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Minutes of the November 6 & 7, 2006 Meeting of the Ohio State Board of Pharmacy

MONDAY, NOVEMBER 6, 2006

11:05 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:

James E. Turner, R.Ph., *President*; Gregory Braylock, R.Ph.; *Vice-President*; 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.; Heather L. Pasquale, 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*.

11:06 a.m.

R-2007-070 Mr. Winsley announced that the following Settlement Agreement with **Thomas G. Hinderer**, R.Ph., Dellroy, Ohio, has been signed and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-060609-082

in the matter of:

THOMAS G. HINDERER, R.PH.
1263 Arrowhead Drive, SW
Dellroy, Ohio 44620-9746

R.Ph. Number 03-3-08699

This Settlement Agreement is entered into by and between Thomas G. Hinderer 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.

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

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification

card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Thomas G. Hinderer is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 9, 2006, pursuant to Chapter 119. of the Ohio Revised Code, Thomas G. Hinderer was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Thomas G. Hinderer requested a hearing; it was scheduled. The June 9, 2006, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Thomas G. Hinderer was originally licensed by the State of Ohio as a pharmacist on October 17, 1966, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Thomas G. Hinderer did, on or about March 23, 2006, misbrand a drug, to wit: when Thomas G. Hinderer received a prescription for 60 tablets of Pacerone 200 mg, Rx #7002616, he dispensed 100 tablets of generic Coumadin 5 mg, which had not been specifically prescribed by the physician. The patient was subsequently hospitalized. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Thomas G. Hinderer neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 9, 2006; 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, Thomas G. Hinderer knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Thomas G. Hinderer agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Thomas G. Hinderer must obtain, within sixty days from the effective date of this Agreement, two hours of continuing pharmacy education (0.2 CEUs) on preventing medication errors, which may not also be used for license renewal.

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

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

<u>Thomas G. Hinderer, R.Ph., Respondent</u>	<u>10/17/2006</u> Date of Signature
<u>James E. Turner, President Ohio State Board of Pharmacy</u>	<u>11/06/2006</u> Date of Signature
<u>Sally Ann Steuk, Ohio Assistant Attorney General</u>	<u>10/23/2006</u> Date of Signature

Mr. Mitchell reported on his participation as a member of the evaluation team visit to the Accreditation Council for Pharmacy Education (ACPE) survey of the University of Cincinnati.

Mrs. Gregg then reported on her participation as a member of the evaluation team visit to the ACPE survey of the Northeastern Ohio Universities College of Pharmacy in Rootstown, Ohio.

R-2007-071 Mr. Lipsyc moved that the Board adopt the following recognition resolution for **Mary Flovin**, recognizing her many years of service to the Board of Pharmacy. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

RESOLUTION OF THE BOARD

WHEREAS, the Board's Intern Coordinator, Mary E. Flovin, has been with the Board since October of 1984, giving of herself great dedication and personal sacrifice to the benefit of the Board and the citizens of the State of Ohio for 22 years;

WHEREAS, her efforts have significantly contributed to the ongoing operation of this Board, enabling this Board to serve its constituents effectively and efficiently;

WHEREAS, the Board recognizes that, upon her retirement this October 31, 2006, her daily presence in the Board office will be greatly missed;

BE IT RESOLVED that we, the Members of the Ohio State Board of Pharmacy, in the Board's one-hundred twenty-first year, do hereby express our profound appreciation to Mary E. Flovin for her dedication and service to the Board and to the citizens of Ohio; and

BE IT RESOLVED that this resolution be spread upon the permanent minutes of the Ohio State Board of Pharmacy and a copy presented to:

MARY E. FLOVIN

11:18 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 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. Lipsyc and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; and Teater – yes.

11:56 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-072 Ms. Eastman moved that the citation previously issued to **Southside Pharmacy** of Lorain, Ohio, preventing its license application as a Terminal Distributor of Dangerous Drugs be withdrawn. The motion was seconded by Mrs. Teater and approved by the Board: Aye – 8.

