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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.ohio.gov

Minutes of the September 13-15, 2010 Meeting of the Ohio State Board of Pharmacy

Monday, September 13

9:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph.; and Lori L. Woodson, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; Mark Keeley, *Legislative Affairs Administrator*; Kyle Parker, *Licensing Administrator*; Chris Reed, *Compliance Supervisor*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Tracy Greuel, *Assistant Attorney General*.

9:02 a.m. Mr. Casar moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Joyce and a roll-call vote was conducted by President Kolezynski as follows: Casar – *yes*; Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

9:14 a.m. Ms. Lange joined the meeting in progress.

10:40 a.m. The Executive Session ended and the Board recessed briefly.

10:50 a.m. Mr. Casar 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 Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

11:26 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-053 Mr. Joyce moved that the Board approve the continuance request received in the matter of **Medical Care Center, LLC**. Cleveland, Ohio. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 6; *Nay* – 2.

R-2011-054 Mr. Gahm moved that the Board accept a settlement offer in the matter of **Tracy J. Sobonya**, R.Ph. (03-2-26327) Mentor, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent's agreement to the changes made by the Board. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 5; *Nay* – 2; *Recused* – 1 (Woodson).

R-2011-055 Mr. Gahm moved the citation and Settlement Agreement issued in the matter of **Shelly R. Bair**, R.Ph., (03-3-16049) Van Wert, Ohio, be rescinded and the monetary penalty refunded. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 8.

Mr. Winsley announced that the following Settlement Agreements had been signed by all parties making them effective.

R-2011-056 **SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-100617-132

in the matter of:

EDWARD RAYMOND BOLEN, R.Ph.

7050 Windward Hills Drive
Brecksville, Ohio 44141

R.Ph. Number 03-1-06846

This Settlement Agreement is entered into by and between Edward Raymond Bolen 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.

Edward Raymond Bolen 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. Edward Raymond Bolen 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, limit, 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, Edward Raymond Bolen is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 17, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Edward Raymond Bolen 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. Edward Raymond Bolen requested a hearing; it was scheduled and continued. The June 17, 2010 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Edward Raymond Bolen was originally licensed in the State of Ohio on November 17, 1958, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Edward Raymond Bolen was the Responsible Pharmacist at Marc's Pharmacy #46, 1650 Snow Road, Parma, Ohio 44134, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Edward Raymond Bolen as the Responsible Pharmacist did, on or about November 11, 2009, allow Marc's Pharmacy #46 to cease to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: adequate safeguards were not

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100617-131

in the matter of:

MARC'S PHARMACY #46

c/o Edward Raymond Bolen, R.Ph.
1650 Snow Road
Parma, Ohio 44134

Terminal Distributor Number 02-1057950

This Settlement Agreement is entered into by and between Marc's Pharmacy #46 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.

Marc's Pharmacy #46 enters into this Agreement being fully informed of its 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, the right to appeal. Marc's Pharmacy #46 acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

WHEREAS, Marc's Pharmacy #46 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about June 17, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Marc's Pharmacy #46 was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Further, a hearing was scheduled and continued by the Board. The June 17, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that Marc's Pharmacy #46 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Edward Raymond Bolen is the Responsible Pharmacist pursuant to Rule 4729-5-11 or 4729-17-02 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Marc's Pharmacy #46 did, on or about November 11, 2009, cease to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: adequate safeguards were not assured that the pharmacy was practicing in a manner that allowed pharmacists and pharmacy interns to practice pharmacy in a safe and effective manner. Specifically, procedures were not in place, and/or procedures were not followed, so as to prevent drugs that had been dispensed from being sold/delivered to persons other than the correct patient. RX #158371, written for metoprolol 25 mg, and RX #162105, written for Seroquel 50 mg, were prescribed and dispensed for patient X but was

given to patient Y, who had actually been prescribed RX #464562, written for Synthroid 100 mcg. Patient Y ingested the incorrect medication and was harmed. Such conduct constitutes ceasing to satisfy the qualifications of a terminal distributor within the meaning of Sections 4729.55 and 4729.57 of the Ohio Revised Code.

