1515, Columbus, Ohio (02-1765550)
Columbus Area Pharmacy #899, Columbus, Ohio (license pending)

The Board tabled the request.

President Joyce appointed Board Member Margaret A. Huwer, R.Ph. as the new Pharmacy Board Representative to the Medical Board PAPC.

R-2013-189 Mr. Moné moved that the settlement offer in the matter of **Mediserv Town Street Pharmacy, Inc. C/O G. Douglas Porter, R.Ph.** (03-209113) Westerville, Ohio be accepted. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5.

12:17 p.m. The Board recessed for lunch.

1:33 p.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Derrick Phillip Hall, R.Ph.** (03-3-26972) Akron, Ohio.

2:46 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: Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

3:17 p.m. The recess ended and the meeting was opened to the public.

R-2013-190 After votes were taken in public session, the Board adopted the following order in the matter of **Derrick Phillip Hall, R.Ph.** (03-3-26972) Akron, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1267)

In The Matter Of:

DERRICK PHILLIP HALL, R.Ph.

544 Palisades Dr.

Akron, Ohio 44303

(R.Ph. Number 03-3-26972)

INTRODUCTION

The Matter of Derrick Phillip Hall came for hearing on June 3, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Edward T. Cain, Public Member, Absent

Margaret A. Huwer, R.Ph., Absent

Derrick Phillip Hall was not represented by counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE**State's Witnesses:**

1. Derrick Phillip Hall, R.Ph., Respondent
2. Trey Edwards, Ohio State Board of Pharmacy

Respondent's Witness:

1. Derrick Phillip Hall, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [02-14-13]
1A-1D. Procedurals
2. Notarized Written Statement of Derrick Hall [05-30-12]
3. Written Statement of Meredith V. Opizadek [05-29-12]
4. Written Statement of Sherri Eigisti [05-29-12]
5. Inventory List of Items Removed from Derrick Hall's Trunk [05-30-12]
6. Six Photos of Items Removed from Derrick Hall's Trunk [Not Dated]

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 Derrick Phillip Hall was originally licensed in the State of Ohio on August 3, 2005 pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Derrick Phillip Hall did, on or around May 16, 2012, illegally possess dangerous drugs, to wit: Derrick Phillip Hall took possession of numerous dangerous drugs given to him by a patient of the pharmacy in which he worked. Derrick Phillip Hall stored these medications in the trunk of his personal vehicle for a period of approximately two weeks. Such conduct is a violation of Section 4729.51(C)(3) of the Ohio Revised Code.
- (3) Derrick Phillip Hall did, on or around May 16, 2012, illegally possess a controlled substance, to wit: Derrick Phillip Hall took possession of numerous controlled substances given to him by a patient of the pharmacy in which he worked. Derrick Phillip Hall stored these medications in the trunk of his personal vehicle for a period of approximately two weeks. Such conduct is a violation of Section 3719.09(A) of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Derrick Phillip Hall for his actions in this matter.

Derrick Phillip Hall must obtain, within 90 days from the effective date of this Order, six hours (0.6 CEUs) of approved continuing pharmacy education in Board approved jurisprudence, which may not also be used for license renewal.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00) on Derrick Phillip Hall 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.

Michael A. Moné moved for Findings of Fact; Troy A. Gahm seconded the motion. Motion passed (Aye-3/Nay-2).

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

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

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

3:30 p.m. The meeting reconvened in Room East B.

Mr. Amiet presented the report for the approval of the Fort Wayne Meijer pharmacy processes. Mr. Parker approved the use of the Meijer process.

Mr. Griffin discussed a prospective Compliance Agent for the East Cleveland territory.

3:46 p.m. Mr. Gahm moved that the Board go into Executive Session to discuss the employment of a public employee, the purchase of property or matters required to be confidential by law pursuant to Section 121.22(G)(1), (2) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Joyce as follows: Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

4:29 p.m. The Board recessed for the day.

Tuesday, June 4, 2013

8:23 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.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

R-2013-191 Mr. Kolezynski moved that the Board minutes of May 6-8, 2013, be approved as amended. Ms. Yarosh seconded the motion and it was approved by the Board: Aye – 6.

