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Minutes of the June 6, 7 & 8, 2005

Meeting of the Ohio State Board of Pharmacy

MONDAY, JUNE 6, 2005

9:00 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:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

9:02 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

11:55 p.m. The Executive Session ended and the Board recessed for lunch.

1:06 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center with the following members present:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

R-2005-190 The Board considered a request for an exemption from Rule 4729-5-10 (Prescription pick-up station) received from the following sites:

Teregen Laboratories (02-1235150)
Various physician offices as listed in the letter of request

After discussion, Mrs. Gregg moved that the Board approve the request as long as all parties to the request comply with the requirements in the Rule for such an exemption. The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 6.

1:10 p.m. Board members Gregory Braylock, R. Ph., and Dorothy Teater, Public Member, joined the meeting in progress.

R-2005-191 Mr. McMillen then presented a request from pharmacy intern **Madlain Carouba** for permission to extend her internship for one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy intern identification card renewal).

After discussion, Mr. Giacalone moved that Ms. Carouba be permitted to renew her intern identification card for one more year. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

R-2005-192 Mr. McMillen presented a request from pharmacy intern **Omeuma A. Elamin** for permission to extend her internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy intern identification card renewal).

After discussion, Mrs. Gregg moved that Ms. Elamin be permitted to renew her intern identification card for one more year. The motion was seconded by Mrs. Teater and approved by the Board: Aye – 8.

R-2005-193 Mr. Keeley described a new electronic prescribing system, **Web MD/Clinician Rx Electronic Prescribing System**, for which approval was sought.

After discussion, Mrs. Eastman moved that the Board approve the system pending final inspection of the installed product. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 8.

1:22 p.m. The Board recessed briefly.

1:31 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of John Joseph Johnson, R.Ph., Portsmouth.

3:33 p.m. The hearing ended and the record was closed. The Board recessed briefly.

3:50 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of Maynard D. Turner, R.Ph., Bloomington.

4:45 p.m. The hearing ended and the record was closed. The Board recessed briefly.

4:54 p.m. Mr. Turner moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

5:24 p.m. The Executive Session ended and the meeting was opened to the public.

Mrs. Gregg moved that the Board adopt the following order in the matter of Maynard D. Turner, R.Ph.:

R-2005-194

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number: D-050505-062

in the matter of:

MAYNARD D. TURNER, R.PH.

Rural Route 1
6912 White Oak Road NE
Bloomington, Ohio 43106

R.Ph. Number 03-2-09730

INTRODUCTION

The matter of Maynard D. Turner came for hearing on June 6, 2005, before the Board: Lawrence J. Kost, R.Ph., *presiding*; Suzanne R. Eastman, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Maynard D. Turner was represented by Barry Waller. The State of Ohio was represented by Assistant Attorney General Sally Ann Steuk.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witness: Maynard D. Turner, R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request letter from Maynard D. Turner, R.Ph. [04- 07-05]. 1A-1C. Procedurals.
2. State Board of Pharmacy Settlement Agreement In Re Maynard D. Turner, R.Ph. [09-08-03].
3. Notarized Statement of Maynard Dwight Turner [08-22-02].
4. CVS/Revco #3408 Pharmacist's Statement for Dwight Turner [04-30-99 to 08-22-02].
5. Rx #342026 [08-20-02].
6. Photocopy of a medicine vial for Rx#342032 [08-20-02].
7. CVS/Revco #3408 Drug Usage Report by NDC Number [01-01-02 to 08-28- 02].
8. Notarized Statement of Nalynn Hall [08-28-02].
9. Bill of Information, State of Ohio vs. M. Dwight Turner, Case No. 2003-00116 CRI, Fayette County Common Pleas Court [06-17-03]; Plea [06-17-03;] Judgment Entry [07-14-03].

Respondent's Exhibits:

- A1. Twenty-six page Scioto Paint Valley Mental Health Center Substance Abuse Service Plan for Dwight Turner [10-02-02 to 01-27-05].
- A2. Support Group Attendance Records [09-16-03 to 04-30-05].
- A3. Copy of twenty checks made payable to Treasurer, State of Ohio [09-25-03 to 05-18-05].
- A4. Copy of twenty Ohio State Board of Pharmacy Monetary Penalty Transmittal Forms [09-30-03 to 04-05].
- A5. Fayette County Memorial Hospital Drug Screen Reports [09-16-03 to 05-16-05].
- A6. Treatment Summary letter from Judith Rheinscheld, LISW, CCDC III-E [09-02-04].
- A7. Treatment Progress Report from Judith Rheinscheld, LISW, LICDC [04-04-05].
- A8. Letter from Teresa Bryant [05-11-05]
- A9. Business Health Services Toxicology Specimen Chain of Custody Forms [09-16-03 to 04-27-05].
- A10. C.P.E. Report Form for Maynard D. Turner [05-19-05]; Continuing Pharmaceutical Education Credits and Certificate [04-27-03 to 03-17-05]; E-mail letter from Lori D. Moore [03-05-05].
- A11. Letter from Robert U. Anderson, M.D. [not dated].
- A12. Copy of National City Bank Check No. 661459357 made payable to Treasurer, State of Ohio [12-17-04].
- A13. Letter of Service from Cheryl Royster [05-13-05].
- A14. Judgment Entry Granting Intervention in Lieu of Conviction, State of Ohio vs. Maynard D. Turner, Case No 20030116, Fayette County Common Pleas Court [10-15-03].
- A15. Copy of Notarized Statements of Paul Van Buren [08-05-03] and Douglas Bryon [08-05-03].