Marc's Pharmacy #46 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 17, 2010; 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, Marc's Pharmacy #46 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Marc's Pharmacy #46 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Marc's Pharmacy #46 acknowledges that it 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.

Marc's Pharmacy #46 waives any and all claims or causes of action it 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. Marc's Pharmacy waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

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/ Marc's Pharmacy #46 Date Signed: 08/18/10
Respondent

/s/ David T. Patterson Date Signed: 08/25/10
Attorney for Respondent

/s/ Richard F. Kolezynski Date Signed: 09/13/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 09/13/10
Ohio Assistant Attorney General

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100506-113

in the matter of:

JEFFREY ALLEN OSBORNE, R.Ph.

227 S. Front Street
Fremont, Ohio 43420

R.Ph. Number 03-2-17738

This Settlement Agreement is entered into by and between Jeffrey Allen Osborne 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.

Jeffrey Allen Osborne 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. Jeffrey Allen Osborne 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, limit, 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, Jeffrey Allen Osborne is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 6, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Jeffrey Allen Osborne 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. Jeffrey Allen Osborne requested a hearing; it was scheduled and continued. The May 6, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Jeffrey Allen Osborne was originally licensed in the State of Ohio on July 27, 1989, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Jeffrey Allen Osborne was the Responsible Pharmacist at Grund Drug Co., 227 S. Front Street, Fremont, Ohio 43420, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Jeffrey Allen Osborne as the Responsible Pharmacist did, on or about August 22, 2008, misbrand a drug, to wit: when the pharmacy received a prescription for Synthroid 0.1 mg, RX #6297421, Jeffrey Allen Osborne or another pharmacist dispensed warfarin 10 mg, which had not been specifically prescribed by the physician. The patient subsequently was harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Jeffrey Allen Osborne as the Responsible Pharmacist did, on or about August 22, 2008, misbrand a drug, to wit: when the pharmacy received a prescription for Coumadin 10 mg, RX #6314727, Jeffrey Allen Osborne or

another pharmacist dispensed levothyroxine 0.1 mg, 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.

- (4) Jeffrey Allen Osborne as the Responsible Pharmacist did, on or about August 22, 2008, fail have a system in place to ensure positive identification of the pharmacist or pharmacists responsible for performing all activities relating to the practice of pharmacy including, but not limited to: prescription information entered into the record keeping system; and/or dispensing. Such conduct is in violation of Rule 4729-5-27(A) of the Ohio Administrative Code.

Jeffrey Allen Osborne neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 6, 2010; 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, Jeffrey Allen Osborne knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Jeffrey Allen Osborne agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) In addition, Jeffrey Allen Osborne must obtain, within one year from the effective date of this Agreement, five hours of approved continuing pharmacy education (0.5CEUs), in medication errors which may not also be used for license renewal.

Jeffrey Allen Osborne 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.

Jeffrey Allen Osborne 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. Jeffrey Allen Osborne 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.

Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

- (2) Grund Drug Co. did, on or about August 22, 2008, misbrand a drug, to wit: when the pharmacy received a request to refill a prescription for Synthroid 0.1 mg, RX #6297421, a pharmacist dispensed warfarin 10 mg, which had not been specifically prescribed by the physician. The patient subsequently was harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Grund Drug Co. did, on or about August 22, 2008, misbrand a drug, to wit: when the pharmacy received a request to refill a prescription for Coumadin 10 mg, RX #6314727, a pharmacist dispensed levothyroxine 0.1 mg, 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.
- (4) Grund Drug Co. did, on or about August 22, 2008, fail to have a system in place to ensure positive identification of the pharmacist or pharmacists responsible for performing all activities relating to the practice of pharmacy including, but not limited to: prescription information entered into the record keeping system; and/or dispensing. Such conduct is in violation of Rule 4729-5-27(A) of the Ohio Administrative Code.