R-2013-192 Ms. Yarosh moved that the Emergency Drug Addendum be put on the Board website. Mr. Kolezynski seconded the motion and it was approved by the Board: Aye – 6.

R-2013-193 Mr. Moné moved to deny the application to take the NAPLEX test and to issue the Notice of Intent to Deny to Joshua Ossei-Wusu. Mr. Gahm seconded the motion and it was approved by the Board: Aye-5/Nay-1.

9:00 a.m. The Board recessed briefly.

9:13 a.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **G. Douglas Porter**, R.Ph. (03-2-09113) Westerville, Ohio.

11:25 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 Ms. Yarosh and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

12:09 p.m. The recess ended and the meeting was opened to the public.

R-2013-194 After votes were taken in public session, the Board adopted the following order in the matter of **G. Douglas Porter**, R.Ph. (03-2-09113) Westerville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2011-1639)

In The Matter Of:

G. Douglas Porter, R.Ph.
586 Westbury Woods Court
Westerville, Ohio 43081
(R.Ph. Number 03-2-09113)

INTRODUCTION

The Matter of G. Douglas Porter came for hearing on June 4, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Margaret A. Huwer, R.Ph. - Absent

G. Douglas Porter was represented by Douglas E. Graff. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. G. Douglas Porter, R.Ph., Respondent
2. Eric Griffin, Ohio State Board of Pharmacy
3. Chris Reed, Ohio State Board of Pharmacy

Respondent's Witness:

1. G. Douglas Porter, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [01-03-13]
- 1A-1D. Procedurals
3. Written Statement, G. Douglas Porter [10-11-11]
4. Closing Inventory Sheet [10-11-11]
5. Drug Inventory Report [05-03-10]
6. Statement of Records Produced
- 7-17. Accountability Statements [10-11-11]

Respondent's Exhibit:

- A. Resumé of G. Douglas Porter, R.Ph. [Not Dated]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that G. Douglas Porter was originally licensed in the State of Ohio on August 12, 1968, pursuant to Examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Between May 3, 2010 and October 11, 2011, G. Douglas Porter acting as Responsible Pharmacist at Mediserv Town Street Pharmacy, Inc. failed to provide adequate safeguards to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs. Specifically, Responsible Pharmacist Porter confronted a pharmacy technician with two stock bottles of hydrocodone products found in her purse. During investigation of this incident, Responsible Pharmacist Porter admitted that any employee of the pharmacy could access and change the computer on-hand inventory, biennial inventories were conducted with a comparison of the computer on-hand inventory to physical stock, and no comparison of the computer on-hand inventory to the dispensing records and invoices were ever conducted. An inventory conducted by

agents of the Board revealed substantial shortages of the following controlled substances.

<u>Drug/Strength</u>	<u>Shortage</u>	<u>Percentage of Total Stock</u>
hydrocodone/APAP 7.5/500 mg	99,329	38.8%
hydrocodone/APAP 7.5/750 mg	72,096	38.4%
hydrocodone/APAP 7.5/325 mg	1,566	12.1%
hydrocodone/APAP 10/325 mg	4,382	13.5%
hydrocodone/APAP 10/650 mg	916	28.2%
hydrocodone/APAP 10/500 mg	1,558	15%
hydrocodone/APAP 10/660 mg	1,360	29.6%
hydrocodone/APAP 5/500 mg	9,316	3.6%
alprazolam 1 mg	7,329	6.8%
alprazolam 0.5 mg	10,815	12.6%
alprazolam 2 mg	1,745	15.7%

CONCLUSIONS OF LAW

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

(2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of aiding and abetting the violation of provisions 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 G. Douglas Porter as follows:

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends the Pharmacist identification card, No. 03-2-09113, held by G. Douglas Porter and such suspension is effective as of the date of the mailing of this Order for period of one year.

(A) G. Douglas Porter, 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) G. Douglas Porter, 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.

The Ohio State Board of Pharmacy hereby declares that G. Douglas Porter, R.Ph. may never again serve as Responsible Person/Pharmacist at any pharmacy by which he may be employed henceforth as of the effective date of the reinstatement of his license.