A16. Two letters of support [06-02-05 and 06-03-05].

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Maynard D. Turner has complied with the terms set forth in the Settlement Agreement with the State Board of Pharmacy, Docket No. 020910-007, effective September 8, 2003.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-09730, held by Maynard D. Turner to practice pharmacy in Ohio and places Maynard D. Turner on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Maynard D. Turner 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) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:
 - (1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a 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) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.
 - (3) Attendance is required, minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Maynard D. Turner must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of Maynard D. Turner's progress towards recovery and what Maynard D. Turner has been doing during the previous three months.
- (C) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Maynard D. Turner's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-1 of other Ohio Administrative Code.
- (2) Maynard D. Turner may not serve as a responsible pharmacist.
- (3) Maynard D. Turner may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Maynard D. Turner may not, during the first year of practice, work in a pharmacy more than a maximum of 45 hours per week.
- (5) Maynard D. Turner must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (6) Maynard D. Turner must not violate the drug laws of Ohio, any other state, or the federal government.
- (7) Maynard D. Turner must abide by the rules of the State Board of Pharmacy.
- (8) Maynard D. Turner must comply with the terms of this Order.

The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

Mr. Turner moved that the Board adopt the following Order in the matter of John Joseph Johnson:

R-2005-195

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number: D-040812-015

in the matter of:

JOHN JOSEPH JOHNSON
1317 High Street
Portsmouth, Ohio 45662

INTRODUCTION

The matter of John Joseph Johnson came for hearing on June 6, 2005, before the Board: Lawrence J. Kost, R.Ph., *presiding*; Suzanne R. Eastman, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

John Joseph Johnson was represented by Richard A. Cline. The State of Ohio was represented by Assistant Attorney General Sally Ann Steuk.

SUMMARY OF EVIDENCE

State's Witness:

Respondent's Witnesses:

John Joseph Johnson, Respondent
Lynn Grimshaw, Attorney at Law
Jason Lovins
Ralph Nolfi
Reverend Rick Clark

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity For Hearing letter [08-12-04].
- 1A-1F. Procedurals.

- 2.
3. State Board of Pharmacy Order in re John Joseph Johnson, R.Ph. [12-06-96].
- 4.
- 5.
- 6.
- 7.
- 8.

Respondent's Exhibits:

- A1.
- A2.
- A3.
- A4.
- B1-B7.
- C1. Letter of Support [04-12-05].
- C2. Kiwanis International Certificate of Recognition for John Johnson [2004-05].
- C3-C7. Five letters of support [09-18-96 to 05-03-05].
- D1-D4.

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 John Joseph Johnson submitted an application for examination as a pharmacist on or about July 22, 2004. Records further indicate that John Joseph Johnson was originally licensed to practice pharmacy in the State of Ohio on July 27, 1989; and, on December 6, 1996, John Joseph Johnson's license was revoked in accordance with Section 4729.16 of the Ohio Revised Code.
- (2) On December 6, 1996, John Joseph Johnson's license to practice pharmacy in the State of Ohio was revoked due to the following:
 - (A)
 - (B)
 - (C)
 - (D)

CONCLUSIONS OF LAW

- (1)
- (2)
- (3)

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Examination As A Pharmacist submitted by John Joseph Johnson on July 22, 2004.

Further, the Board places John Joseph Johnson on probation for ten years beginning on the date of the issuance of his pharmacist license. The terms of probation are as follows:

- (A) John Joseph Johnson, for one year from the date of the issuance of his pharmacist license, may not work alone and may only work with a pharmacist whose license is in good standing.
- (B) John Joseph Johnson, for 10 years, from the issuance of his pharmacist license, is denied the privilege of being a preceptor and training pharmacy interns, pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (C) John Joseph Johnson must not violate the drug laws of Ohio, any other state, or the federal government.
- (D) John Joseph Johnson must abide by the rules of the State Board of Pharmacy.
- (E) John Joseph Johnson must comply with the terms of this Order.
- (F) John Joseph Johnson's license will not be in good standing until successful completion of the probationary period.
- (G) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

The motion was seconded by Mr. Braylock and approved by the Board: *Aye* – 4; *Nay* – 2/*Abstain* – 2.

