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Minutes of the November 5 - 6, 2007 Meeting of the Ohio State Board of Pharmacy

Monday, November 5, 2007

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

Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

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

10:04 a.m. Mr. Turner moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code 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 Mrs. Gregg and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Teater – *yes*; Turner – *yes*; and Wiesenbahn – *yes*.

10:49 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

10:57 a.m. The Board met with Mr. Christopher Hart and Dr. John Irwin to discuss issues involving the education of pharmacy students regarding addiction issues.

12:00 p.m. The discussion ended and the Board recessed for lunch.

1:19 p.m. The Board reconvened with all members present.

Mr. Keeley reported that the new and amended rules were filed and became effective on October 19, 2007.

R-2008-069

Mr. McMillen presented a request from pharmacy intern **Sona Abraham** (06-0-05958) Dublin, Ohio for permission to extend her internship one additional year due to extraordinary circumstances pursuant to Rule 4729-3-04 (Pharmacy Intern Identification Card Renewal). After discussion, Mrs. Gregg moved that **Ms. Abraham's** request be approved for one year only. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 8.

R-2008-070 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Teregen Laboratories, Willoughby, Ohio (02-1235150)
Various Physician Offices on the letter or 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. Turner and approved by the Board: *Aye* – 8.

R-2008-071 Mr. McMillen presented a request from **Adena Health Systems**, Chillicothe, Ohio to be certified as a provider of continuing pharmacy education. After discussion, Ms. Pasquale moved that the request be approved. The motion was seconded by Mr. Lipsyc and approved by the Board: *Aye* – 8.

R-2008-072 Mr. McMillen presented a request from **Memorial Hospital of Union County**, Marysville, Ohio to be certified as a provider of continuing pharmacy education. After discussion, Mr. Turner moved that the request be approved. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

R-2008-073 Mr. Keeley presented for discussion an electronic prescribing system proposal from **GE Centricity**. Mr. Mitchell moved that the system be found approvable pending final inspection. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye* – 8.

R-2008-074 The Board considered a request for an exemption to OAC Rule 4729-5-11 (Responsible person) requesting that **James Straub**, R.Ph. (03-3-15864), Lima, Ohio be permitted to be the responsible person for the following sites:

**Rays Pharmacy & Wellness Center # 106 (02-1749150) Lima, Ohio
Chief Pharmacy & Wellness Center #5 (02-1695800) Defiance, Ohio**

After discussion, Mrs. Gregg moved that the Board approve the request for 60 days. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 8.

Mr. Braylock said there was no Nursing Board Committee on Prescriptive Governance Report this month.

Mr. Mitchell said there had been no Medical Board Physician Assistant Policy Committee meeting since his last report.

Mr. Benedict said the Medical Board Prescribing Committee would meet the week after this Board meeting. He distributed a letter that had been sent to the Medical Board's Prescribing Committee regarding its proposed changes to Rule 4731-11-04. This issue had been discussed with the Pharmacy Board members at the October meeting and this letter was a result of that discussion.

Mrs. Droz updated the Board on the Prescription Drug Monitoring Program.

Mr. Keeley presented the Legislative Report.

Mr. McMillen presented his Licensing Report to the Board.

3:17 p.m. The Board recessed briefly.

3:27 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 Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenhahn – *yes*.

3:53 p.m. The Executive Session ended and the meeting was opened to the public.

3:54 p.m. The Board recessed for the day.

Tuesday, November 6, 2007

8:30 a.m. The Board reconvened in room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

R-2008-075 After discussion, Mrs. Gregg moved that the Board minutes of the October 9 -10, 2007, meeting be approved as amended. Mr. Lipsyc seconded the motion and it was approved by the Board: *Aye* – 8.

9:02 a.m. Mr. Kolezynski recused himself from the hearing in the matter of **Robert William Reeves**, R.Ph. (03-1-13039) Powell, Ohio.

