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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126  
telephone: 614-466-4143 fax: 614-752-4836 email: [exec@bop.state.oh.us](mailto:exec@bop.state.oh.us)

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## Minutes of the March 6, 7 and 8, 2006 Meeting of the Ohio State Board of Pharmacy

### MONDAY, MARCH 6, 2006

10:05 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

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*; Danna Droz, *Prescription Monitoring Program Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

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 an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Kost and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Mitchell – yes; Turner – yes; and Teater – yes.

11:00 a.m. The Executive Session ended and the meeting was opened to the public.

**R-2006-140** Mr. Turner moved that the proposed Cease and Desist order drafted by Board staff be issued in the matter of **Nicole M. Gianuglou**, Kettering, Ohio, and **Preen Apothecary, LLC**, Centerville, Ohio. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-141** Mr. Braylock moved that the Board grant the request received from **SaveOn RX, Inc.** for permission to withdraw its application as a Terminal Distributor of Dangerous Drugs thereby cancelling the need for a hearing scheduled for Wednesday, March 8, 2006. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-142** Mrs. Gregg moved that the response written by Assistant Attorney General Sally Ann Steuk to the Ohio Court of Appeals in the matter of **Fumiyo Witt**, R.Ph., be submitted as written. Mr. Braylock seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-143** Mr. Keeley discussed proposed changes to the language of Ohio Revised Code 4729.17 regarding Board member voting. Mr. Braylock moved that Board staff be authorized to pursue this change through the Legislature. Mr. Turner seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-144** Mrs. Gregg moved that the agreement with NABP regarding publishing of the State Board News be continued and that signing the NABP State Board Newsletter of Agreement be approved. Mr. Turner seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-145** Mrs. Gregg moved that **Ruth Plant**, R.Ph., be reappointed to the Nursing Board's Committee on Prescriptive Governance as the Board's clinical pharmacist appointee. Mr. Turner seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-146** Mrs. Gregg moved that Mr. Mitchell be appointed to the Medical Board's Physician's Assistant Policy Committee as the Board's pharmacist appointee. Mr. Kost seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2006-147** After discussion, Mr. Giacalone moved that the Board find the proposed Wal-Mart central-fill system to be approvable pending final inspection. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7.*

11:25 a.m. The Board recessed briefly.

11:38 a.m. Mr. Keeley discussed his Legislative Report with the Board.

Mr. Keeley then presented the following names as potential appointments to the 2006 Ad Hoc Committee on Rule Review: Dan Gueth, Sue Fosnight, Kristen MacEwen, Benjamin Shaffer, Debra Parker, Thomas Lamb, Wayne Miller, Robert Wagonblott, Troy Gahm, Debbie Lange, Karen Beard, and Randy Hammann plus Board members Gregory Braylock and James Turner.

**R-2006-148** Mrs. Gregg moved that the Ad Hoc Committee be approved as presented. Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 7.*

12:25 p.m. The Board recessed for lunch.

1:34 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John Shell**, R.Ph., of Loveland.

2:34 p.m. The hearing ended and the record was closed. The Board recessed briefly.

2:58 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **David Michael Rebeck**, R.Ph., Norton, Ohio.

3:51 p.m. The hearing ended and the record was closed. The Board recessed briefly.

4:05 p.m. Mr. Rowland announced that the following Settlement Agreement with **Heather Ann Moran**, R.Ph., has been signed by all parties and is now effective:

**R-2006-149**

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-050901-023

*in the matter of:*

**HEATHER ANN MORAN, R.PH.**  
50 Country Manor Lane, Apt. E  
Centerville, Ohio 45459

R.Ph. Number 03-2-25046

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

Heather Ann Moran voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the

right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Heather Ann Moran acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

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

Whereas, Heather Ann Moran is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about September 1, 2005, pursuant to Chapter 119. of the Ohio Revised Code, Heather Ann Moran was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Heather Ann Moran requested a hearing. The September 1, 2005, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Heather Ann Moran was originally licensed by the State of Ohio on February 26, 2002, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Heather Ann Moran did, on or about July 9, 2004, knowingly use a controlled substance when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Heather Ann Moran used 5 Xanax tablets that had been prescribed for her then-husband because she wanted to try them and see the effects. Heather Ann Moran did not have a legitimate medical purpose for the medication. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (3) Heather Ann Moran did, from July, 2003, through July, 2004, possess a dangerous drug when the conduct was not in accordance with Chapter 4729. of the Ohio Revised Code, to wit: Heather Ann Moran possessed and used methocarbamol when the drug had not been prescribed for her. Such conduct is in violation of Section 4729.51(C)(3) of the Ohio Revised Code.