R-2005-196 The Board elected officers for FY 2006 with the following results:

President: Suzanne R. Eastman, R.Ph.

Vice-President: James E. Turner, R.Ph.

5:30 p.m. The meeting recessed until Tuesday, June 7, 2005.

TUESDAY, JUNE 7, 2005

9:00 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:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

After a discussion of the draft minutes from the May 2-4, 2005, Board meeting, Mrs. Gregg moved that the minutes be approved as amended. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye* – 8.

R-2005-197 The Board then considered a request for an exemption to Rule 4729-5-11 (Responsible person) to allow **Deborah S. Wolniewicz**, R.Ph., to be the Responsible Pharmacist for the following Terminal Distributor of Dangerous Drugs licenses:

Toledo IV Care (02-1238500)
Caring DME IV Home Infusion (02-1251950)

After discussion, Mrs. Eastman moved that the Board approve this request for one year. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

Mr. Keeley discussed the Legislative Report with the Board. There were no items requiring official action by the Board.

9:04 a.m. The Board recessed briefly.

9:10 a.m. The meeting resumed. Mr. Keeley discussed the need for an ad hoc committee to assist in preparation of Rules concerning pharmacy compounding. This committee is needed because of Senate Bill 18, recently approved by the Legislature.

R-2005-198 After discussion, Mr. Braylock moved that the Board appoint the following people to make up the committee: Tony Buchta, Central Ohio Compounding Pharmacy; Brad Roseborough, Wellspring Pharmacy; Ken Speidel, Pharma Care Pharmacy; Jeff Potter, Clinical Apothecary; Matt Buderer, Buderer Drug; Alan Israel, Lee Silsby Compounding Pharmacy; Andrew Bragalone, Cleveland Clinic; and Frank Krivanek, Mount Carmel.

Board staff designated to attend meetings: Joann Predina.
Board members: Suzanne R. Eastman-Chair and James E. Turner.

Mr. Keeley then presented information regarding the **Netscript Electronic Prescribing System**. After discussion, this issue was tabled until Board staff could obtain further information.

Mr. Benedict presented the report on the Medical Board's Prescribing Committee meeting.

Mr. Braylock reported that there had been no meeting of the Nursing Board's Committee on Prescriptive Governance.

9:37 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of Brooke M. Norman, R.Ph., Lafayette, Indiana.

10:30 a.m. Board member Dorothy Teater arrived with the hearing in progress but did not participate.

10:40 a.m. The hearing ended and the record was closed.

10:42 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Giacalone and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

10:55 a.m. The Executive Session ended. Mrs. Gregg moved that the Board adopt the following order in the matter of Brooke Marie Norman:

R-2005-199

ORDER OF THE STATE BOARD OF PHARMACY
Docket Number D-040903-018

in the matter of:

BROOKE MARIE NORMAN
2025 Greenbush Street, Apt. 308
Lafayette, Indiana 47904

INTRODUCTION

The matter of Brooke Marie Norman came for hearing on June 7, 2005, before the following members of the Board: Lawrence J. Kost, R.Ph., presiding; Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Brooke Marie Norman was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Jesse Wimberly, Ohio State Board of Pharmacy

Respondent's Witnesses: Donald R. Norman
Brooke M. Norman, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [09/03/04].
- 1A-1D. Procedurals.
2. Application for Pharmacy Intern Registration submitted by Brooke Marie Norman [06-03-04].
3. Fax transmission cover sheet from Indianapolis Police Department [not dated]; Marion County Sheriff Department Case Report No. 00-0079809-0000 [06-27-00].
4. Case Summary, Justice Information System of Indianapolis/Marion County, Indiana [05-10-05].

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 Ohio State Board of Pharmacy indicate that Brooke Marie Norman applied to the Board for registration as an intern in Ohio on June 3, 2004.
- (2) Brooke Marie Norman did, on or about June 3, 2004, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Brooke Marie Norman indicated on her Pharmacy Intern Registration Application that she had not been charged with a crime when in fact Brooke Marie Norman had been arrested and charged on June 27, 2000, with theft and/or receiving stolen property. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (3) Brooke Marie Norman did, on or about June 27, 2000, with purpose to deprive, knowingly obtain or exert control over the property of Lazarus by deception, to wit: Brooke Marie Norman stole merchandise from a Lazarus Department Store in Indianapolis, Indiana, by concealing items and taking

them from the store without paying for them. Such conduct, if committed in Ohio, is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) Brooke Marie Norman did, on or about June 27, 2000, receive or retain the property of another, knowing or having reasonable cause to believe the property had been obtained through the commission of a theft offense, to wit: the Marion County, Indiana, Sheriff's Department discovered that Brooke Marie Norman possessed in her car numerous items that had been stolen from Lazarus Department Store, Galyan's Department Store, and Sears. Such conduct, if committed in Ohio, is in violation of Section 2913.02 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves, for immediate processing, the Application for Pharmacy Intern Registration submitted by Brook Marie Norman on or about June 3, 2004.