9:03 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 **Robert William Reeves**, R.Ph. (03-1-13039) Powell, Ohio.

9:28 a.m. The hearing ended and the record was closed.

9:29 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Wiesenhahn and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenhahn – *yes*.

9:35 a.m. The Executive Session ended and the meeting was opened to the public.

R-2008-076 Mrs. Gregg moved that the Board adopt the following order in the matter of **Robert William Reeves**, R.Ph. (03-1-13039) Powell, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050207-044

in the matter of:

ROBERT WILLIAM REEVES, R.Ph.

9448 Clermont Boulevard

Powell, Ohio 43065

R.Ph. Number 03-1-13039

INTRODUCTION

The matter of Robert William Reeves came for consideration on November 6, 2007, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Richard F. Kolezynski, R.Ph., Board Member, recused.

Robert William Reeves was not present, nor was he represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-07-05]
 - 1A-1F. Procedurals
 - 1G. Addendum Notice [02-01-06]
 - 1H-1M. Procedurals
2. PRO Pharmacist's Recovery Contract for Robert W. Reeves [05-22-03]
3. Compass Vision, Inc., Drug Screen Report [04-24-04]
4. Notarized Statement of Robert W. Reeves [01-12-05]
5. WorkHealth Drug Screen Results [09-24-04]
6. Compass Vision, Inc., Drug Screen Report [12-01-04]
7. Indictment, State of Ohio vs. Robert W. Reeves, Case No. 05CR038, Fairfield County Common Pleas Court [01-28-05]; Entry Granting Intervention in Lieu of Conviction [12-23-05]; Community Control Stipulations and Agreements [12-21-05]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Robert William Reeves was originally licensed by the State of Ohio as a pharmacist on February 21, 1978, pursuant to reciprocity, and that his license was summarily suspended on February 7, 2005.
- (2) Robert William Reeves 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: Robert William Reeves has admittedly stolen and abused controlled substances since 1978. Though Robert William Reeves has been involved in drug treatment, he continually tests positive for the use of controlled substances during drug testing.
- (3) Robert William Reeves did, on or about April 24, 2004, knowingly obtain, possess, and/or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, Robert William Reeves used opiate drugs and tested positive for such use. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Robert William Reeves did, on or about September 20, 2004, knowingly obtain, possess, and/or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, Robert William Reeves used benzodiazepines and tested positive for such use. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (5) Robert William Reeves did, on or about December 1, 2004, knowingly obtain, possess, and/or use a controlled substance when not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: without a valid prescription, Robert William Reeves used amphetamines and benzodiazepines and tested positive for such use. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (6) Robert William Reeves did, from December 26, 2004, through December 29, 2004, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Kroger in Pickerington, Ohio, beyond the express or implied consent of the owner, to wit: Robert William Reeves admittedly stole 4 doses of phentermine 37.5 mg, 30 doses of hydrocodone 10/650 mg, and 10 doses of alprazolam 0.5 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Robert William Reeves did, from September, 2004, through November, 2004, with purpose to deprive, knowingly obtain or exert control over controlled substances, the property of Kroger in Gahanna, Ohio, beyond the express or implied consent of the owner, to wit: Robert William Reeves admittedly stole 4 doses of phentermine 37.5 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) On or about January 28, 2005, Robert William Reeves pled guilty to (3) three counts of Theft of Drugs, felonies of the fourth degree, under Section 2913.02 (A)(1) & (B)(6) of the Ohio Revised Code. On December 23, 2005, Robert William Reeves was granted Intervention in Lieu of Conviction. State of Ohio vs. Robert W. Reeves, Case No. 05 CR 38, Fairfield County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Robert William Reeves on February 7, 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 adjudicates the matter of Robert William Reeves as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-13039, held by Robert William Reeves 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-13039, held by Robert William Reeves 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-13039, held by Robert William Reeves 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, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-13039, held by Robert William Reeves effective as of the date of the mailing of this Order.