G. Douglas Porter must obtain twelve hours (1.2 CEUs) of approved continuing pharmacy education in jurisprudence, which may not also be used for license renewal. If proof of successful completion is not submitted to the Board office before the end of the probation period, G. Douglas Porter will remain on probation until this condition is achieved.

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

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

Troy A. Gahm moved for Action of the Board; Edward T. Cain seconded the motion. Motion passed (Aye-4/Nay-2).

12:15 p.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 Ms. Terri Ghitman, *OARRS Pharmacist*, Mr. Rob Amiet, *Compliance Specialist* and the Board.

Edgar Childers	Kentucky
Ruth Ji Choi	North Carolina
Anthony D. Czaplicki	Florida
Allison Elizabeth Delong	Kentucky
Barbara Ann Dennison	Pennsylvania
William E. Fixler	Arizona
Kevin Gordon Fletcher	North Carolina
Kristin Marie Garnett	Illinois
Erik Justin Hansen	Indiana
Darrell Ramon Harvey	North Carolina
John Khalil Khoury	Missouri
Jacob Igor Landa	Indiana
Fredrick Nzai Manasseh	Missouri
Melody Ann Morrison	West Virginia
Denise Needham	Maine
Payal Patel	Florida
Elizabeth E. Raven	Georgia

Michael J. Ristagno	Pennsylvania
Sharon R. Ternullo	New York
Tara Kylene Thornton	Indiana
Desmond James Waters	Iowa
Carrie Lynn Zechmeister	Michigan

2:05 p.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Keisha Ann Rollins Mingo** (Intern license pending) Maineville, Ohio.

3:30 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. Gahm and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

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

R-2013-195 After votes were taken in public session, the Board adopted the following order in the matter of **Keisha Ann Rollins Mingo** (Intern license pending) Maineville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1851)

In The Matter Of:

Keisha Ann Rollins Mingo

619 Humock Ct.

Maineville, OH 45039

INTRODUCTION

The Matter of Keisha Ann Rollins Mingo came for hearing on June 4, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Margaret A. Huwer, R.Ph. Absent.

Keisha Ann Rollins Mingo was represented by Harry B. Plotnick. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Keisha Ann Rollins Mingo, Respondent
2. Rick Haun, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Keisha Ann Rollins Mingo, Respondent
2. Morris Mingo, Husband of Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing [02-22-13]
1A-1D. Procedurals
2. Pharmacy Intern Application [11-26-12]
3. Hamilton County Court Record [12-06-97]
4. Hamilton County Court records [Various]

Respondent's Exhibits:

- A. Transcript, University of Cincinnati College of Pharmacy [05-24-13]
- B. Letter from Andrea L. Wall, R.Ph., Assistant Dean of Student Affairs, University of Cincinnati College of Pharmacy [05-31-13]

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 Keisha Ann Rollins Mingo applied to the Board for registration as an intern in the State of Ohio on November 26, 2012.
- (2) Keisha Ann Rollins Mingo was issued a citation by the Springfield Township Police on or about December 6, 1997, for Disorderly Conduct in the matter of State of Ohio v. Keisha A. Rollins, Hamilton County Case No. C97CRB47593. Keisha Ann Rollins Mingo subsequently paid the citation. Keisha Ann Rollins Mingo admitted to this behavior in her pending application for licensure.
- (3) Keisha Ann Rollins Mingo was charged by the Cincinnati Police on or about December 13, 2002, with Disorderly Conduct while Intoxicated in the matter of State of Ohio v. Keisha A. Rollins, Hamilton County Case No. 02CRB41982. Keisha Ann Rollins

Mingo subsequently plead No Contest to this charge. Keisha Ann Rollins Mingo admitted to this behavior in her pending application for licensure.

(4) Keisha Ann Rollins Mingo was charged by the Cincinnati Police on or about December 13, 2002, with Possession of Drugs in the matter of State of Ohio v. Keisha A. Rollins, Hamilton County Case No. 02CRB41982. Keisha Ann Rollins Mingo subsequently plead No Contest to the connected Disorderly Conduct while Intoxicated charge and the possession charge was dismissed. Keisha Ann Rollins Mingo omitted this information from her application for licensure.