The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 7/Abstain – 1 (Teater).*

11:07 a.m. The Board was joined by Mr. C. David Paragas who asked the Board on behalf of his client, Mr. **Donald Sutton**, to reconsider its decision regarding his lack of compliance with his Board Order.

11:18 a.m. The meeting with Mr. Paragas ended.

R-2005-200 Mr. Keeley returned to the Board with additional information about the **Netscript Electronic Prescribing System**.

After discussion, Mr. Braylock moved that the Board approve the system pending final inspection of the installed product. The motion was seconded by Mr. Giacalone and approved by the Board: *Aye – 8.*

11:25 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code, and to confer with a Board attorney regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Turner and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

12:00 p.m. The Executive Session ended and the meeting was opened to the public.

R-2005-201 Mr. Mitchell moved that the Board approve Mr. Winsley's attendance at the NACDS Pharmacy & Technology Conference August 27-31, 2005, in San Diego, California, that his expenses be paid by the Board and that the time spent at the meeting be considered as time worked. The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 8.*

12:01 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center with the following members present:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Following presentations by Board members, the following candidates for licensure by reciprocity introduced themselves and then participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards:

James Christopher Antinopoulos	03-3-26739	West Virginia
Kathy Katayoun Ariavand	03-3-26718	Wisconsin
Paul Richard Bandfield	03-3-26780	Idaho
Jeffery Bruce Brannock	03-3-26764	Virginia
Ann Marie Davis	03-3-26657	Maryland
Brett Duane Hall	03-3-26819	Arizona
Jill Nicole Kelley	03-3-26679	Pennsylvania
Betty Borges Lopes	03-3-26825	Connecticut
Lee C. Menning	03-3-26708	Michigan
Carrie Beth Neundorfer	03-3-26639	Texas
Kersten Marie Norman	03-3-26590	North Carolina
Sara Elizabeth Price	03-3-26803	Alabama
Camille Jean Sabbey	03-3-26592	Massachusetts
Sarah Frances Williamson	03-3-26787	Indiana
Jessica Anne Yax	03-3-26765	Nevada

- 1:50 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center with all members present.
- 1:54 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Michelle Mathews, R.Ph., Mogadore.
- 4:00 p.m. The hearing ended and the record was closed. The meeting was recessed until Wednesday, June 8, 2005.

WEDNESDAY, JUNE 8, 2005

- 8: 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:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

- 8:55 a.m. The Executive Session ended and the meeting was opened to the public.

Mr. Braylock moved that the Board adopt the following order in the matter of Michelle Mathews, R.Ph.:

R-2005-202

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number: D-041202-038

in the matter of:

MICHELE ANNE MATHEWS, R.PH.
472 Crest Hill Drive
Mogadore, Ohio 44260

INTRODUCTION

The matter of Michele Anne Mathews came for hearing on June 7, 2005, before the following members of the Board: Lawrence J. Kost, R.Ph., *presiding*; Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Michele Anne Mathews was represented by Duard D. Bradshaw. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney general.

SUMMARY OF EVIDENCE

State's Witness: Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witnesses: Michele Mathews, R.Ph., Respondent
Frederick R. Mathews, Jr.
Frederick W. Mathews

State's Exhibits:

1. Notice of Opportunity For Hearing letter [12-02-04].
- 1A-1B. Procedurals.
- 1C. Addendum Notice letter [03-15-05].
- 1D. Procedural.
 2. R_x # 0359426 [09-02-00].
 - 2A. Copy of computer generated labeling and patient information leaflet for R_x #C359426 [09-02-00].
 3. R_x #0359496 [09-05-00].
 - 3A. Copy of computer generated labeling and patient information leaflet for R_x 359496 [09-05-00].
 4. R_x #0378384 [10-26-01].
 - 4A. Copy of computer generated labeling and patient information leaflet for R_x#378384 [10-26-01].
 5. R_x #399065 [02-17-03].
 - 5A. Copy of computer generated labeling and patient information leaflet for R_x #399065 [02-17-03].
 6. Copy of computer generated labeling and patient information leaflet for R_x #400006 [03-10-03].
 7. R_x #401275 [04-09-03].
 - 7A. Copy of computer generated labeling and patient information leaflet for R_x #401275r [10-06-03].
 8. R_x #402698 [05-14-03].
 - 8A. Copy of computer generated labeling and patient information leaflet for R_x #402698 [05-14-03].
 9. Refill Request Form for R_x #405051 [07-11-03].
 - 9A. Copy of computer generated labeling and patient information leaflet for R_x #405051 [07-11-03].
 10. Copy of computer generated labeling and patient information leaflet for R_x #405163 [07-14-03].
 11. R_x #406621 [07-31-03].
 - 11A. Copy of computer generated labeling and patient information leaflet for R_x #406621 [07-31-03].
 12. Copy of computer generated labeling and patient information leaflet for R_x #409327 [10-09-03].
 13. R_x #409978 [10-27-03].