Mrs. Teater seconded the motion and it was approved by the Board: *Aye* – 7.

The Board met with Mr. Ernie Boyd, Executive Director of the Ohio Pharmacist Association, to discuss issues that required no Board action.

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

10:30 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 **Donald A. Alexander**, R.Ph. (03-3-27121), Wellsburg, West Virginia.

12:05 p.m. The Board recessed for lunch.

1:02 p.m. The hearing in the matter of **Donald A. Alexander**, R.Ph. (03-3-27121), Wellsburg, West Virginia, resumed.

1:26 p.m. The hearing ended and the record was closed.

1:27 p.m.
R-2008-077

The following candidates for licensure by reciprocity met in Room South A, 31st Floor of the Vern Riffe Center, with members of the Board and Mr. McMillen to introduce themselves and participate in a discussion of pharmacy laws and rules. They were then presented their pharmacist identification cards.

Amy Calder Baker	03-2-28361	Kentucky
Cari A. Bruins	03-2-28390	Kentucky
Charla Lynn Burgett	03-2-28350	Kentucky
Idola Marie Ciotti	03-2-28376	Pennsylvania
William Scott Clark	03-2-28367	Kentucky
Lori Michele Grebe	03-2-28351	Kentucky
Steven Douglas Hyde	03-2-28366	Alabama
Eron Ernest Jaber	03-2-28360	Pennsylvania
Stacey Lee Kyle	03-2-28286	Illinois
John William McKnight, Jr.	03-2-28383	Kentucky
Yumus Ahmed Meah	03-2-28347	Illinois

Dana Renee Miller	03-2-28362	Illinois
Paul Richard Moser	03-2-28349	Pennsylvania
John Joseph Muscolino	03-2-28319	Illinois
James David Nash	03-2-28365	Florida
Brian Wayne Ragan	03-2-28348	Kentucky
Daniel Bryant Renick	03-2-28370	Kentucky
James C. Rhodes	03-2-28379	Kentucky
Henry Louis Ruff III	03-2-28369	West Virginia
Heather Marie Schultz	03-2-28380	Pennsylvania
Traci Hope Sheplak	03-2-28368	Virginia
Misty Lachelle Simpson	03-2-28377	Alabama
Shekhar Prakash Sinha	03-2-28372	New Jersey
Jennifer Marie Stover	03-2-28364	New Jersey
Susan Kay Toerne	03-2-10458	Michigan
Robert Paul Ward	03-2-28363	Pennsylvania
Thomas L. Ware	03-2-28359	Kentucky

1:51 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center with all members present.

1:52 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 Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenbahn – *yes*.

2:09 p.m. The Executive Session ended and the meeting was opened to the public.

2:10 p.m.
R-2008-078 Mr. Turner moved that the Board adopt the following order in the matter of **Donald A. Alexander**, R.Ph. (03-3-27121), Wellsburg, West Virginia.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-061108-013

in the matter of:

DONALD A. ALEXANDER, R.Ph.

518 Charles Street
Wellsburg, West Virginia 26070

R.Ph. Number 03-3-27121

INTRODUCTION

The matter of Donald A. Alexander came for hearing on November 6, 2007, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Donald A. Alexander 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: George Pavlich, Ohio State Board of Pharmacy

Respondent's Witnesses: Donald Alexander, R.Ph., Respondent
Dana E. Davis, Sr.
Fran Alexander