Heather Ann Moran neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 1, 2005; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

Heather Ann Moran agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00), due and owing within thirty (30) days from the effective date of this Agreement. Checks 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, 17th Floor, Columbus, Ohio 43215-6126.

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

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

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

_____	/d/ 02/28/06
Heather Ann Moran,, R.Ph., Respondent	Date of Signature
_____	/d/ 03/01/06
Daniel D. Connor, Attorney for Respondent	Date of Signature
_____	/d/ 03/06/06
Suzanne R. Eastman, President Ohio State Board of Pharmacy	Date of Signature
_____	/d/ 03/06/06
Sally Ann Steuk Ohio Assistant Attorney General	Date of Signature

4:05 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. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Mitchell – yes; Teater – yes; and Turner – yes.

4:35 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 **John Shell, R.Ph.**

**R-2006-150**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050208-045

*in the matter of:*

**JOHN SHELL, R.PH.**  
6387 Branchill-Miamiville Road  
Loveland, Ohio 45140

R.Ph. Number 03-2-18094

**INTRODUCTION**

The matter of John Shell came for hearing on March 6, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

John Shell was represented by Kevin P. Byers. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

## SUMMARY OF EVIDENCE

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

Respondent's Witness: John Shell, R.Ph., Respondent

### State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-08-05]  
1A-1E. Procedurals
2. Notarized Statement of John Shell [01-24-05]
3. Drug Accountability Statement at Sam's #6544 for hydrocodone 10/325 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for hydrocodone 10/500 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for hydrocodone 10/650 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for hydrocodone 10/660 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for hydrocodone 5/500 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for hydrocodone 7.5/750 mg [01-24-05]; Drug Accountability Statement at Sam's #6544 for propoxyphene-n/APAP 10/650 mg [01-24-05]  
3A. Drug Accountability Statement at Sam's #8132 for hydrocodone 10/325 mg [01-24-05]; Drug Accountability Statement at Sam's #8132 for hydrocodone 10/650 mg [01-24-05]; Drug Accountability Statement at Sam's #8132 for hydrocodone 5/500 mg [01-24-05]; Drug Accountability Statement at Sam's #8132 for hydrocodone 7.5/750 mg [01-24-05]
4. Rx #4402401 [09-08-04]; Rx #4403420 [09-10-04]; Rx #4403440 [09-16-04];  
Rx #4402445 [09-21-04]; Rx #4403508 [09-25-04]; Rx #4403533 [09-30-04];  
Rx #4403569 [10-09-04]; Rx #4403570 [10-09-04]

### Respondent's Exhibits:

- A. Indictment, State of Ohio vs. John Shell, Case No. B 0501028, Hamilton County Common Pleas Court [03-17-05]; Entry Withdrawing Plea of Not Guilty and Entering Plea of No Contest [03-30-05]; Entry Finding Defendant Eligible for Treatment in Lieu of Conviction, Staying Proceedings, and Ordering Period of Rehabilitation [07-05-05]
- B. Bethesda Alcohol and Drug Treatment Programs Discharge Summary for John Shell [06-06-05 to 07-18-05]
- C. Bethesda Alcohol and Drug Treatment Plan [07-18-05]
- D. PRO Pharmacists Recovery Contract for John Shell [08-07-05]
- E. Support Group Attendance Records [06-07-05 to 03-01-06]
- F. Northwest Toxicology Drug Screen Reports [09-27-05 to 02-08-06]
- G. Letter from James F. Liebetrau, R.Ph. [02-27-06]
- H. Letter from Ed Tullins [03-03-06]

## 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 Shell was originally licensed by the State of Ohio as a pharmacist on October 26, 1989, pursuant to examination, and that his license to practice in Ohio was summarily suspended effective February 8, 2005.

- (2) John Shell 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: John Shell has admitted to a Board agent that he has a serious drug problem and is addicted to controlled substances. Further, John Shell has admitted stealing controlled substances and abusing them while practicing pharmacy, consuming as many as forty-five hydrocodone tablets during a shift. John Shell has admitted to creating false prescriptions to cover the shortages. Such conduct indicates that John Shell is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) John Shell did, from May 1, 2004, through January 31, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Sam's Pharmacy 10-6544 and Sam's Stores East, Inc. 10-8132, beyond the express or implied consent of the owner, to wit: John Shell has admittedly stolen over 1,700 unit doses of hydrocodone from Store 10-6544 and over 1,600 unit doses of hydrocodone from Store 10-8132. Such conduct, constitutes being guilty of a felony or gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) John Shell did, on or about the following dates, intentionally create and/or knowingly possess the following false or forged prescriptions, to wit: John Shell created and then possessed on file at the pharmacies the following documents, purporting to be prescriptions, so as to cover the drug thefts: at Sam's Pharmacy 10-6544:

Date	Rx#	Drug	Qty
09/10/04	4403420	hydrocodone 7.5/750	135
09/16/04	4403440	hydrocodone 7.5/750	135
09/25/04	4403508	hydrocodone 7.5/750	120
09/30/04	4403533	hydrocodone 7.5/750	150
10/09/04	4403569	hydrocodone 7.5/750	150
10/09/04	4403570	hydrocodone 7.5/750	120

at Sam's Stores East, Inc. 10-8132:

Date	Rx#	Drug	Qty
09/08/04	4402401	hydrocodone 7.5/750	120
09/21/04	4402445	hydrocodone 10/325	120

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

#### **CONCLUSIONS OF LAW**

- (1) The State Board of Pharmacy concludes that paragraphs (3) and (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) and (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 paragraphs (2) 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 (4) 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 Chapters 2925. and 3719. 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 John Shell on February 8, 2005.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-18094, held by John Shell and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of this Order, the Board will consider any petition filed by John Shell 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) John Shell 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, 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 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) John Shell 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) John Shell must provide, at the reinstatement petition hearing, documentation of the following:
  - (1) 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.);
  - (2) 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;
  - (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, John Shell must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

The motion was seconded by Mr. Turner and approved by the Board: Aye – 7.

Mrs. Gregg then moved that the Board adopt the following order in the matter of **David Rebeck**, R.Ph.

**R-2006-151**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050819-021

*in the matter of:*

**DAVID MICHAEL REBECK, R.PH.**

3791 Reimer Road  
Norton, Ohio 44203

R.Ph. Number 03-2-15681

**INTRODUCTION**

The matter of David Michael Rebeck came for hearing on March 6, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

David Michael Rebeck was represented by Peter T. Cahoon. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

## SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Beverly Ann Rebeck  
John Randall Tomko, R.Ph.  
David Michael Rebeck, R.Ph., Respondent

### State's Exhibits:

1. Reinstatement Hearing Request letter from Peter T. Cahoon [08-10-05]  
1A-1B. Procedurals
2. State Board of Pharmacy Order in re David Michael Rebeck, R.Ph. [02-10-05]
3. Constructive Advice Notice for David Rebeck [05-08-04]
4. Medtox Laboratories, Inc. Drug Screen Report [05-19-04]
5. Statement of David Rebeck [12-30-04]

### Respondent's Exhibits:

- A. PRO Pharmacist's Contract for David Michael Rebeck [10-18-04]
- B. Akron General Edwin Shaw Rehab Certificate of Achievement [11-28-05]
- C. Letter from Cheryl Shuttleworth, M.Ed., LICDC [01-27-06]
- D. Calendar Pages for January 2005 to January 2006; Support Group Attendance Records [01-01-05 to 01-30-06]
- E. Drug Screen Reports [12-13-05 to 01-24-06]
- F. Journal Entry, State of Ohio vs. David Rebeck, Case No. 04 12 4365, Summit County Common Pleas Court [04-13-05]
- G. Eleven Receipts from Clerk of Court of Common Pleas, Summit County, Ohio, Case No. CR-2004-12-4365 [04-22-05 to 01-31-06]
- H. State Board of Pharmacy Order in re David Michael Rebeck, R.Ph. [02-10-05]
- I. State Board of Pharmacy Hearing Schedule Letter [08-19-05]
- J. Continuing Pharmaceutical Education Summary, Credits and Certificates [01-02-05 to 02-02-06]
- K. Letter from Thomas A. Oswald [02-19-06]
- L. Letter from Keith Hochadel, M.Ed., PC [02-17-06]
- M. Letter from Kevin L. Reid [02-14-06]
- N. Letter from Joshua Eberts [01-24-06]
- O. Letter from Fred J. Blevins, M.A., LPCC [not dated]
- P. Letter from Tracy Ranier, MEd, NBPTS [02-10-06]
- Q. Letter from Ralph Meyer [02-14-06]
- R. Drug Screen Report [01-24-06]; Calendar for February 2006
- S. Support Group Attendance Record [02-01-06 to 03-04-06]
- T. Letter from Shari L. Kastor [03-03-06]
- U. Letter from John R. Tomko (Randy) [02-22-06]
- V. Letter from Michael D. Quigley, R.Ph. to David Rebeck [01-11-06]

## 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 that David Michael Rebeck has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-040802-007, effective February 10, 2005.

## DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the

reinstatement of the pharmacist identification card, No. 03-2-15681, held by David Michael Rebeck to practice pharmacy in Ohio and places David Michael Rebeck on probation for five years beginning on the effective date of this Order, with the following conditions:

(A) David Michael Rebeck 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 with the renewal application. The contract must provide that:

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

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

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

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

(3) Attendance is required a minimum of three times per 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) David Michael Rebeck 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 David Michael Rebeck's progress towards recovery and what he 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 David Michael Rebeck's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) David Michael Rebeck may not serve as a responsible pharmacist.