- 13A. Copy of computer generated labeling and patient information leaflet for Rx #409978 [10-27-03].
14. Rx #409979 [10-27-03].
 - 14A. Copy of computer generated labeling and patient information leaflet for Rx #409979 [10-27-03].
15. Rx #410035 [10-27-03].
 - 15A. Copy of computer generated labeling and patient information leaflet for Rx #410035 [10-27-03].
16. Rx #410259 [10-31-03].
 - 16A. Copy of computer generated labeling and patient information leaflet for Rx 410259 [10-31-03].
17. Rx #228641 [12-28-03].
 - 17A. CVS Prescription Pick-Up Log [12-26-03 to 12-28-03].
 - 17B. Third Party/Consultation Log Daily Signature Sheet [12-28-03].
18. Rx #229339 [01-01-04].
 - 18A. CVS Prescription Pick-Up Log [01-01-04].
 - 18B. Third Party/Consultation Log Daily Signature Sheet [01-01-04].
19. Copy of Notarized Statement of Michele Mathews [01-20-04].
20. Copy of Notarized Statement of Brian L. Vogelsang, D.M.D. [03-29-04].
21. Copy of Notarized Statement of Mark A. Smith, M.D. [03-29-04].
22. Copy of Notarized Statement of Diana L. Cottrell [03-29-04].
23. Copy of Notarized Statement of Nicholas Rimedio, D.O. [03-31-04].
24. Copy of Notarized Statement of Marcia Case [03-31-04].
25. Copy of Notarized Statement of Rik Mitchell, D.O. [04-05-04].
26. Indictment, State of Ohio vs. Michelle Mathews, Case No. CR 2004-09-3189, Summit County Common Pleas Court [09-24-04]; Journal Entry [11-30-04].

Respondent's Exhibits:

- A. Statement of N.V. Rimedio, D.O. [05-12-05].
- B. Treatment Records for Frederick Mathews [09-05-00]; Children's Hospital Medical Center of Akron Final Report for Frederick Mathews [09-06-00].
- C. Copy of pages 50 & 51 of the Pharmacist's Manual, U.S. Depart. of Justice for Schedule III-V Controlled Substance Prescriptions [March 2001].
- D-E. Two letters from Mark A. Smith, M.D. [05-10-05 to 05-17-05].
- F-H. Three letters of Support [05-11-05 to 05-31-05].
 - I. Statement of Michele Mathews, 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 Michele Anne Mathews was originally licensed by the State of Ohio as a pharmacist on March 23, 1982, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Michele Anne Mathews did, on or about the following dates, intentionally make and/or knowingly possess a false or forged prescription, to wit: Michele Anne Mathews admittedly created, and subsequently possessed on file at the pharmacies in which she practiced pharmacy, the following prescriptions for Michele Anne Mathews and her family members without authorization from a prescriber.

<u>Rx#</u>	<u>Date Filled</u>	<u>Drug</u>	<u>Strength</u>	<u>Qty.</u>
359496	09/05/00	Tri-Levlen-21		21
399065	02/17/03	Flonase	0.05	16 g

400006	03/10/03	Retin-A	0.025%	45 g
401275	10/06/03	Trivora-28		84
401275	04/09/03	Trivora-28		84
401275	07/11/03	Trivora-28		84
402698	05/14/03	Celebrex	200mg	30
405051	07/11/03	Hyzaar	100-25	90
406621	07/31/03	Denavir	1% Cream	1.5
409327	10/09/03	Retin-A	0.025	45 g
409978	10/27/03	Hyzaar	100-25	90
409979	10/27/03	Zocor	40 mg	90
410035	10/27/03	Celebrex	100 mg	30
410259	10/31/03	Furosemide	20 mg	90
228641	12/28/03	Celebrex	100 mg	90
229339	01/01/04	Trivora-28		84

Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (3) Michele Anne Mathews did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of the Medicine Shoppe, by deception, to wit: Michele Anne Mathews stole the following drugs from her employer, and created false/forged prescriptions to cover for the thefts.