Grund Drug Co. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 6, 2010; 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, Grund Drug Co. knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Grund Drug Co. agrees to the imposition of a monetary penalty of one thousand five hundred dollars (\$1,500.00) 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Grund Drug Co. acknowledges that it 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.

Grund Drug Co. waives any and all claims or causes of action it 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. Grund Drug Co. waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

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/ Grund Drug Co. Date Signed: 08/24/10
Respondent

/s/ Daniel D. Connor Date Signed: 08/27/10
Attorney for Respondent

/s/ Richard F. Kolezynski Date Signed: 09/13/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 09/13/10
Ohio Assistant Attorney General

R-2011-060

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100312-105

in the matter of:

Geoffrey Stephen Santangelo, R.Ph.

2592 Marblevista Boulevard
Columbus, Ohio 43204

R.Ph. Number 03-2-26254

This Settlement Agreement is entered into by and between Geoffrey Stephen Santangelo 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.

Geoffrey Stephen Santangelo 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. Geoffrey Stephen Santangelo 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.

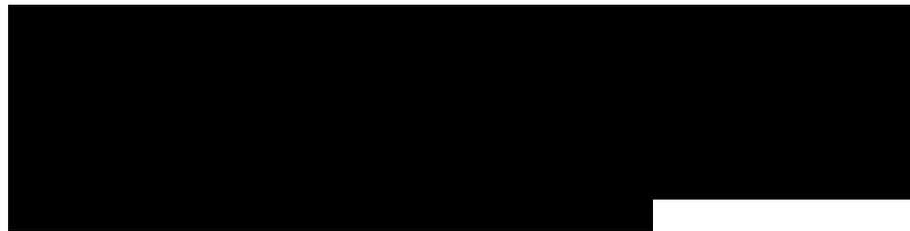
Whereas, Geoffrey Stephen Santangelo is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 12, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Geoffrey Stephen Santangelo 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. Geoffrey Stephen Santangelo requested a hearing; it was scheduled and continued. The March 12, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Geoffrey Stephen Santangelo was originally licensed in the State of Ohio on August 26, 2004,

pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2)



Geoffrey Stephen Santangelo neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 12, 2010; 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, Geoffrey Stephen Santangelo knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Geoffrey Stephen Santangelo agrees to the imposition of a monetary penalty of two thousand five hundred dollars (\$2,500.00) 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Geoffrey Stephen Santangelo's pharmacist identification card, No. 03-2-26254, will be placed on probation for one year, effective from the date of this Agreement. The terms of probation are as follows:
 - (1) The State Board of pharmacy hereby declares that Geoffrey Stephen Santangelo'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) Geoffrey Stephen Santangelo must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (3) Geoffrey Stephen Santangelo must abide by the rules of the Ohio State Board of Pharmacy.
 - (4) Geoffrey Stephen Santangelo must comply with the terms of this Agreement.
- (C) In addition, Geoffrey Stephen Santangelo must obtain, within one year from the effective date of this Agreement, six hours of approved continuing pharmacy education in Jurisprudence (0.6 CEUs), which may not also be used for license renewal.

If, in the judgment of the Board, Geoffrey Stephen Santangelo 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

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, James Sott Braden is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 12, 2010, pursuant to Chapter 119. of the Ohio Revised Code, James Sott Braden 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. James Sott Braden accepted this offer for settlement rather than a hearing. The February 12, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that James Sott Braden was originally licensed in the State of Ohio on August 3, 1987, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) James Sott Braden did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that James Sott Braden was short twenty two continuing education hours (2.2 CEUs) on board approved continuing education. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

James Sott Braden neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 12, 2010; 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, James Sott Braden knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) James Sott Braden 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) James Sott Braden will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else James Sott Braden's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, James Sott Braden 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 the Agreement and 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.

James Sott Braden 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.

James Sott Braden 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. James Sott Braden 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/ James Scott Braden, R.Ph. Date Signed: 08/23/10
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 09/13/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 09/13/10
Ohio Assistant Attorney General

R-2011-062 Mr. Casar moved that the 2010 new, amended, and no-change rules be filed as amended. Mr. Cain seconded the motion and it was approved by the Board: *Aye* – 8.