R-2007-073 After discussion, Mr. Braylock moved that the Settlement Offers from **Amy Lynn Froman**, R.Ph., Strasburg, Ohio, and **Michael T. Dennis**, R.Ph., Massillon, Ohio, be denied. Mr. Mitchell seconded the motion and it was approved by the Board: Aye – 8.

11:58 a.m. The Board recessed for lunch.

1:10 p.m. The Board reconvened in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio with all members present.

The Board held a public hearing on the proposed new, amended and rescinded Rules.

1:32 p.m. The public hearing ended and the Board reconvened in Room East B.

Mr. Winsley distributed copies of the letter submitted to the Drug Enforcement Administration (DEA) in response to their request for comments on proposed new regulations published in the Federal Register.

Mr. Winsley announced that the July, 2007, Board meeting would be held at Deer Creek State Park Lodge.

1:42 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 **Amy Lynn Froman**, R.Ph., Strasburg, Ohio, and **Michael T. Dennis**, R.Ph., Massillon, Ohio, and **Strasburg Pharmacy**, Strasburg, Ohio.

5:00 p.m. The hearing was recessed. The Board meeting recessed for the day.

TUESDAY, NOVEMBER 7, 2006

8:01 a.m. The Ohio State Board of Pharmacy reconvened 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:

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

The Board discussed the proposed new, amended and rescinded rules that had been the subject of the public hearing held on Monday.

8:08 a.m. Ms. Eastman arrived and joined the discussion in progress.

R-2007-074 Mrs. Gregg moved that no changes to the rules needed to be made prior to the meeting of the Joint Committee on Agency Rule Review (JCARR) on November 20, 2006. The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

R-2007-075 The Board considered a request for an exemption from Rule 4729-5-10 (Pick-up Station) received from **Teregen Laboratories**.

Teregen Laboratories (02-1235150)
Various Physician Offices listed on 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 Mrs. Teater and approved by the Board: *Aye* – 8.

R-2007-076 The Board considered a request for an exemption from Rule 4729-5-10 (Pick-up Station) received from **Kindred Hospital**, Dayton, Ohio.

Kindred Hospital (02-1634800)
Central Admixture Pharmacy Services (02-1312700)

After discussion, Mr. Giacalone 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 Mrs. Gregg and approved by the Board: *Aye* – 8.

A request for an exemption Rule 4729-5-10 (Pick-up Stations) received from **PharmaCare Specialty Pharmacy** (02-1337350) for Cleveland Clinic Hospital Pharmacy (02-0034700) Pittsburg, Ohio, was tabled.

R-2007-077 Ms. Eastman moved that **Frank Krivanek**, Pharm D, M.S., be appointed to the Nursing Board's Committee on Prescriptive Governance as the Board's clinical pharmacist appointee. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye* – 8.

Mrs. Droz presented an update on the Ohio Automated Rx Reporting System.

8:48 a.m. The adjudication hearing in the matter of **Amy Lynn Froman**, R.Ph., Strasburg, Ohio, **Michael T. Dennis**, R.Ph., Massillon, Ohio, and **Strasburg Pharmacy**, Strasburg, Ohio, was reconvened.

9:22 a.m. The Board recessed briefly.

9:28 a.m. The adjudication hearing resumed.

10:25 a.m. The Board recessed briefly, with the hearing set to resume at 1:15 p.m.

10:37 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 **Thelma Rotonda**, R.Ph., Columbus, Ohio.

Ms. Pasquale recused herself from this hearing.

12:18 p.m. The hearing ended and the record was closed.

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 Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Teater – yes.

12:32 p.m.

R-2007-078 The Executive Session ended and Mr. Braylock moved that the Board adopt the following order in the matter of **Thelma Rotonda**, R.Ph., Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060518-077

in the matter of:

THELMA K. ROTONDA, R.PH.