<u>Rx#</u>	<u>Date Filled</u>	<u>Drug</u>	<u>Strength</u>	<u>Qty.</u>
359496	09/05/00	Tri-Levlen-21		21
399065	02/17/03	Flonase	0.05	16 g
400006	03/10/03	Retin-A	0.025%	45 g
401275	10/06/03	Trivora-28		84
401275	04/09/03	Trivora-28		84
401275	07/11/03	Trivora-28		84
402698	05/14/03	Celebrex	200mg	30
405051	07/11/03	Hyzaar	100-25	90
406621	07/31/03	Denavir	1% Cream	1.5
409327	10/09/03	Retin-A	0.025%	45
409978	10/27/03	Hyzaar	100-25	90
409979	10/27/03	Zocor	40 mg	90
410035	10/27/03	Celebrex	100 mg	30
410259	10/31/03	Furosemide	20 mg	90

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (4) Michele Anne Mathews did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS #4312, by deception, to wit: Michele Anne Mathews stole the following drugs from her employer, and created false/forged prescriptions to cover for the thefts.

<u>Rx#</u>	<u>Date Filled</u>	<u>Drug</u>	<u>Strength</u>	<u>Qty.</u>
228641	12/28/03	Celebrex	100 mg	90
229339	01/01/04	Trivora-28		84

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) On November 30, 2004, Michele Anne Mathews pled guilty to four (4) counts of Illegal Processing of Drug Documents, felonies of the fifth degree under Section 2925.23(B)(1) of the Ohio Revised Code and four (4) counts of Deception to Obtain a Dangerous Drug, felonies of the fifth degree under Section 2925.22 of the Ohio Revised Code. State of Ohio vs. Michele Mathews, Case No CR 04 09 3189, Summit County Common Pleas Court. Such conduct indicates that Michele Anne Mathews is guilty of a felony or

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

DECISION OF THE BOARD

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

- (A) The State Board of Pharmacy hereby places on probation for one year the pharmacist identification card, No. 03-3-14484, held by Michele Anne Mathews effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Michele Anne Mathews may never dispense prescriptions for herself or her family.
 - (2) Michele Anne Mathews must not violate the drug laws of Ohio, any other state, or the federal government.
 - (3) Michele Anne Mathews must abide by the rules of the State Board of Pharmacy.
 - (4) Michele Anne Mathews must comply with the terms of this Order.
 - (5) Michele Anne Mathews's license is deemed not to be in good standing until successful completion of the probationary period.
 - (6) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.
- (B) The State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) on Michele Anne Mathews and payment of the monetary penalty 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.

Michele Anne Mathews is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the

period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 5/Nay – 3.*

R-2005-203 Mr. Turner then moved that the Board deny a request for reconsideration of its decision regarding **Donald Sutton's** lack of compliance with Board Orders. The motion was seconded by Mrs. Eastman and approved by the Board: *Aye – 6/Nay – 1/Abstain – 1 (Lipsyc).*

9:07 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Jarrod Warren Grossman, Pharmacy Intern, Columbus.

12:00 p.m. The hearing ended and the record was closed.

12:05 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to hold an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Penny Lynn Fasig, R.Ph., Centerville.

1:20 p.m. The hearing ended and the record was closed. The Board recessed for lunch.

2:15 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center with the following members present:

Lawrence J. Kost, R.Ph., *President*; Suzanne R. Eastman, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

2:17 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Giacalone and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

2:30 p.m. The Executive Session ended and the meeting was opened to the public.

R-2005-204 Mr. Giacalone moved that the Board accept the Settlement Offer tendered in the matters of **Daniel Lee Deem**, R.Ph., **Rite Aid #1186**, **Rite Aid #3088**, **Rite Aid #3086**, **Rite Aid #1659**, and **Rite Aid #2304**, and that the hearings be continued pending completion of the Settlement Agreement. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye – 8.*

The Board took a brief recess.

2:50 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Kost as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

4:00 p.m. The Executive Session ended and the meeting was opened to the public. Mr. Braylock moved that the Board adopt the following order in the matter of Jarrod Warren Grossman, Pharmacy Intern:

R-2005-205

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number: D-050310-047

in the matter of:

JARROD WARREN GROSSMAN

INTRODUCTION

The matter of Jarrod Warren Grossman came for hearing on June 8, 2005, before the following members of the Board: Lawrence J. Kost, R.Ph., *presiding*; Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Jarrod Warren Grossman was represented by Daniel D. Connor. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Christopher Reed, Ohio State Board of Pharmacy

Respondent's Witnesses: Jarrod Grossman, Respondent
James Scott Patton, R.Ph.
Kenneth Michael Hale, R.Ph., Ph.D.