Mr. Keeley presented the Legislative Report.

R-2011-063 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Hany Boutros**, R.Ph. (03-3-27089) Lamvertville, Michigan be permitted to be the responsible person for the following sites:

Foodtown Pharmacy , Lamvertville, Michigan	(02-2002750)
OneCare RX , Lamvertville, Michigan	(pending)

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

R-2011-064 After discussion, the Board agreed to continue its previous policy granting Board staff the ability to issue a Prescription pick-up station waiver pursuant to Ohio Administrative Code Rule 4729-5-10 for mental health facilities in order to ensure continuity of care for patients. Individual Board approval would not be necessary in those cases. Mr. Moné moved that the policy be reaffirmed and the motion was seconded by Ms. Woodson, approved by the Board: *Aye* – 8.

As this decision would apply to the **Signature Health** request included in the meeting agenda, the exemption request by **Signature Health** will be granted by Board staff.

This Prescription pick-up station exemption would therefore apply to the following:

Signature Health, Inc. , Willoughby, Ohio	(02-1420150)
Signature Health , Ashtabula, Ohio	(02-1316800)
Signature Health , Garfield Heights, Ohio	(02-2049250)

R-2011-065 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:

Unique Medical Weight Loss & Wellness, Cincinnati, Ohio (pending)
Central Ohio Compounding Pharmacy, Columbus, Ohio (02-1050650)

After discussion, Mr. Gahm moved that the Board approve the request pending confirmation of certain facts by Board staff. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 8.

12:04 p.m. The Board recessed for lunch.

1:30 p.m. The meeting resumed with all members present.

1:35 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Fulton Drugs**, (02-1296900) Canton, Ohio and **Timothy Chester Kingsbury**, R.Ph., (02-1-296900) also of Canton, Ohio.

1:54 p.m. The hearing ended and the record was closed.

Mr. Wiesenhahn volunteered to represent the Board at the University of Cincinnati's White Coat Ceremony on September 21, 2010.

R-2011-066 Mr. Winsley presented a request from pharmacy intern **Ukachi Uju Aguwa** (06-0-07956) West Chester, 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, Ms. Lange moved that **Ms. Aguwa's** request be approved. The motion was seconded by Mr. Cain and approved by the Board: *Aye* – 8.

R-2011-067 Mr. Winsley presented a request from pharmacy intern **Sonal Sunil Patel** (06-0-08599) West Chester, 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, Mr. Casar moved that **Ms. Patel's** request be approved. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 8.

R-2011-068 A request to be registered as a Continuing Pharmacy Education provider was received from **University of Cincinnati AIDS Clinical Trials Unit, Amy Dill**, R.Ph. (03-2-28024) Cincinnati, Ohio. After discussion, Mr. Gahm moved that the request be approved. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7; *Abstain* – 1 (Moné).

R-2011-069 Mr. Keeley presented a request for approvable status for the electronic prescribing system, **Sequelmed**. After discussion, Mr. Joyce moved that the system be found approvable pending final inspection. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-070 A request from **ePharmPro Services** (TDDD pending) for an off-site order entry for hospitals was considered. Mr. Gahm moved that the request be tabled until representatives of the company could meet with the Board. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7; *Abstain* – 1 (Moné).

Mr. Casar's report from the Nursing Board Committee on Prescriptive Governance was postponed until the October Board meeting.

Ms. Lange reported on the Medical Board Physician Assistant Policy Committee's August meeting.

There was no Medical Board Prescribing Committee report this month.

Ms. Lange and Mr. Keeley discussed the Technician Exam Status Report with the Board.

R-2011-071

Reaffirmation of an existing policy created January 22, 1985, concerning mental health and pick-up stations: The Board discussed circumstances in which residents in nursing homes or small group homes for the mentally disabled need to take medication while on temporary leave or when absent during the day from the facility where they reside. The Board noted that in each of these instances, the medications had been dispensed by a pharmacist for administration by the patient themselves, or by personnel of the facility where the patient resides. The Board further noted that the facility where the patient resides maintains custody of the drugs for the patient and, in providing nursing or custodial care of the patient, is responsible for the administration of the medication as prescribed.