(5) Keisha Ann Rollins Mingo was charged by the Deerfield Police on or about October 16, 2011, with Domestic Violence. Keisha Ann Rollins Mingo subsequently participated in a "Women Who Resort to Violence Course." Keisha Ann Rollins Mingo completed said course. Keisha Ann Rollins Mingo admitted to this behavior in her application for licensure.

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 Keisha Ann Rollins Mingo on or about November 26, 2012, effective on the date of this Order.

Troy A. Gahm moved for Findings of Fact; Richard F. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Edward T. Cain moved for Action of the Board; Kevin J. Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Bradley A. Collins, R.Ph.** (03-2-23055) Syracuse, Ohio.

4:00 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; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

4:15 p.m.

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

R-2013-196 After votes were taken in public session, the Board adopted the following order in the matter of **Bradley A. Collins, R.Ph.** (03-2-23055) Syracuse, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1192)

In The Matter Of:

Bradley Alan Collins, R.Ph.
P.O. Box 148, 2064 W. College Rd.
Syracuse, OH 45779
(R.Ph. Number 03-2-23055)

INTRODUCTION

The Matter of Bradley Alan Collins came for hearing on June 4, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Margaret A. Huwer, R.Ph. Absent.

Bradley Alan Collins did request a hearing pursuant to the Notice of Opportunity for Hearing letter dated September 14, 2013, but failed to appear for this hearing despite having signed his acknowledgement of receipt of the scheduling letter that contained this hearing's date, time, and location details.

The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Dustin Robison, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [03-14-13]
1A-1D. Procedurals
2. Board Order [01-07-10]
3. Written Statement of Bradley Alan Collins, R.Ph. [03-20-08]
4. FirstLab Positive Result Certificate [02-22-13]
5. Typed Statement of Jarrod Grossman, R.Ph. [02-27-13]

6. Email from Bradley Alan Collins, R.Ph. [06-03-13]

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 Bradley Alan Collins was originally licensed in the State of Ohio on August 5, 1998, pursuant to examination, and was licensed to practice pharmacy in the State of Ohio until the effective date of this Order. Records reflect that Bradley Alan Collins was previously disciplined by the Board: his license was suspended on March 25, 2008; and his license was reinstated on January 7, 2010 under a period of probation to last until January 7, 2015.

(2) Bradley Alan Collins 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 2008, Bradley Alan Collins admitted that he was addicted to hydrocodone, an opiate. In March of 2008, the Board summarily suspended his license due in part to his addiction. In October of 2008, the Board imposed an indefinite suspension of his license with various monitoring conditions. In December 2009 the Board reinstated his license. The Board's Order required Bradley Alan Collins to continue compliance with a treatment contract he had entered with an approved treatment provider. Such contract included a requirement that Bradley Alan Collins refrain from ingesting any dangerous drug that was not legitimately prescribed. On February 22, 2013 and dates subsequent, Bradley Alan Collins admitted to the Director of his treatment provider and to Board Agents that on at least two separate occasions he ingested phentermine that had been prescribed to his wife that he found in his garage because he "needed energy." As such, Bradley Alan Collins falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code. Bradley Alan Collins 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.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph two (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.

(2) Further, as a result of the evidence and testimony presented, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of

willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of Chapter 4729. 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 Bradley Alan Collins on March 14, 2013.

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 Bradley Alan Collins 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 Registered Pharmacist identification card, No. 03-2-23055, held by Bradley Alan Collins effective as of the date of the mailing of this Order. Such revocation is permanent in nature, and no application for reinstatement shall ever be considered by the Board. See Ohio Administrative Code 4729-9-01(E).

(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 Registered Pharmacist identification card, No. 03-2-23055, held by Bradley Alan Collins effective as of the date of the mailing of this Order. Such revocation is permanent in nature, and no application for reinstatement shall ever be considered by the Board. See Ohio Administrative Code 4729-9-01(E).

Bradley Alan Collins, 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.

Kevin J. Mitchell moved for Findings of Fact; Richard F. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Kevin J. Mitchell moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Kevin J. Mitchell moved for Action of the Board; Kilee S. Yarosh seconded the motion. Motion passed (Aye-4/Nay-3), President Bryan Joyce voted to break the tie in accordance with Ohio Revised Code 4729.03.

The Board recessed for the day.