State's Exhibits:

1. Notice of Opportunity For Hearing letter [03-10-05].
- 1A-1C. Procedurals.
2. Notarized Statement of Sandra S. Clowes [06-19-03].
3. Notarized Statement of Jarrod W. Grossman [06-19-03].
4. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall 5 mg tablets [06-20-03].
5. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall 12.5 mg tablets [06-20-03].
6. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall 20 mg tablets [06-20-03].
7. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall 30 mg tablets [06-20-03].
8. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall XR 5 mg capsules [06-20-03].
9. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall XR 10 mg capsules [06-20-03].
10. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall XR 15 mg capsules [06-20-03].
11. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Adderall XR 20 mg capsules [06-20-03].
12. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for amphetamine salt 10 mg tablets [06-20-03].
13. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Concerta 54 mg tablets [06-20-03].
14. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for dextroamphetamine SR 5 mg tablets [06-20-03].
15. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for dextroamphetamine SR 10 mg capsules [06-20-03].
16. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Methylin 5 mg tablets [06-20-03].
17. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Methylin 10 mg tablets [06-20-03].
18. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Methylin 20 mg tablets 20 mg [06-20-03].

19. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/APAP 5/500 mg tablets [06-20-03].
20. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/APAP 7.5/500 mg tablets [06-20-03].
21. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/APAP 7.5/750 mg tablets [06-20-03].
22. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/APAP 10/325 mg tablets [06-20-03].
23. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/APAP 10/500 mg tablets [06-20-03].
24. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for hydrocodone/Ibuprofen tablets 7.5/200 mg [06-20-03].
25. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Lortab 5/500 mg tablets [06-20-03].
26. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Lortab 7.5/500 mg tablets [06-20-03].
27. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Lortab 10/500 mg tablets [06-20-03].
28. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Norco 10/325 mg tablets [06-20-03].
29. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for phentermine HCL 37.5 mg tablets [06-20-03].
30. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for propoxyphene-N 100 mg tablets [06-20-03].
31. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Provigil 100 mg tablets [06-20-03].
32. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Provigil 200 mg tablets [06-20-03].
33. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Vicodin 5/500 mg tablets [06-20-03].
34. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Vicoprofen 7.5/200 tablets [06-20-03].
35. Drug Accountability Statement at Kroger Sav-On Pharmacy N-966 for Zydane 10/400 mg tablets [06-20-03].

Respondent's Exhibits:

- A-1. PRO Pharmacist's Recovery Contract for Jarrod Grossman [09-16-03].
- A-2. Ohio State University Hospitals East Medical Records for Jarrod Grossman [12-11-03].
- A-3. Ohio Pharmacists Rehabilitation Organization Inc. Licensee Summary Report [12-09-03 to 04-01-05].
- A-4. Support Group Attendance Records [07-02-03 to 05-22-05].
- A-5. Letter of Restitution Payment Plan from Jarrod Grossman to Diana Pierce [02-28-05].
- A-6. Netcare Evaluation Report of Jarrod W. Grossman [03-01-05].
- A-7. Thirteen Letters of Support [04-23-05 to 05-25-05].
- B. Support Group Attendance Record [10-01-03 to 10-28-03].

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 Jarrod Warren Grossman was originally licensed by the State of Ohio as a pharmacy intern on September 26, 2001, and holds a current license (06-0-03458) to practice as an intern.

- (2) Jarrod Warren Grossman is addicted to or abusing liquor or drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Jarrod Warren Grossman has admitted to Board agents that he stole numerous types of controlled substances during his employment as an intern for his personal abuse. Jarrod Warren Grossman was observed while practicing as an intern to have several tablets that appeared to be Darvocet-N 100 fall out of his pockets. Jarrod Warren Grossman has admitted to stealing Schedules II, III, and IV controlled substances from his employer by placing them into his pockets. Jarrod Warren Grossman admitted to abusing approximately 40 mg of hydrocodone daily, escalating to 100 mg daily, combined with other stimulant drugs. Jarrod Warren Grossman stated that he stole large quantities of narcotics along with smaller quantities of stimulants in order to relieve anxiety while working to "improve his work performance."
- (3) Jarrod Warren Grossman did, from July 4, 2002, through June 20, 2003, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger N-966, by deception, to wit: Jarrod Warren Grossman stole the following controlled substances:

Schedule II Controlled Substance:

<u>Drug</u>	<u>Shortage</u>
Adderall 5 mg	29 tablets
Adderall 12.5 mg	100 tablets
Adderall 20 mg	3 tablets
Adderall 30 mg	1 tablet
Adderall XR 5 mg	100 capsules
Adderall XR 10 mg	9 capsules
Adderall XR 15 mg	4 capsules
Adderall XR 20 mg	21 capsules
amphetamine Salts 10 mg	32 tablets
Concerta 54 mg	11 tablets
dextroamphetamine SR 5 mg	30 tablets
dextroamphetamine SR 10 mg	60 capsules
Methylin 5 mg	2 tablets
Methylin 10 mg	34 tablets
Methylin 20 mg	38 tablets