The problem faced by these facilities is the repackaging of the medication for administration at a site other than the facility where they reside and by individuals who are not employees or agents of the facility. The repackaging of the medication in smaller amounts for self-administration, or administration by someone other than an employee of the facility, is not considered to be dispensing.

If the medication has already been dispensed by a pharmacist in accordance with state and federal laws and delivered to the facility responsible for the care of the patient, any competent employee of the facility could legally prepare the medication for administration by another competent individual who has temporary custody and is responsible for the patient's well-being during his/her absence from the facility.

In order to ensure the medication is administered as prescribed, an amount necessary to cover only the duration of drug therapy should be repackaged and labeled with:

1. the facility's full name and address;
2. the patient's full name;
3. directions for use;
4. any cautionary statements required for the safe and effective use of the drug;
5. full name of the drug; and the
6. date the drug was packaged for administration.

In order to avoid confusion, and to prevent errors in administration, each package should contain one medication only to be administered. A record of the individual responsible for repackaging the drug should also be maintained in the facility, as well as the date and amount removed from the patient's prescription container for administration at a location other than the facility where he/she resides.

In some instances, if not all, it may also be in the best interest of the patient and the facility if an administration record form accompanied the package of medication that is to be administered when the patient is absent from the residential facility. This form could be maintained with the patient's records in the facility and provide a continuous record of drug therapy and the individuals responsible for the patient's care during such therapy.

Mr. Moné moved that the policy be renewed. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 8.

3:10 p.m. The Board recessed briefly.

3:24 p.m. Mr. Casar 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 Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

4:35 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-072 After votes were taken in public session, the Board adopted the following order in the matter of **Fulton Drugs**, (02-1296900) Canton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100616-128

in the matter of:

FULTON DRUGS
c/o TIMOTHY CHESTER KINGSBURY, R.Ph.

1657 25th N.W.
Canton, Ohio 44709

License Number 02-1296900

INTRODUCTION

The matter of Fulton Drugs came for consideration on September 14, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

A representative of Fulton Drugs was not present nor was Fulton Drugs represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-16-10]
- 1A. Procedural
2. Correspondence from Timothy C. Kingsbury [07-10-10]
3. Documentation of current terminal distributor license [09-10-10]
4. Dangerous Drug Distributor Inspection Report for Fulton Drugs [03-11-10]; House of Loreto [03-10-10]
5. Application for Registration as a Distributor of Dangerous Drugs submitted by Timothy C. Kingsbury [03-16-10]
6. Written Notice of Discontinuing Business [04-19-10]
7. Application for registration as a Distributor of Dangerous Drugs submitted by Timothy Kingsbury [05-17-10]

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 Fulton Drugs is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Timothy Chester Kingsbury is the Responsible Pharmacist pursuant to

Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

- (2) Fulton Drugs did, on or about March 11, 2010, and dates preceding, sell at retail dangerous drugs, to wit: Fulton Drugs placed contingency stock in a nursing home, House of Loreto, without having a terminal distributor of dangerous drugs license for that location, and then sold the drugs to patients at retail, the conduct not being in accordance with Chapter 4729. of the Ohio Revised Code. Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code.
- (3) Fulton Drugs did, on or about March 11, 2010, and dates preceding, fail to keep a record of all dangerous drugs and controlled substances received, administered, dispensed, distributed, sold, destroyed, or used, to wit: Fulton Drugs kept no records of the dangerous drugs or controlled substances the pharmacy had stored at the House of Loreto for sale to nursing home patients. Such conduct is in violation of Rules 4729-9-14 and 4729-9-22 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes violating any rule of the Board as provided in Division (A)(2) of Section 4729.57 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) of the Findings of Fact constitutes violating the provisions of Chapter 4729. of the Revised Code as provided in Division (A)(3) of Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand five hundred dollars (\$1,500.00) on Fulton Drugs and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Donald Casar moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-8/Nay-0).