- (3) David Michael Rebeck must make full and complete restitution to Marc's Pharmacy, prior to the end of probation.
  - (4) David Michael Rebeck may not destroy, assist in, or witness the destruction of controlled substances.
  - (5) David Michael Rebeck must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
  - (6) David Michael Rebeck must not violate the drug laws of Ohio, any other state, or the federal government.
  - (7) David Michael Rebeck must abide by the rules of the State Board of Pharmacy.
  - (8) David Michael Rebeck must comply with the terms of this Order.
- (D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

David Michael Rebeck 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.

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

4:38 p.m. The meeting was adjourned with the Board to reconvene on Tuesday, March 7, 2006.

**TUESDAY, MARCH 7, 2006**

8:50 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

9:00 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mark Christopher Carrington**, R.Ph., McDermott, Ohio.

10:18 a.m. The hearing ended and the record was closed. The Board recessed briefly.

10:31 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John Brungart**, R.Ph., Granville, Ohio.

12:39 p.m. The hearing ended and the record was closed. The Board recessed for lunch.

1:30 p.m. The Board reconvened in Room South A, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

**R-2006-152** The following candidates for licensure by reciprocity introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Mambindou Bamba	03-3-27101	Maryland
Ronaldi Lynn Chaney	03-3-27100	Minnesota
Gary Andrew Goad	03-3-27080	West Virginia
Nicole Renee Joseph	03-3-27103	West Virginia
Oleg Phillip Kornev	03-3-27108	New York
Ashish Pravinbhai Patel	03-3-27105	Maryland
Tara Renee Stoner	03-3-27106	Wisconsin
Anitha Swaminathan	03-3-27090	Maryland

1:55 p.m. The Board reconvened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

**R-2006-153** The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Teregen Laboratories** (02-1235150)  
Various Offices as listed on the letter of request

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

Mr. Winsley discussed the NABP Annual Meeting and distributed the current Executive Committee election information.

**R-2006-154** Mr. Benedict discussed the McKesson 2000 software. Mr. Braylock moved that the Board find the system to be approvable pending final inspection. Mr. Turner seconded the motion and it was approved by the Board: *Aye – 7.*

Mr. Braylock said there had been no Nursing Board Committee on Prescriptive Governance meeting this month.

Mr. Benedict discussed the recent meeting of the Medical Board's Prescribing Committee.

Mrs. Gregg and Mr. Benedict presented the Probation Report. There were no issues requiring Board action.

**R-2006-155** After review and discussion, Mrs. Gregg moved that the minutes of the February, 2006 meeting be approved as amended. The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 7.*

2:23 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. Kost and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Mitchell – yes; Turner – yes; and Teater – yes.

4:40 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 **Mark Christopher Carrington**, R.Ph., McDermott.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-051004-037

*in the matter of:*

**MARK CHRISTOPHER CARRINGTON, R.PH.**

3684 McDermott Pond Creek  
McDermott, Ohio 45652

R.Ph. Number 03-1-22586

**INTRODUCTION**

The matter of Mark Christopher Carrington came for hearing on March 7, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Mark Christopher Carrington was represented by Daniel D. Connor. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witnesses: None

Respondent's Witnesses: Mark Christopher Carrington, R.Ph., Respondent  
Thomas Scott, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Daniel D. Connor [08-10-05]  
1A-1D. Procedurals
2. State Board of Pharmacy Order In Re Mark Christopher Carrington [09-19-05]
3. Notarized Statement of Mark Christopher Carrington [09-13-04]
4. Two Statements of Rory Phillips, R.Ph. [09-03-04 and 9-13-04]
5. Indictment, State of Ohio vs. Mark Christopher Carrington, Case No. 04-CR-1236, Scioto County Common Pleas Court [11-15-04]; Judgment Entry on Defendant's Request for Treatment in Lieu of Conviction [03-11-05]

Respondent's Exhibits:

- A1. PRO Pharmacist's Recovery Contract for Mark Carrington [09-29-05]
- A2. Letter of Completion from The Counseling Center [06-29-05]
- A3. Copy of National City Personal Money Order #641689302 to Southern Ohio Medical Center [04-04-05]
- A4. Northwest Toxicology Drug Screen Reports [09-14-05 to 02-17-06]; Drug Panel [not dated]
- A5. Scioto County Adult Probation Department Drug Tests [03-28-04 to 02-13-06]
- A6. Support Group Attendance Records [08-01-05 to 02-24-06]
- A7. C.P.E. Report Form [not dated]; Twenty-nine Continuing Pharmaceutical Education Credits and Certificates [05-01-05 to 02-23-06]
- A8. Letter of Reference from Fred Meenach, President [02-18-06]
- A9. Three Letters of Support [07-22-05 to 02-22-06]
- B. Two Letters of Support [08-09-05 and 03-02-06]

### 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 that Mark Christopher Carrington has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-040916-024, effective September 19, 2005.

### DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-22586, held by Mark Christopher Carrington to practice pharmacy in Ohio and places Mark Christopher Carrington on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Mark Christopher Carrington 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 with the renewal application. The contract must provide that:
- (1) **Random, observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
    - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
    - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
  - (2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
  - (3) Attendance is required a minimum of three times per 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) Mark Christopher Carrington 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 Mark Christopher Carrington's progress towards recovery and what he 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 Mark Christopher Carrington's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - (2) Mark Christopher Carrington may not serve as a responsible pharmacist.
  - (3) Mark Christopher Carrington may not destroy, assist in, or witness the destruction of controlled substances.
  - (4) Mark Christopher Carrington must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
  - (5) Mark Christopher Carrington must not violate the drug laws of Ohio, any other state, or the federal government.
  - (6) Mark Christopher Carrington must abide by the rules of the State Board of Pharmacy.
  - (7) Mark Christopher Carrington must comply with the terms of this Order.
- (D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Mark Christopher Carrington 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. Braylock and approved by the Board: Aye – 7.

Mr. Braylock then moved that the Board adopt the following Order in the matter of **John Brungart**, R.Ph., of Granville.

**R-2006-157**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050810-015

*in the matter of:*

**JOHN C. BRUNGART, R.PH.**

230 East College Street  
Granville, Ohio 43023

R.Ph. Number 03-1-11035

**INTRODUCTION**

The matter of John C. Brungart came for hearing on March 7, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.;

Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

John C. Brungart was represented by Richard A. Cline The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

### **SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: Richard N. Whitney, M.D.  
John C. Brungart, R.Ph., Respondent  
David Burns, Esquire  
Marshall White, Jr., D.M.D.  
Keith Wire, R.Ph.

#### State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-10-05]  
1A-1D. Procedurals
2. Notarized Statement of John C. Brungart [07-21-05]
3. Drug Accountability Statement at Children's Hospital-Columbus for Guaifenesin AC 10 mg/5ml [08-29-05]
4. Drug Accountability Statement at Children's Hospital-Columbus for lorazepam 1mg [08-29-05]
5. Drug Accountability Statement at Children's Hospital-Columbus for lorazepam 2 mg [08-29-05]

#### Respondent's Exhibits:

- A1. Letter from Richard N. Whitney, M.D. [02-07-06]
- A2. Shepherd Hill Recovery Plan [08-03-05 to 10-21-05]
- A3. PRO Pharmacist's Recovery Contract for John C. Brungart [10-18-05]
- A4. Support Group Attendance Records [07-22-05 to 02-28-06]; Drug Screen Reports [11-15-05 to 02-03-06]
- A5-A8. Four Letters of Support [02-03-06 to 02-08-06]
- B1 - B6. Six Letters of Support [01-26-06 to 02-28-06]
- C1- C5. Five Letters of Support [02-02-06 to 02-16-06]
- D1. Defendant's Motion to Stay Criminal Proceedings and for Leave to Request Treatment in Lieu of Conviction, State of Ohio vs. John C. Brungart, Case No. 2005 CR 8613, Franklin County Common Pleas Court [02-27-06]; Authorization to Release Information from John C. Brungart, R.Ph. [02-18-06]; Letter from Richard N. Whitney, M.D. [02-07-06]
- D2. Copy of Westlaw ORC Section 2951.041 (Drug treatment in lieu of conviction) © 2006
- E1. Resume of John C. Brungart [not dated]
- E2. Continuing Pharmaceutical Education Credits and Certificates [09-23-04 to 07-13-05]

### **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 C. Brungart was originally licensed by the State of Ohio as a pharmacist on July 30, 1974, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective August 10, 2005.

- (2) John C. Brungart 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: John C. Brungart has been observed stealing and abusing drugs while practicing pharmacy at Children's Hospital, Columbus, Ohio. John C. Brungart has admitted to Board agents that he has had a history of alcohol and drug abuse from 1989 through 1994, and again from December 2004 or January 2005 to the present. John C. Brungart has admitted to stealing Guaifenesin AC syrup, lorazepam 1 mg and 2 mg tablets, and numerous dangerous drugs as well; and John C. Brungart has admitted to consuming the stolen drugs to help him deal with stress and shoulder pain and to help him relax and sleep. Such conduct indicates that John C. Brungart is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) John C. Brungart did, on or about July 21, 2005, and upon various dates immediately preceding, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Children's Hospital, by deception and/or beyond the scope of express or implied consent of the owner, to wit: John C. Brungart has been observed stealing, and has admittedly stolen, Guaifenesin AC Syrup and lorazepam for his personal abuse. 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 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 paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### **DECISION OF THE BOARD**