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [11-08-06]
- 1A-1E. Procedurals
2. Notarized Statement of Donald Alexander [10-13-06]
3. Photograph of Prescription Vial and Pills [10-13-06]
4. Bureau of Criminal Identification and Investigation Lab Analysis Report [11-15-06]
5. Drug Accountability Statement at Kroger #N-512 for Alprazolam .25 mg [02-20-07]
6. Drug Accountability Statement at Kroger #N-512 for Alprazolam .05 mg [02-20-07]
7. Drug Accountability Statement at Kroger #N-512 for Alprazolam 1 mg [02-20-07]
8. Drug Accountability Statement at Kroger #N-512 for Alprazolam 2 mg [02-20-07]
9. Rx #2231319 [08-06-06]
10. Rx #2231434 [08-13-06]
11. Rx #2231593 [08-27-06]
12. Rx #2231632 [08-30-06]
13. Rx #2231633 [08-30-06]
14. Rx #2231728 [09-06-06]
15. Rx #2231730 [09-06-06]
16. Rx #2231838 [09-14-06]
17. Rx #2231837 [09-14-06]
18. Rx #2231961 [09-25-06]
19. Rx #2231939 [09-25-06]
20. Rx #2231940 [09-25-06]
21. Rx #2231993 [09-27-06]
22. Rx #2232020 [09-29-06]
23. Rx #2232032 [10-01-06]
24. Rx #2232126 [10-06-06]
25. Rx #2232127 [10-06-06]
26. Rx #2232206 [10-12-06]
27. Hand-written note from Nicole to Cindy [not dated]; one incomplete prescription form and one prescription written for Oxy1R 30 mg [10-13-06]
28. Prescriber Statement of Bryan Negrini, M.D. [10-24-06]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Donald Alexander [03-19-07]
- B. Letter from George M. MacNabb, M.D. to Daniel D. Connor, Esq. [09-25-07]
- C. Talbot Recovery Campus Medical Records [12-08-05]; Discharge Summary [03-28-06]; Continuing Care Plan [03-11-06]
- C-1. Page two of Physician Discharge Summary [not dated]
- D. Talbot Recovery Campus Discharge Summary [01-15-07]; Continuing Care Plan [12-29-06]
- E. Northwest Toxicology Drug Test Reports [10-30-06 to 12-11-06]
- F. First Lab OHPRO Test History Report [03-30-07 to 09-14-07]
- G. Support Group Attendance Records [02-27-07 to 10-15-07]
- H. Eight Letters of Support [10-09-07 to 10-19-07]
- I. First Lab Drug Testing Panels [10-11-06]
- J. Support Group Attendance Records [10-02-07 to 11-03-07]

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 Donald A. Alexander was originally licensed by the State of Ohio as a pharmacist on April 4, 2006, pursuant to reciprocity, and that his license was summarily suspended on November 8, 2006.
- (2) Donald A. Alexander 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: Donald A. Alexander has admitted to a Board agent that he is addicted to controlled substances. Further, Donald A. Alexander has admitted that he has been to drug treatment in both Georgia and West Virginia, and that he continues to abuse drugs. Donald A. Alexander has also indicated that while in treatment and/or aftercare, he would obtain a friend's urine and subversively submit it as his own so as to pass drug screens. Donald A. Alexander forged prescriptions to cover his thefts of the drugs he used and gave to others. Such conduct indicates that Donald A. Alexander is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Donald A. Alexander did, on or about October 13, 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 and not for a legitimate medical purpose, Donald A. Alexander possessed 4 oxycodone CR 40 mg tablets, 67 oxycodone HCL 30 mg tablets, 5 alprazolam 1mg tablets, and 1 alprazolam 2 mg tablet. Donald A. Alexander was stopped for questioning by his employer after he left his pharmacy shift. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Donald A. Alexander did, on or about October 13, 2006, and dates previous, intentionally create and/or knowingly possess false or forged prescriptions, to wit: Donald A. Alexander created, helped create, and/or knowingly possessed on file in the pharmacy the following documents so as to cover his theft of the drugs:
 - (a) Rx #2231319, written August 2, 2006, dispensed August 6, 2006 for Jennifer Bennett, 36 OxyContin (oxycodone CR) 40 mg tablets.

Note: Donald A. Alexander stated that Jennifer Bennett is not his girlfriend but he shared this prescription with her after she created it and gave it to him.
 - (b) Rx #2231434, written August 8, 2006, dispensed August 13, 2006 for Jennifer Bennett, 60 OxyContin (oxycodone CR) 80 mg tablets.