Donald Casar moved for Conclusions of Law; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-8/Nay-0).

R-2011-073 After votes were taken in public session, the Board adopted the following order in the matter of **Timothy Chester Kingsbury**, R.Ph. (03-2-21080) Canton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100616-129

in the matter of:

TIMOTHY CHESTER KINGSBURY, R.Ph.

3124 Sussex N.W.

Canton, Ohio 44718

R.Ph. Number 03-2-21080

INTRODUCTION

The matter of Timothy Chester Kingsbury came for consideration on September 14, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Timothy Chester Kingsbury was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [06-16-10]
1A-1C. Procedurals
2. Correspondence from Timothy C. Kingsbury [07-10-10]
3. Documentation of current terminal distributor license [09-10-10]
4. Dangerous Drug Distributor Inspection Report for Fulton Drugs [03-11-10];
House of Loreto [03-10-10]
5. Application for Registration as a Distributor of Dangerous Drugs submitted by
Timothy C. Kingsbury [03-16-10]
6. Written Notice of Discontinuing Business [04-19-10]
7. Application for registration as a Distributor of Dangerous Drugs submitted by
Timothy Kingsbury [05-17-10]

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 State Board of Pharmacy indicate that Timothy Chester Kingsbury was originally licensed in the State of Ohio on July 27, 1995, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Timothy Chester Kingsbury was the Responsible Pharmacist at Fulton Drugs, 1657 25th N.W., Canton, Ohio 44709, pursuant to Sections

4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.

- (2) Timothy Chester Kingsbury did, on or about March 11, 2010, and dates preceding, sell at retail dangerous drugs, to wit: Timothy Chester Kingsbury placed contingency stock in a nursing home, House of Loreto, without having a terminal distributor of dangerous drugs license for that location, and then sold the drugs to patients at retail, the conduct not being in accordance with Chapter 4729. of the Ohio Revised Code. Such conduct is in violation of Section 4729.51(C)(1) of the Ohio Revised Code.
- (3) Timothy Chester Kingsbury did, on or about March 11, 2010, and dates preceding, fail to keep a record of all dangerous drugs and controlled substances received, administered, dispensed, distributed, sold, destroyed, or used, to wit: Timothy Chester Kingsbury admittedly kept no records of the dangerous drugs or controlled substances he stored at the House of Loreto for sale to nursing home patients. Such conduct is in violation of Rules 4729-9-14 and 4729-9-22 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of a rule of the Board as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

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

- (A) Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of four thousand dollars (\$4,000.00) on Timothy Chester Kingsbury and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Timothy Chester Kingsbury must obtain, within six months from the effective date of this Order, two hours of approved continuing pharmacy education (0.2 CEUs) in Jurisprudence, which may not also be used for license renewal.

(C) This Board will conduct a follow-up inspection of Fulton Drugs within 60 days from the effective date of this Order.

Troy Gahm moved for Findings of Fact; Deborah Lange seconded the motion. Motion passed (Aye-8/Nay-0).

Donald Casar moved for Conclusions of Law; Lori Woodson seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-7/Nay-1).

4:36 p.m. The Board recessed for the day.

Tuesday, September 14

8:59 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 all members present.

9:00 a.m. Mr. Casar 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. Moné and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

9:02 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-074 After discussion, Mr. Joyce moved that the counter offer made in the case of **Tracy J. Sobonya**, R.Ph. (03-2-26327) Mentor, Ohio, be denied but that the Board's previous proposal remain open. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7; *Abstain* – 1 (Woodson)

9:46 a.m. Mr. Casar 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 Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

9:57 a.m. The Executive Session ended and the meeting was opened to the public.

9:58 a.m.
R-2011-075 Mr. Gahm moved that the proposed change in the wording of the Notice of Opportunity for a Hearing in the matter of **Mark R. Fantauzzi**, D. O., O. D. Portsmouth, Ohio, be denied. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 8.

9:59 a.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mark R. Fantauzzi**, D. O., O. D. Portsmouth, Ohio.

11:27 a.m. The hearing ended and the record was closed.