230 Hanford Street
Columbus, Ohio 43206

R.Ph. Number 03-3-13307

INTRODUCTION

The matter of Thelma K. Rotonda came for hearing on November 7, 2006, before the following members of the Board: James E. Turner, 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.; Heather L. Pasquale, R.Ph. (recused); and Dorothy S. Teater, Public Member.

Thelma K. Rotonda 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 K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses: Thelma K. Rotonda, R.Ph., Respondent
Evelyn Hardesty
Andrea Holstein, R.Ph.
David Canowitz, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [05-18-06]
 - 1A-1B. Procedurals
 - 1C. Amendment/Addendum Notice [06-28-06]
 - 1D-1E. Procedurals
2. Notarized Statement of Thelma K. Rotonda, R.Ph. [05-12-06]
3. Six photographs of respondent in pharmacy [05-08-06]
4. Two photographs of respondent in pharmacy [05-08-06]
5. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam 1 mg [05-10-06]
6. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam .5 mg [05-10-06]
7. Five photographs of respondent in pharmacy [05-10-06]
8. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam 2 mg [05-10-06]
9. Drug Accountability Statement at CVS/Pharmacy #5949 for APAP/Codeine #3 30 mg [05-12-06]
10. Vial containing (85) APAP/Codeine #3 tablets [not dated]
11. Vial containing (200) alprazolam 1 mg. tablets [not dated]
12. Plastic bag containing eleven alprazolam 1 mg. tablets [not dated]
13. Stock bottle containing 100 lisinopril 5 mg. tablets [11-07]
14. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam 1 mg [05-04-06]
15. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam .5 mg [05-04-06]

16. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam 2 mg [05-04-06]
17. Drug Accountability Statement at CVS/Pharmacy #5949 for alprazolam .25 mg [05-04-06]
18. Drug Accountability Statement at CVS/Pharmacy #5949 for Xanax .25 mg [05-04-06]
19. Drug Accountability Statement at CVS/Pharmacy #5949 for Xanax .5 mg [05-04-06]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Thelma Rotonda [07-22-06]
- B. Sealed Record
- C. Letter from Doug Blair, MA, LICDC to Daniel D. Connor [10-12-06]
- D. OHPRO Test History Report [08-14-06 to 09-25-06]; NWT MEDPRO Panel "E" [02-10-05]
- E. Support Group Attendance Records [05-27-06 to 10-22-06]
- F. Fourteen Letters of Support [10-03-06 to 10-23-06]
- G. Drug Cost Sheet [10-25-06]
- H. Support Group Attendance Record [10-23-06 to 11-05-06]
- I. Northwest Toxicology Drug Screen Report [10-25-06]

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 Thelma K. Rotonda was originally licensed by the State of Ohio as a pharmacist on August 8, 1979, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective May 18, 2006.
- (2) The continuation of Thelma K. Rotonda's professional practice presents a danger of immediate and serious harm to others, to wit: Thelma K. Rotonda has admitted that she is psychologically addicted to the use of alprazolam, a Schedule IV controlled substance, though she later recanted this admission. Thelma K. Rotonda has admitted to stealing controlled substances from her employer, and she has admitted to having illegally consumed 4 mg of alprazolam, a Schedule IV controlled substance, per day while practicing pharmacy.
- (3) Thelma K. Rotonda did, on or about May 8, 2006, with purpose to deprive, knowingly obtain or exert control over the controlled substance alprazolam beyond the express or implied consent of the owner, CVS/Pharmacy, to wit: Thelma K. Rotonda was viewed, and admitted to, stealing alprazolam 1 mg tablets, a Schedule IV controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Thelma K. Rotonda did, on or about May 8, 2006, with purpose to deprive, knowingly obtain or exert control over the controlled substance alprazolam beyond the express or implied consent of the owner, CVS/Pharmacy, to wit: Thelma K. Rotonda was viewed, and admitted to, stealing alprazolam 0.5 mg tablets, a Schedule IV controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Thelma K. Rotonda did, on or about May 10, 2006, with purpose to deprive, knowingly obtain or exert control over the controlled substance alprazolam beyond the express or implied consent of the owner,