Schedules III and IV Controlled Substances:

<u>Drug</u>	<u>Shortage</u>
hydrocodone/APAP 5/500	701 tablets
hydrocodone/APAP 7.5/500	149 tablets
hydrocodone/APAP 7.5/750	85 tablets
hydrocodone/APAP 10/325	1,062 tablets
hydrocodone/APAP 10/500	113 tablets
hydrocodone/Ibuprofen 7.5/200	35 tablets
Lortab 5/500	17 tablets
Lortab 7.5/500	612 tablets
Lortab 10/500	112 tablets
Norco 10/325	632 tablets
phentermine HCL 37.5 mg	325 tablets
propoxyphene-N 100 mg	69 tablets
Provigil 100 mg	206 tablets
Provigil 200 mg	608 tablets
Vicodin 5/500	51 tablets
Vicoprofen 7.5/200	1,197 tablets
Zydane 10/400	980 tablets

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

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 places Jarrod Warren Grossman on probation for the remainder of his internship. The terms of probation are as follows:

- (A) Jarrod Warren Grossman 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) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit 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) Hydrocodone must be included in the standard urine drug screen.
 - (c) 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 week 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) Jarrod Warren Grossman must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (C) Jarrod Warren Grossman must abide by the rules of the State Board of Pharmacy.
- (D) Jarrod Warren Grossman must comply with the terms of this Order.
- (E) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Jarrod Warren Grossman is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

Mr. Braylock moved that the Board adopt the following order in the matter of Penny Lynn Fasig, R.Ph.:

R-2005-206

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number: D-050103-040

in the matter of:

PENNY LYNN FASIG, R.PH.
9191 Glenridge Boulevard
Centerville, Ohio 45458

R.Ph. Number 03-1-25784

INTRODUCTION

The matter of Penny Lynn Fasig came for hearing on June 8, 2005, before the following members of the Board: Lawrence J. Kost, R.Ph., presiding; Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Penny Lynn Fasig was represented by Mary Barley-McBride. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: Penny Lynn Fasig, R.Ph., Respondent
Harry Leonard Stallo, R.Ph.

State's Exhibits:

1. Notice of Opportunity For Hearing letter [01-03-05].
- 1A-1C. Procedurals.

2. Copy of Notarized Statement of Penny Fasig [08-31-04].
3. Copy of Notarized Statement of Joy M. Ely [08-31-04].
4. Rx #6909234 and Rx #6909235 [04-16-04].
5. Kroger Pharmacy Patient Medical Expenses Report [01-02-04 to 04-21-04].

Respondent's Exhibits:

- A. Copy of Notarized Statement of Joy M. Ely [08-31-04].
- B. Copy of Notarized Statement of Penny Fasig [08-31-04].
- C. Copy of handwritten telephone prescription with notes by Penny Fasig [04-16-04].

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 Penny Lynn Fasig was originally licensed by the State of Ohio as a pharmacist on August 1, 2003, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Penny Lynn Fasig, on or about April 16, 2004, prior to dispensing Rx #6909235, did not conduct sufficient prospective drug utilization review, to wit: Penny Lynn Fasig reduced a verbal order to writing, and though it had been called in incorrectly by the prescriber's agent, Penny Lynn Fasig dispensed an inappropriate amount of prednisone to this patient which caused harm. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

CONCLUSION OF LAW

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 provisions of Chapter 2925. of the Revised Code or a Rule of the Board as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby advises that in the future, Penny Lynn Fasig telephone the doctor when appropriate so as to complete proper prospective drug utilization review.

The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

4:05 p.m. President Kost administered the Oath of Office to the president-elect, Suzanne R. Eastman:

Oath of President

I, Suzanne Eastman, as President of the Ohio 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.

4:06 p.m. President Kost then administered the Oath of Office to vice-president-elect, James E. Turner:

Oath of Vice-President

I, James Turner, as Vice-President of the Ohio 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.

4:09 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>5/5</u>	<u>5/12</u>	<u>6/2</u>	<u>6/6</u>	<u>6/7</u>	<u>6/8</u>	<u>Total</u>
Braylock	-	-	-	1	1	1	3
Eastman	-	-	-	1	1	1	3
Giacalone	1	1	1	1	1	1	6
Gregg	1	1	1	1	1	1	6
Kost	-	-	-	1	1	1	3
Lipsyc	-	-	-	1	1	1	3
Mitchell	-	-	-	1	1	1	3
Teater	-	-	-	1	1	1	3
Turner	-	-	-	1	1	1	3

The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

4:10 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 8.

THE OHIO STATE BOARD OF PHARMACY APPROVED THESE MINUTES JULY 12, 2005
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