Note: Donald A. Alexander confirmed that Jennifer Bennett created the prescription and he dispensed it and shared the drugs with her.
 - (c) Rx #2231593, written August 25, 2006, dispensed August 27, 2006 for Jessie Campana, 60 OxyContin (oxycodone CR) 40 mg tablets.

Note: A new name was used by Jennifer Bennett to create this prescription. Donald A. Alexander dispensed the drug and shared it with Jennifer Bennett.

- (d) Rx #2231632, written August 30, 2006, dispensed August 30, 2006 for Jennifer Bennett, 60 OxyContin (oxycodone CR) 80 mg tablets.
- Note: Donald A. Alexander stated that the prescription was created by Jennifer Bennett and he shared the tablets with her.
- (e) Rx #2231633, written August 30, 2006, dispensed August 30, 2006 for Jennifer Bennett, 90 OxyIR (oxycodone HCL) 30 mg tablets.
- Note: This prescription was created by Jennifer Bennett. Donald A. Alexander dispensed the drug and shared it with Jennifer Bennett.
- (f) Rx #2231728, written September 6, 2006, dispensed September 6, 2006, for Joseph DeFranco, 60 OxyContin (oxycodone CR) 40 mg tablets.
- Note: Donald A. Alexander stated that he needed another name as the patient because the quantity levels were too high and too close. Donald A. Alexander shared these tablets with Jennifer Bennett.
- (g) Rx #2231730, written September 6, 2006, dispensed September 6, 2006, for Joseph DeFranco, 90 OxyIR (oxycodone HCL) 15 mg tablets.
- Note: Donald A. Alexander stated that he shared these tablets with Jennifer Bennett.
- (h) Rx #2231838, written September 13, 2006, dispensed September 14, 2006, for Jennifer Bennett, 30 Ritalin (Methylin) 10 mg tablets.
- Note: Donald A. Alexander stated that these tablets were for himself and that he created the prescription.
- (i) Rx #2231837, written September 13, 2006, dispensed September 14, 2006, for Jennifer Bennett, 90 OxyIR (oxycodone HCL) 30 mg tablets.
- Note: Donald A. Alexander stated that these tablets were for himself and that he created the prescription.
- (j) Rx #2231961, written September 25, 2006, dispensed September 25, 2006, for Jennifer Bennett, 30 Ritalin (Methylin) 20 mg tablets.
- Note: Donald A. Alexander stated that he created the prescription, had never used this drug before, but consumed it all himself.
- (k) Rx #2231939, written September 20, 2006, dispensed September 25, 2006, for Jessie Campana, 90 OxyIR (oxycodone HCL) 15 mg tablets.
- Note: Donald A. Alexander created the prescription and consumed the drugs himself.
- (l) Rx #2231940, written September 20, 2006, dispensed September 25, 2006, for Jessie Campana, 60 OxyContin (oxycodone CR) 40 mg tablets.

Note: This name was initially used by Jennifer Bennett. Donald A. Alexander created this prescription and consumed the drugs himself.

- (m) Rx #2231993, written September 25, 2006, dispensed September 27, 2006, for Jennifer Bennett, 90 OxyIR (oxycodone HCL) 30 mg tablets.

Note: Donald A. Alexander stated that he created the prescription and the drug was just for himself because he became paranoid about Jennifer Bennett.

- (n) Rx #2232020, written September 25, 2006, dispensed September 29, 2006, for Jennifer Bennett, 90 OxyContin (oxycodone CR) 80 mg tablets.

Note: Donald A. Alexander stated that both he and Jennifer Bennett shared the drugs.

- (o) Rx #2232032, written September 29, 2006, dispensed October 1, 2006, for Joseph DeFranco, 60 Ritalin (Methylin) 10 mg tablets.

Note: Donald A. Alexander stated that these tablets were for himself and that he created the prescription.