11:28 a.m. Mr. Casar 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 Ms. Lange and a roll-call vote was conducted by

President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

11:35 a.m. The Executive Session ended and the meeting was opened to the public.

11:36 a.m.

R-2011-076 After votes were taken in public session, the Board adopted the following order in the matter of **Mark R. Fantauzzi**, R.Ph., Portsmouth, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100506-117

in the matter of:

MARK R. FANTAUZZI, D.O., O.D.

1219 Findley Street
Portsmouth, Ohio 45662

INTRODUCTION

The matter of Mark R. Fantauzzi came for consideration on September 14, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Mark R. Fantauzzi was represented by Kirk A. McVay. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General. After opening statements, the State called Dr. Fantauzzi as a witness. Attorney McVay addressed the Board, then he, his client, and potential witnesses withdrew the request for a hearing and declined to participate further. The matter resumed in their elected absence.

SUMMARY OF EVIDENCE

State's Witnesses: Todd Michael Bryant
Kevin Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [05-06-10]
- 1A-1B. Procedurals
2. Application for Registration as a Distributor of Dangerous Drugs submitted by Mark R. Fantauzzi, D.O., O.D. with attachments [02-08-10]
3. Example Locum Tenens Contract [not dated]
4. Physicians Total Care proposal package [12-30-09]
5. Southern Ohio Complete Pain Management Policies and New Patient Forms [not dated]
6. Southern Ohio Complete Pain Management advertisement [03-24-10]
7. S.O.C.P.M. list of employees [not dated]
8. Dr. Fantauzzi's S.O.C.P.M. correspondence [04-28-10]
9. Pulaski County, Indiana Superior Court documents Case #66D01-0702-FD-00015 in re Tracy Ray Bias [various dates]
10. Southern Ohio Complete Pain Management, LLC prescriptions and patient daily sign in sheet [02-18-09]

11. Certified Complaint Form and disposition of proceedings, Portsmouth Municipal Court Case No. 0901328 [07-10-09]
12. Land Installment Contract [03-18-10]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Mark R. Fantauzzi signed an application for licensure indicating that he is the sole proprietor at the address indicated on the application and thereby the responsible person pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code.
- (2) Mark R. Fantauzzi did, on or about March 18, 2010, knowingly make a false statement when made with purpose to secure the issuance by the Ohio State Board of Pharmacy of a license, to wit: Mark R. Fantauzzi submitted an application for licensure as a Terminal Distributor of Dangerous Drugs which contained false and/or misleading statements. Mark R. Fantauzzi's application indicates that he is a "sole proprietor" when in fact the site to be licensed is owned by another unlicensed individual who employs Mark R. Fantauzzi by contract; the building in which Mark R. Fantauzzi intends to operate bears a sign saying "Southern Ohio Complete Pain Management." Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.
- (3) Mark R. Fantauzzi has not furnished satisfactory proof to the Board that a pharmacist or licensed health professional authorized to prescribe drugs will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by Mark R. Fantauzzi or on his behalf, to wit: Mark R. Fantauzzi has designated unlicensed persons to be a "pharmacy technician." Mark R. Fantauzzi has indicated that persons other than a pharmacist or licensed health professional will have keys to, and unfettered access to, the drug stock. Such indicates that Mark R. Fantauzzi does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(B) of the Ohio Revised Code.
- (4) Mark R. Fantauzzi has not furnished satisfactory proof to the Board that adequate safeguards are assured to prevent the sale or the distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs. Specifically, Mark R. Fantauzzi indicated that unlicensed persons will have keys and unfettered access to the drug stock and drug safe. Additionally, Mark R. Fantauzzi is the only licensed person at the facility, and though Mark R. Fantauzzi lists this as his site of practice, Mark R. Fantauzzi maintains a residence in another state. Mark R. Fantauzzi, the sole physician and only licensed health professional at the practice, infer that Mark R. Fantauzzi will not check medications that leave the facility with patients, and that Mark R. Fantauzzi will only "initial" Schedule II Controlled Substance prescriptions/orders at the end of the business day. Such indicates that Mark R. Fantauzzi does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(C) of the Ohio Revised Code.