Wednesday, June 5, 2013

8:36 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.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph. and Kilee S. Yarosh, R.Ph.

Mr. Gahm 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 Mr. Kolezynski and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

8:45 a.m. The Executive Session ended and the meeting was opened to the public.

ELECTION of OFFICERS for FISCAL YEAR 2014

R-2013-197 Mr. Kolezynski moved that Kevin J. Mitchell, R.Ph. be named President of the Board of Pharmacy for fiscal year 2014. Ms. Yarosh seconded the motion and it was approved by the Board: Aye – 5; Abstain – Mitchell.

R-2013-198 Mr. Mitchell moved that Michael A. Moné, R.Ph. be named Vice-President of the Board of Pharmacy for fiscal year 2014. Mr. Gahm seconded by the motion and it was approved by the Board: Aye – 5; Abstain – Moné.

R-2013-199 Mr. Moné moved for reconsideration of the reciprocity application special request of **Joshua Ossei-Wusu**. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 5; Abstain – Cain.

R-2013-200 Mr. Moné moved to table the request by **Joshua Ossei-Wusu** until such time as the Board can fully investigate the need for a limit on the number of times a person can take the NAPLEX and prepare a rule for same. The motion was seconded by Mr. Gahm and approved by the Board: Aye – 5; Abstain – Cain.

8:44 a.m. The Board recessed briefly.

9:02 a.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Joshua Joseph Keslar, R.Ph.** (03-1-24460) Westerville, Ohio.

10:46 a.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; Gahm – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

11:00 a.m.

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

R-2013-201

After votes were taken in public session, the Board adopted the following order in the matter of **Joshua Joseph Keslar, R.Ph.** (03-1-24460) Westerville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1826)

In The Matter Of:

Joshua J. Keslar, R.Ph.

174 Buckeye Ct.

Westerville, Ohio 43081

(R.Ph. Number 03-1-24460)

INTRODUCTION

The Matter of Joshua J. Keslar came for hearing on June 5, 2013, before the following members of the Board: Brian M. Joyce, R.Ph.; (presiding); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Margaret A. Huwer, R.Ph. Absent.

Joshua J. Keslar was represented by Daniel D. Connor. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Joshua J. Keslar, Respondent
2. Chris Reed, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Joshua J. Keslar, Respondent
2. Dr. Jeff White, Partner of Respondent
3. Noah Sharp, Secretary of P.R.O. and Advocate for Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [01-28-13]
1A-1C. Procedurals
2. Written Statement of Joshua J. Keslar, R.Ph. [01-22-13]
- 3-5. Accountability Statements [03-08-13]
- 7-13. Accountability Statements [02-14-13]
14. Four Still Photos [01-19-13]
15. Four Still Photos [01-20-13]

Respondent's Exhibits:

- A. P.R.O. Contract of Joshua J. Keslar [03-19-13]
- B. Glenbeigh Chart [05-14-13]
- C. Treatment Records from The Woods at Parkside [Various]
- D. Report from William C. Hale, Ph.D. of Glenbeigh [05-08-13]
- E. Report from Timothy M. Miller, LSW, LICDC of The Woods at Parkside [05-24-13]
- F. Urine Drug Screens [Various]
- G. Various Meeting Attendance Records [Various]
- H. Monthly Meeting Attendance Calendars [March-May, 2013]
- I. Statements of Continuing Education Credits [Various]
- J. Letter from Jarrod Coffey, Pharmacy Manager at Joshua Keslar's Employer [05-20-13]
- K. Letters of Advocacy [Various]

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 Joshua J. Keslar was originally licensed in the State of Ohio on January 19, 2001, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Joshua J. Keslar is addicted to or abusing drugs or alcohol and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Joshua J. Keslar has admitted that he is addicted to the use of controlled substances. Joshua J. Keslar was observed and has admitted to stealing drugs from two different pharmacies owned by his employer for approximately eighteen (18) months. Specifically, Joshua J. Keslar has admitted to stealing the following controlled substances and dangerous drugs from Walgreens #9193:

Hydromet Syrup – four 480ml bottles
Promethazine w/Codeine Syrup – 150ml
Promethazine VC w/Codeine Syrup – 150ml
tramadol 50mg tablets – 100 tablets