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to John C. Brungart on August 10, 2005.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-11035, held by John C. Brungart and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of this Order, the Board will consider any petition filed by John C. Brungart 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) John C. Brungart 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, 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 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) John C. Brungart 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) John C. Brungart must provide, at the reinstatement petition hearing, documentation of the following:

- (1) John C. Brungart must provide proof that he has attempted to make restitution to Children's Hospital;

- (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, John C. Brungart must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 7.

4:45 p.m. The meeting was adjourned with the Board to reconvene on Wednesday, March 8, 2006.

### **WEDNESDAY, MARCH 8, 2006**

9:10 a.m. The Board reconvened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

9:11 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Janet DeHart**, R.Ph., Bradford, Ohio.

9:14 a.m. Board President Suzanne R. Eastman, R.Ph., arrived, joined the meeting in progress and assumed the chair.

10:22 a.m. The hearing ended and the record was closed. The Board took a brief recess.

10:52 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Christopher Langford**, Intern, Toledo, Ohio.

12:31 p.m. The hearing ended and the Board recessed for lunch.

1:34 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. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Mitchell – yes; Turner – yes; and Teater – yes.

1:55 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 **Christopher Langford**, Intern, Toledo, Ohio.

**R-2006-158**

### **ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050928-034

*in the matter of:*

**CHRISTOPHER M. LANGFORD**  
2801 Merrimac Street  
Toledo, Ohio 43606

Pharmacy Intern Number: 06-0-05191

### **INTRODUCTION**

The matter of Christopher M. Langford came for hearing on March 8, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*);

Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Christopher M. Langford was not represented by Counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

### **SUMMARY OF EVIDENCE**

State's Witness: Joseph Reichert, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Christopher Michael Langford, Respondent

#### State's Exhibits:

1. Notice of Opportunity For Hearing letter [09-28-05]  
1A-1B. Procedurals  
1C. Addendum Notice [01-31-06]  
1D-1E. Procedurals
2. Application for Pharmacy Intern Registration submitted by Christopher Michael Langford [10-18-04]
3. Notarized Statement of Chris Langford [07-18-05]
4. Rite Aid Corporation Letter of Explanation of Chris Langford [03-10-05]
5. Statement of Matt Morgan [06-24-05]
6. Statement of Chuck Stainfield [06-08-05]
7. Complaint; State of Ohio/City of Toledo vs. Christopher M. Langford, Case No. CRB-04-18624-0101, Toledo Municipal Court [09-18-04]; Certified Journal Report [06-29-05]; Toledo Ohio Police Department Crime Report [09-18-04]
8. Defendant History of Christopher Langford [07-21-05]; Register of Actions, State of Michigan v. Christopher Michael Langford, 1st Judicial District, Case No. 98Y010142A [12-17-98] Register of Actions, State of Michigan v. Christopher Michael Langford, 1st Judicial District, Case No. 001185 [02-24-00]; Register of Actions, State of Michigan v. Christopher Michael Langford, 1st Judicial District, Case No. 004505 [06-07-00]; Register of Actions, State of Michigan v. Christopher Michael Langford, 1st Judicial District, Case No. 005611 [01-12-01]
9. Statement of Jennifer S. Martin, Pharm.D. [07-20-05]
10. Mercy Memorial Hospital Record of Disciplinary Action [06-06-05]
11. Mercy Memorial Hospital Emergency Room Department Notes [06-01-05]
12. Indictment, State of Ohio vs. Christopher M. Langford, Case No. G-4801-CR-0200502709-000, Lucas County Common Pleas Court [08-11-05]; Order [10-27-05]

#### Respondent's Exhibits:

- A. Letter from Julie Domschot, BA, CDCA [03-02-06]
- B. Letter from Gretchen T. Thomas, LCDC II [03-02-06]
- C. Certificate of Achievement from New Concepts Alcohol and Drug Treatment Program [03-07-06]

### **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 Christopher M. Langford was originally licensed by the State of Ohio as a Pharmacy Intern on October 18, 2004.