- (p) Rx #2232126, written September 29, 2006, dispensed October 6, 2006, for Joseph DeFranco, 60 OxyContin (oxycodone CR) 40 mg tablets.

Note: Donald A. Alexander stated that he created the prescription and consumed the drug himself.

- (q) Rx #2232127, written September 29, 2006, dispensed October 6, 2006, for Joseph DeFranco, 90 OxyIR (oxycodone HCL) 15 mg tablets.

Note: Donald A. Alexander stated that he created the prescription and consumed the drug himself.

- (r) Rx #2232206, written October 12, 2006, dispensed October 12, 2006, for Jennifer Bennett, 90 OxyIR (oxycodone HCL) 30 mg tablets.

Note: These were some of the tablets (67) that Donald A. Alexander possessed when stopped on October 13, 2006. Donald A. Alexander stated that he shared some of the original 90 tablets with a friend (5 or 6 tablets), and that the 67 tablets were left over from October 12, 2006.

Such conduct is in violation of Section 2925.23(B) 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 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 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 paragraphs (3) and (4) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Donald A. Alexander on November 8, 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 adjudicates the matter of Donald A. Alexander as follows:

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-27121, held by Donald A. Alexander and such suspension is effective as of the date of the mailing of this Order.

- (A) Donald A. Alexander, 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) Donald A. Alexander, 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 three years from the effective date of this Order, the Board will consider any petition filed by Donald A. Alexander 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) Donald A. Alexander 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. 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 reports to the Board, 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) Donald A. Alexander 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) Donald A. Alexander 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 four years of the effective date of this Order, Donald A. Alexander must also show successful completion of the NAPLEX.
 - (E) Upon such time as the Board may consider reinstatement, Donald A. Alexander 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.

Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 7/Nay – 1.*

Mr. Braylock left the Board meeting to attend a legislative meeting.

2:18 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 **Barney T. Dotson**, R.Ph. (03-3-20222), Cincinnati, Ohio, with Mr. Lipsyc presiding.

3:33 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. Kolezynski and a roll-call vote was conducted by Mr. Lipsyc as follows: Gregg – *yes*; Kolezynski – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenhahn – *yes*.

3:44 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-079 Mr. Mitchell moved that the Board adopt the following order in the matter of **Barney T. Dotson**, R.Ph. (03-3-20222), Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070403-036

in the matter of:

BARNEY T. DOTSON, R.Ph.

5367 Race Road
Cincinnati, Ohio 45247

R.Ph. Number 03-3-20222

INTRODUCTION

The matter of Barney T. Dotson came for hearing on November 6, 2007, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Barney T. Dotson was represented by Harry B. Plotnick. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: Barney T. Dotson, R.Ph., Respondent
Richard Magliano, R.Ph.

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [04-03-07]
- 1A-1B. Procedurals
- 1C. Addendum Notice [09-04-07]
- 1D.-1F. Procedurals
2. Notarized Statement of Barney Dotson [03-28-07]
3. Uniform Traffic Ticket No. 061529, State of Ohio vs. Barney T. Dotson, Case No. C/07/CRB/10013, Hamilton County Municipal Court [03-16-07]; Journal Entry [04-06-07]
4. Uniform Traffic Ticket No. 953869, State of Ohio vs. Barney T. Dotson, Case No. C/07/TRC/14886/A, Hamilton County Municipal Court [03-16-07]; Journal Entry, [05-14-07]
5. Hamilton County Crime Laboratory Toxicology Report [04-17-07]

6. Indictment, State of Ohio vs. Evan A. Miller, Case No. B-0703688, Hamilton County Court of Common Pleas [05-08-07]; Drug Court Judgment Entry Granting Intervention in Lieu of Conviction [08-08-07]

Respondent's Exhibits:

- A. Motion of Defendant for Intervention in Lieu of Conviction, State of Ohio vs. Barney T. Dotson, Case No. B-0703688, Hamilton County Common Pleas Court [06-26-07]
- B. PRO Pharmacist's Recovery Contract for Barney T. Dotson [04-05-07]
- C. Support Group Attendance Records [04-07-07 to 11-04-07]
- D. FirstLab Urine Test History Report [05-07-07 to 06-29-07]; FirstLab OHPRO Test History Report [05-15-07 to 07-06-07]; Talbert House Drug Screen Laboratory [07-11-07 to 10-09-07]
- E. ADAPT Assessment Report [07-22-07]; Individual Service Plan [07-29-07 to 09-24-07]; Discharge Plan from Talbert House [09-09-07]; Talbert House Certificate of Driver Intervention Program [09-11-07 to 09-21-07]; Letter from Mandy Stocklin, HIMC to Harry Plotnick, Attorney at Law [04-25-07]; Fairbanks Medical Records for Barney Dotson [03-29-07 to 04-05-07]; Letter from Doug Ulrich, L.I.S.W., L.I.C.D.C. to Harry Plotnick, Attorney at Law [06-21-07]
- F. Continuing Pharmaceutical Education Credits and Certificates [04-22-07]

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 Barney T. Dotson was originally licensed by the State of Ohio as a pharmacist on October 26, 1993, pursuant to reciprocity, and that his license to practice pharmacy in Ohio was summarily suspended effective April 3, 2007.
- (2) Barney T. Dotson is addicted to or abusing drugs or alcohol and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Barney T. Dotson has admitted to a Board agent that he is addicted to both drugs and alcohol. Barney T. Dotson has been to in-patient alcohol treatment previously, and has stated an intention to enter into treatment again. Barney T. Dotson has admittedly stolen fentanyl and hydromorphone from his employer; Barney T. Dotson has admittedly stolen drugs for his abuse "every other day;" Barney T. Dotson has admitted to stealing Vicodin since he began practicing pharmacy in 1980. Barney T. Dotson has indicated to a Board agent that his consumption of hydromorphone began with ingestion of approximately 2 mg per occasion, and it escalated to 8 to 10 mg each use. Barney T. Dotson's abuse was discovered on March 16, 2007, when he was arrested after having passed out while driving his car and struck another vehicle. Such conduct indicates that Barney T. Dotson is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Barney T. Dotson did, on or about March 16, 2007, and on various dates preceding, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Curascript Infusion Pharmacy, beyond the express or implied consent of the owner, to wit: Barney T. Dotson has admittedly stolen fentanyl and hydromorphone from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) On or about August 8, 2007, you pled guilty to (3) three counts of Theft of Drugs, felonies of the fourth degree, under Section 2913.02 (A)(1) of the

Ohio Revised Code. You were granted Intervention in Lieu of Conviction. State of Ohio vs. Barney T. Dotson, Case No. B 0703688, Hamilton County Common Pleas Court.

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 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 Barney T. Dotson on April 3, 2007.

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. 03-3-20222, held by Barney T. Dotson and such suspension is effective as of the date of the mailing of this Order.

- (A) Barney T. Dotson, 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) Barney T. Dotson, 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 three years from the effective date of this Order, the Board will consider any petition filed by Barney T. Dotson 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) Barney T. Dotson 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. 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) Alcohol must be added to the standard urine drug screen and documentation provided to show inclusion in the test panel. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all drug and alcohol 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 reports to the Board, 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) Barney T. Dotson 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) Barney T. Dotson 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 four years of the effective date of this Order, Barney T. Dotson must also show successful completion of the NAPLEX.
 - (E) Upon such time as the Board may consider reinstatement, Barney T. Dotson 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. Pasquale seconded the motion and it was approved by the Board: *Aye – 7.*

3:45 p.m. Mr. Braylock rejoined the meeting in progress.

3:47 p.m.
R-2008-080

Mr. Rowland announced that the following Settlement Agreement with **Kevin Kelly Sheets**, R.Ph. (03-3-11763) Portsmouth, Ohio, has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-070809-006

in the matter of:

KEVIN KELLY SHEETS, R.Ph.