Joshua J. Keslar has admitted to stealing the following controlled substances and dangerous drugs from Walgreens #7942:

Hydromet Syrup – approximately four 480ml bottles
hydrocodone/APAP 7.5/500mg Elixir – 480ml
hydrocodone/APAP 10/325mg tablets – 700-800 tablets
hydrocodone/APAP 10/500mg tablets – 150 tablets
hydrocodone/APAP 7.5/325mg tablets – 150 tablets
hydrocodone/APAP 7.5/500mg tablets – 150 tablets
tramadol 50mg tablets – 1,000 tablets

(3) Joshua J. Keslar did, on or around January 19, 2013, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens #7942, beyond the express or implied consent of the owner, to wit: Joshua J. Keslar has admitted to and was observed stealing hydrocodone/APAP 10/325mg tablets, a controlled substance.

(4) Joshua J. Keslar did, on or around January 20, 2013, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens #7942, beyond the express or implied consent of the owner, to wit: Joshua J. Keslar has admitted to and was observed stealing hydrocodone/APAP 10/500mg tablets, a controlled substance.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraphs (3) 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.

(3) 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.

(4) Further, as a result of the evidence and testimony presented, the State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 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 Joshua J. Keslar on January 28, 2013.

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 Registered Pharmacist identification card, No. 03-1-24460, held by Joshua J. Keslar and such suspension is effective as of the date of the mailing of this Order.

(A) Joshua J. Keslar, 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) Joshua J. Keslar, 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.

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Joshua J. Keslar 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) Joshua J. Keslar 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) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

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

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

(B) Joshua J. Keslar 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) Joshua J. Keslar must provide, at the reinstatement petition hearing, documentation of the following:

(1) An effort to pay restitution to Walgreens.

(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 three years of the effective date of this Order, Joshua J. Keslar 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, Joshua J. Keslar 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.

Troy A. Gahm moved for Findings of Fact; Richard F. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Troy A. Gahm moved for Conclusions of Law; Richard F. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Troy A. Gahm moved for Action of the Board; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-1).

The Board recessed for lunch.

Mr. Gahm left the meeting for personal reasons.

12:46 p.m.

The meeting reconvened in Room East B.

Board Member, Margaret A. Huwer, R.Ph. joined the meeting.

President Joyce administered the Oath of Office to President-elect, Kevin Mitchell.

OATH OF THE PRESIDENT

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

President Joyce administered the Oath of Office to Vice-President-elect Michael Moné.

OATH OF THE VICE-PRESIDENT

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

12:50 p.m.

Mr. Parker and Ms. Nave provided an update about the Biennial Budget (House Bill 59).

R-2013-202 Mr. Moné moved that the issuance of the Board order for **Fadi Rada Smiley** be delayed. Ms. Huwer seconded the motion and it was approved by the Board:
Aye – 6.

1:00 p.m. Ms. Huwer 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 Mr. Kolezynski and a roll-call vote was conducted by President Joyce as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Mitchell – yes; Moné – yes; Yarosh – yes.

2:15 p.m. The Executive Session ended and the meeting was opened to the public.

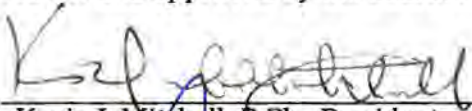
R-2013-203 Mr. Kolezynski moved that the \$200.00 invoice from NASCA be paid. Ms. Huwer seconded the motion and it was approved by the Board: Aye – 6.

R-2013-204 Ms. Huwer moved that the Board receive Per Diem as follows:

PER DIEM	5/20	6/3	6/4	6/5	Total
Cain	0	0	1	1	2
Gahm	1	1	1	1	4
Huwer	0	0	0	1	1
Joyce	0	1	1	1	3
Kolezynski	0	1	1	1	3
Mitchell	0	1	1	1	3
Moné	0	1	1	1	3
Yarosh	0	1	1	1	3

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

R-2013-205 Mr. Mitchell moved that the meeting be adjourned. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.


Kevin J. Mitchell, R.Ph., President

Date: 6 Aug 13


Kyle W. Parker, M.B.A., R.Ph., Executive Director

Date: 8-6-13