- (2) Christopher Langford 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: while practicing as a pharmacy intern, Christopher M. Langford has been observed acting as if he were impaired; Christopher M. Langford has been aggressive and rude to pharmacy technicians; Christopher M. Langford has shown signs of drunkenness, smelling like alcohol, having bloodshot eyes and slurred speech; and, Christopher M. Langford has admitted to stealing dangerous drugs for his own use. Christopher M. Langford has also appeared unsteady in his walk and once "drooped over the cash register" as if he were falling asleep. On or about September 20, 2004, Christopher M. Langford was convicted of Disorderly Conduct due to intoxication. City of Toledo vs. Christopher M. Langford, Case No. CRB-04-18624-0101, Toledo Municipal Court. Christopher M. Langford was once sent home from the pharmacy for being unable to concentrate, being either too tired or under the influence of drugs or alcohol. Christopher M. Langford was once hospitalized for a drug overdose. Such conduct indicates that Christopher M. Langford is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Christopher M. Langford did, on or about October 18, 2004, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Christopher M. Langford indicated on his pharmacist intern application that he had not been charged with a crime when in fact he had been charged with a misdemeanor less than one month prior to filling out his application; further, Christopher M. Langford failed to indicate that he had been convicted of several alcohol or drug-related crimes, and he lied to the Board agents who interviewed him about his conduct. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Christopher M. Langford did, on or about June 1, 2005, knowingly possess and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Christopher M. Langford admittedly possessed and/or ingested Soma along with Valium 10 mg, Xanax, and Tylenol #2. While working at Mercy Hospital in Monroe Michigan, Christopher M. Langford overdosed on drugs; drug screens performed at the hospital confirmed the presence of opiates, benzodiazepines, and carisoprodol. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (5) Christopher M. Langford did, on or about January 15, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid, beyond the scope of express or implied consent, to wit: Christopher M. Langford admittedly stole 10 tablets of hydromorphone 2 mg from his employer. 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 paragraphs (4) through (6) 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) through (5) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (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) The State Board of Pharmacy concludes that paragraph (4) 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 Christopher M. Langford as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacy intern identification card, No. 06-0-05191, held by Christopher M. Langford effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacy intern identification card, No. 06-0-05191, held by Christopher M. Langford effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacy intern identification card, No. 06-0-05191, held by Christopher M. Langford effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacy intern identification card, No. 06-0-05191, held by Christopher M. Langford effective as of the date of the mailing of this Order.

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

The motion was seconded by Mr. Kost and approved by the Board: *Aye – 6/Nay – 1.*

Mr. Braylock moved that the following order be approved in the matter of **Janet DeHart**, R.Ph., Bradford, Ohio.

**R-2006-159**

#### **ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-050817-020

*in the matter of:*

**JANET ANN DEHART, R.PH.**  
5265 Croft Mill Road  
Bradford, Ohio 45308

R.Ph. Number 03-2-16438

## **INTRODUCTION**

The matter of Janet Ann DeHart came for hearing on March 8, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Janet Ann DeHart was represented by Douglas E. Graff. 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 Witness: Janet Ann DeHart, R.Ph., Respondent

### State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [08-17-05]  
1A-1C. Procedurals
2. Notarized Statement of Janet Ann DeHart [07-13-05]
3. Statement of Paula Hogan [07-07-05]
4. Walgreens Patient Prescription Profile for Janet DeHart [03-24-04 to 07-07-05]
5. Two Walgreen Company Item Movement Reports for Store #05517 and Store #4613 [07-11-05]
6. Photograph of two unmarked vials of tablets [not dated]
7. Indictment, State of Ohio vs. Janet Ann DeHart, Montgomery County Common Pleas Court, Case No. 2005 CR 03572 [10-28-05]; Decision and Order of Intervention in Lieu of Conviction [01-10-06]

### Respondent's Exhibits:

- A. Summary Suspension Order/Notice of Opportunity for Hearing letter [08-17-05]
- B. Decision and Order of Intervention in Lieu of Conviction. State of Ohio vs. Janet Ann DeHart, Case No. 2005 CR 03572, Montgomery County Common Pleas Court [01-10-06]; Motion for Intervention in Lieu of Conviction [11-29-05]
- C. Letter from Michael de Colgyll BA, CCDC III-E [02-07-06]; Miami County Mental Health Center Appointment Receipts for Janet A. DeHart [12-12-05 to 01-24-06]
- D. Two Letters from Kathy Sowder, M.S. PCC, LICDC to Doug Graff [03-02-06 and 12-16-05]; Twelve Invoice/Receipts [08-23-05 to 02-01-06]
- E. Three LabCorp Drug Screen Reports [09-07-05 to 11-03-05]; Three Quest Diagnostics Drug Screen Reports [12-08-05 to 03-01-06]
- F. Calendar pages for September 2005 to February 2006; Support Group Attendance Records [08-18-05 to 02-22-06]; List of Books [not dated]
- G. Letter from Jeffrey P. Compton Requesting Restitution to the Walgreen Company [08-31-05]; Restitution Receipt of Full Payment [11-18-05]
- H. Letter from Nicholas R. Spagnola, M.D. [03-01-06]