CVS/Pharmacy, to wit: Thelma K. Rotonda was viewed, and admitted to, stealing alprazolam 1 mg tablets, a Schedule IV controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (6) Thelma K. Rotonda did, on or about May 10, 2006, with purpose to deprive, knowingly obtain or exert control over the controlled substance alprazolam beyond the express or implied consent of the owner, CVS/Pharmacy, to wit: Thelma K. Rotonda was viewed, and admitted to, stealing alprazolam 0.5 mg tablets, a Schedule IV controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Thelma K. Rotonda did, on or about May 10, 2006, with purpose to deprive, knowingly obtain or exert control over the controlled substance alprazolam beyond the express or implied consent of the owner, CVS/Pharmacy, to wit: Thelma K. Rotonda was viewed, and admitted to, stealing alprazolam 2 mg tablets, a Schedule IV controlled substance, while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) Thelma K. Rotonda did, between April 30, 2005, and May 12, 2006, with purpose to deprive, knowingly obtain or exert control over acetaminophen w/codeine #3, a Schedule III controlled substance, beyond the express or implied consent of the owner, CVS/Pharmacy #5949, to wit: a Board of Pharmacy audit revealed that during this time period 1,582 tablets were stolen from the pharmacy. Thelma K. Rotonda was found to be in possession of 85 of those tablets at her residence on May 12, 2006. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) Thelma K. Rotonda did, on or about May 10, 2006, or a date prior thereto, with purpose to deprive, knowingly obtain or exert control over the dangerous drug lisinopril 5 mg beyond the express or implied consent of the owner, CVS/Pharmacy, to wit: Thelma K. Rotonda stole 100 lisinopril 5 mg tablets while practicing pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (10) Thelma K. Rotonda did, on or about May 12, 2006, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription, without a legitimate medical purpose, and outside the confines of a pharmacy Thelma K. Rotonda possessed 85 tablets of acetaminophen w/codeine #3, a Schedule III controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (11) Thelma K. Rotonda did, on or about May 12, 2006, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a prescription, without a legitimate medical purpose, and outside the confines of a pharmacy Thelma K. Rotonda possessed 211 tablets of alprazolam 1 mg, a Schedule IV controlled substance. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (12) Thelma K. Rotonda did, on or about May 12, 2006, knowingly possess for sale a dangerous drug when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: without a prescription, without a legitimate medical purpose, and outside the confines of a pharmacy Thelma K. Rotonda possessed 100 lisinopril 5 mg tablets with the admitted purpose to put them into stock for sale at a pharmacy.

Such conduct is in violation of Section 4729.51(C)(2) of the Ohio Revised Code.

- (13) Thelma K. Rotonda did, between April 30, 2005 and May 4, 2006, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of CVS/Pharmacy #5949, beyond the express or implied consent of the owner, to wit: Thelma K. Rotonda has admittedly stolen controlled substances. Audits show the following shortages:

<u>Drug</u>	<u>Strength</u>	<u>Quantity</u>	<u>Schedule</u>
alprazolam	1 mg	4,759	IV
alprazolam	0.5 mg	1,860	IV
alprazolam	2 mg	101	IV
alprazolam	0.25 mg	35	IV
Xanax	0.25 mg	80	IV
Xanax	0.5 mg	34	IV

Thelma K. Rotonda admitted that she consumed approximately one fourth of the total alprazolam 0.5 mg and 1 mg tablets and gave the remaining quantity to her boyfriend. 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 (2) through (13) of the Findings of Fact constitute 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 paragraphs (2) through (13) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render Thelma K. Rotonda 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 paragraphs (10) through (12) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapters 2925., 3719. and 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Thelma K. Rotonda on May 18, 2006.

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. 03-3-13307, held by Thelma K. Rotonda and such suspension is effective as of the date of the mailing of this Order.