1063 29th Street
Portsmouth, Ohio 45662

R.Ph. Number 03-3-11763

This Settlement Agreement is entered into by and between Kevin Kelly Sheets 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.

Kevin Kelly Sheets 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. Kevin Kelly Sheets 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, Kevin Kelly Sheets is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 9, 2007, pursuant to Chapter 119. of the Ohio Revised Code, Kevin Kelly Sheets 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. Kevin Kelly Sheets requested a hearing; it was scheduled. The August 9, 2007, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Kevin Kelly Sheets was originally licensed by the State of Ohio as a pharmacist on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Kevin Kelly Sheets did, on or about March 20, 2007, misbrand a drug, to wit: when Kevin Kelly Sheets received a prescription for Phenergan with Codeine, having directions as "5ml q 4-6 hr," Rx #4417409, he dispensed promethazine with codeine, with directions as "take five (5) teaspoonful(s) every 4 to 6 hours," which had not been specifically prescribed by the physician. The patient was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (3) Kevin Kelly Sheets did, on or about March 20, 2007, when dispensing Rx #4417409, fail to offer to counsel the patient or caregiver. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.
- (4) Kevin Kelly Sheets did, on or about February 15, 2007, misbrand a drug, to wit: when Kevin Kelly Sheets received a prescription for Novolin N 30 ml, Rx #6716233, he dispensed Novolin R, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Kevin Kelly Sheets neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 9, 2007; 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, Kevin Kelly Sheets knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Kevin Kelly Sheets' pharmacist identification card, No. 03-3-11763, will be placed on probation for five years from the effective date of this Agreement, with the following conditions:
 - (1) Kevin Kelly Sheets may not work in a pharmacy more than 40 hours per week; and no more than 8 hours per day with the exception of Saturdays when he may work a 10 hour shift.
 - (2) Kevin Kelly Sheets' 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.
 - (3) Kevin Kelly Sheets may not serve as a responsible pharmacist.
 - (4) Kevin Kelly Sheets must cause his physician to submit quarterly reports to the Board addressing Kevin Kelly Sheets' diabetes maintenance and control in order to practice pharmacy safely.
- (B) Kevin Kelly Sheets agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) Kevin Kelly Sheets must obtain, within two years from the effective date of this Agreement, five hours of continuing pharmacy education (0.5 CEUs) on preventing medication errors and/or patient counseling, which may not also be used for license renewal.

If, in the judgment of the Board, Kevin Kelly Sheets appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Kevin Kelly Sheets 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.

Kevin Kelly Sheets 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. Kevin Kelly Sheets 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.

/s/ Kevin Kelley Sheets, R.Ph. Date Signed: 10/30/07
Respondent

/s/ Mary Barley-McBride Date Signed: 11/02/07
Attorney for Respondent

/s/ Gregory Braylock Date Signed: 11/06/07
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 11/06/07
Ohio Assistant Attorney General

3:53 p.m. Mr. Mitchell 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 Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenbahn – *yes*.

4:00 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-081 Ms. Pasquale moved that the settlement offer in the matter of **Hemin Hasmukh Patel**, R.Ph., (03-1-26038) Hilliard, Ohio, be denied. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

4:06 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>10/22</u>	<u>11/01</u>	<u>11/05</u>	<u>11/06</u>	<u>Total</u>
Braylock	1	-	1	1	3
Gregg	-	1	1	1	3
Kolezynski	-	-	1	1	2
Lipsyc	-	-	1	1	2
Mitchell	-	1	1	1	3
Pasquale	-	-	1	1	2
Teater	-	-	1	1	2
Turner	-	1	1	1	3
Wiesenbahn	-	1	1	1	3

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

4:07 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 8.

The Ohio State Board of Pharmacy
approved these Minutes December 4, 2007