## **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 Janet Ann DeHart was originally licensed by the State of Ohio as a pharmacist on August 6, 1986, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective August 17, 2005.
- (2) Janet Ann DeHart is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Janet Ann DeHart has admitted to Board agents that she has stolen approximately 2,600 unit doses of butalbital with APAP since January or March of 2005 for her personal abuse of the drug; Janet Ann DeHart has admittedly consumed the drug while practicing pharmacy, using up to 10 tablets per day. Though she had been prescribed the medication, she stole more of the drug to deal with increased stress at home. Furthermore, Janet Ann DeHart was observed in May of 2005 practicing pharmacy when it was believed that she was impaired. Such conduct indicates that Janet Ann DeHart is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Janet Ann DeHart did, between January 2005 and July 13, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, beyond the express or implied consent of the owner, to wit: Janet Ann DeHart has admittedly stolen 2,543 tablets of butalbital with APAP from Walgreens #4613 and 63 additional tablets from Walgreens #5517. 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) 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 her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### **DECISION OF THE BOARD**

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Janet Ann DeHart on August 17, 2005.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-16438, held by Janet Ann DeHart and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Janet Ann DeHart 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) Janet Ann DeHart 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, 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 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) Janet Ann DeHart must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

- (C) Janet Ann DeHart must provide, at the reinstatement petition hearing, documentation of the following:

(1) 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.);

(2) 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;

(3) Compliance with the terms of this Order.

(D) If reinstatement is not accomplished within three years of the effective date of this Order, Janet Ann DeHart must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 6/Nay – 1.

- 2:02 p.m. Board member Lawrence Kost left the meeting for personal reasons.
- 2:06 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **David White**, R.Ph., Cincinnati, Ohio.
- 2:20 p.m. The hearing ended and the record was closed.
- 2:22 p.m. Mr. Braylock 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. Teater and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Mitchell – yes; Turner – yes; and Teater – yes.
- 2:54 p.m. The Executive session ended and the meeting was opened to the public. Mrs. Gregg moved that the following order be approved in the matter of **David W. White**, R.Ph., Cincinnati.

**R-2006-160**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-020619-064

*in the matter of:*

**DAVID W. WHITE, R.PH.**

431 Southview 2

Cincinnati, Ohio 45219

R.Ph. Number 03-1-20502

**INTRODUCTION**

The matter of David W. White, R.PH. came for hearing on March 8, 2006 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

David W. White was represented by Douglas E. Graff and the State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witnesses: None

Respondent's Witnesses: None

State's Exhibits:

1. Reinstatement Hearing Request letter from David White, R.Ph. [12-30-05] 1A-1C. Procedurals
2. State Board of Pharmacy Order In Re David W. White, R.Ph. [11-07-01]
3. State Board of Pharmacy Order in Re David W. White, R.Ph. [01-09-03]

4. State Board of Pharmacy Settlement Agreement In Re David W. White, R.Ph. [04-07-03]

Respondent's Exhibits:

- A. State Board of Pharmacy Settlement Agreement In Re David W. White, R.Ph. [04-07-03]
- B. Letter from Michael D. Quigley, R.Ph. [08-14-05]; Compass Vision Licensee Summary Report [12-02-02 to 07-07-04]
- C. Support Group Attendance Records [12-04-02 to 07-08-04]
- D. Letter from Vijaya Kandikonda, M.D. [02-23-06]
- E. Four Letters of Support [02-16-06 to 03-06-06]

**FINDINGS OF FACT**

The State Board of Pharmacy finds that David W. White, R.Ph. has complied with the terms set forth in the Settlement Agreement with The State Board of Pharmacy, Docket No. 020619-064, effective April 7, 2003.

**DECISION OF THE BOARD**

On the basis of the Findings of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby releases David W. White from the remainder of his term of probation.

The motion was seconded by Mr. Braylock approved by the Board: Aye – 6.

**R-2006-161** Mr. Giacalone moved that David White, R.Ph. receive his Board order immediately rather than after the minutes are approved during the April, 2006, meeting. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 6.

3:00 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. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Mitchell – yes; Turner – yes; and Teater – yes.

3:35 p.m. The Executive Session ended and the meeting was opened to the public. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>03/06</u>	<u>03/07</u>	<u>03/08</u>	<u>Total</u>
G. Braylock	1	1	1	3
S. Eastman	1	1	1	3
R. Giacalone	1	1	1	3
E. Gregg	1	1	1	3
L. Kost	1	1	1	3
N. Lipsyc	-	-	-	-
K. Mitchell	1	1	1	3
D. Teater	1	1	1	3
J. Turner	1	1	1	3

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

3:40 p.m. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 6.

The Ohio State Board of Pharmacy  
approved these Minutes April 4, 2006