- (A) Thelma K. Rotonda, 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) Thelma K. Rotonda, 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 two years from the effective date of this Order, the Board will consider any petition filed by Thelma K. Rotonda 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) Thelma K. Rotonda 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) 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) Thelma K. Rotonda 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) Thelma K. Rotonda must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) Payment to CVS/Pharmacy of any outstanding restitution;

- (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, Thelma K. Rotonda must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.
- (E) Upon such time as the Board may consider reinstatement, Thelma K. Rotonda will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

Ms. Eastman seconded the motion and it was approved by the Board: *Aye – 7.*

12:34 p.m. The Board recessed for lunch.

1:25 p.m. The Board reconvened in Room East B, 31st Floor of the Riffe Center for Government and the Arts with all members present and the adjudication hearing in the matter of **Amy Lynn Froman**, R.Ph., Strasburg, Ohio, **Michael T. Dennis**, R.Ph., Massillon, Ohio, and **Strasburg Pharmacy**, Strasburg, Ohio was continued.

1:30 p.m. The following candidates for licensure by reciprocity met in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts. They introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Whitney Davenport Dunlap	03-1-27669	Virginia
Gregory Michael Haldiman	03-1-27672	Pennsylvania
Tracey A. Keller	03-1-27668	Virginia
Thomas Brian Martinson	03-1-27670	Arizona
April Lei Nagel	03-1-27674	Maryland
Robert P. Romano	03-1-27645	Indiana
Jeanette Ann Urdal Olenick	03-1-27676	New Jersey
Somnit K. Wilson	03-1-27658	New York
Michael Francis Wilson	03-1-27657	New York

4:00 p.m. The hearing was recessed until December 4, 2006 at 1:00 p.m.

4:04 p.m.

R-2007-079 The Board then considered a request for an exemption to Rule 4729-5-11 (Responsible Person) to allow **Richard Adams**, R.Ph., to be the Responsible Pharmacist.

Harrison Community Hospital (02-034450)
Health Connection Pharmacy (02-560300)

After discussion, Mrs. Gregg moved that the Board approve the request for one year. The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 8.*

4:21 p.m.

R-2007-080 Mrs. Gregg moved that the minutes of the October 10 and 11 Board meeting be approved as amended. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye – 8.*

R-2007-081 Mr. McMillen presented a request from pharmacy intern **Ashoke Kumar Mitra** (06-0-05359) for permission to extend his internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy Intern Identification Card Renewal). After discussion, and with the stipulation that no further extensions would be granted, Ms. Eastman moved that Mr. Mitra's request be approved. The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 8.*

R-2007-082 Mr. McMillen presented the Licensing by Reciprocity report to the Board.

Mr. Braylock presented a report on the Nursing Board's Committee on Prescriptive Governance last meeting.

Mr. Benedict said there was no Medical Board Prescribing Committee Report this month.

Mr. Mitchell presented a report on the activities of the Medical Board's Physician Assistant Policy Committee.

Mr. Winsley presented a brief Legislative Report.

5:23 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. Mitchell and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; and Teater – yes.

5:55 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-083 Ms. Eastman then moved that the Board summarily suspend the license to practice pharmacy belonging to **Donald Anthony Alexander**, R.Ph.; Wellsburg, West Virginia (03-3-27121), pursuant to Ohio Revised Code 3719.121 (A) and (B). Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 8.*

5:56 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

PER DIEM	10/17	10/18	10/19	10/24	10/25	10/26	11/06	11/07	Total
Braylock	-	-	-	-	-	-	1	1	2
Eastman	-	-	-	-	-	-	1	1	2
Giacalone	-	-	-	-	-	-	1	1	2
Gregg	-	-	-	1	1	1	1	1	5
Lipsyc	-	-	-	-	-	-	1	1	2
Mitchell	1	1	1	-	-	-	1	1	5
Pasquale	-	-	-	-	-	-	1	1	2
Teater	-	-	-	-	-	-	1	1	2
Turner	-	-	-	-	-	-	1	1	2

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

5:56 p.m. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye – 8.*

The Ohio State Board of Pharmacy
approved these Minutes December 12, 2006