- (5) Mark R. Fantauzzi has not furnished satisfactory proof to the Board that, since an agent or employee of his has been found guilty violating provisions of the federal drug abuse control laws and/or Chapter 2925. of the Ohio Revised Code (or its Indiana equivalent), adequate safeguards are assured to prevent the recurrence of the violation. Specifically, the building's owner, and a contractual participant with Mark R. Fantauzzi, Tracy Bias, has been convicted of Possession of Marijuana, a class D felony in the State of Indiana, and Mark R. Fantauzzi has offered no satisfactory proof of any safeguards to assure preventing their recurrence. In fact, Tracy Bias was arrested leaving the facility on July 9, 2009, while in possession of patient sign-in sheets and prescriptions, also in possession of and using marijuana. Such indicates that Mark R. Fantauzzi does not meet the qualifications for a Terminal Distributor of Dangerous Drugs as set forth in Section 4729.55(E) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3), amended (4) and paragraph (5) of the Findings of Fact constitute failure to meet the qualifications set forth in Section 4729.55(A) of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) and (3), amended (4) and paragraph (5) of the Findings of Fact constitute failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs license as set forth in Section 4729.55 (B) (C) and (E) of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been found by the Board of Pharmacy not to be of good moral character and habits as provided in paragraph (A)(3) of Rule 4729-9-19 of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register Mark R. Fantauzzi. and, therefore, denies the Application for a Terminal Distributor of Dangerous Drugs license submitted by Mark R. Fantauzzi on March 18, 2010.

Deborah Lange moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-8/Nay-0).

Michael Moné moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-8/Nay-0).

Brian Joyce moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

11:36 a.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center. The following candidates for licensure by reciprocity introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator and the Board.

Arun Kumar Singh Rana	Washington
Laura Suzanne Montini	Pennsylvania
Jeffrey Louis Cox	Pennsylvania
Lisa Krass	Illinois
Erin Michelle Slider	West Virginia
Quynh-Huong Bui	Nevada
Rita Dungrani	Illinois
Matthew Michael Rafa	West Virginia
Casie Lynn Romero	North Carolina
Christopher Campbell Wray	Alabama
Tricia E. Klug	Illinois
Rebecca Jane Trafzer-Gryka	Nevada
Thanh-Thanh Ho	Virginia
Satyam Patel	Illinois
Jeffery Robert Van Demark	New York
Ashley Correll Teusink	South Carolina
Amy M. Knipple	Minnesota
Nermin Moussa	West Virginia
Nicole L. Kilkenny	Maryland
Lisa Walters Frazier	Kentucky
Ravichand Yalamanchili	North Carolina
Michelle L. Butterbaugh	Pennsylvania
Allen Eugene Zimmerman	Louisiana
Douglas Calvin Anderson	Oklahoma

- 2:00 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Charles Thomas Hodapp**, R.Ph. (03-3-26992) Sidney, Ohio.
- 2:59 p.m. The hearing ended and the record was closed.
- 3:00 p.m. Mr. Gahm 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 Ms. Woodson and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.
- 3:20 p.m. The Executive Session ended and the meeting was opened to the public.
- 3:21 p.m. **R-2011-077** After votes were taken in public session, the Board adopted the following order in the matter of **Charles Thomas Hodapp**, R.Ph. (03-3-26992) Sidney, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-091020-024

in the matter of:

CHARLES THOMAS HODAPP, R.Ph.

125 Leisure Court
Sidney, Ohio 45305

R.Ph. Number 03-3-26992

INTRODUCTION

The matter of Charles Thomas Hodapp came for hearing on September 14, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph.,

(*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Charles Thomas Hodapp was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witness: Charles Thomas Hodapp, R.Ph.

State's Exhibits:

1. Reinstatement petition letter [received 09-18-09]
1A.-1B. Procedurals
2. State Board of Pharmacy Order in re Charles Thomas Hodapp, R.Ph. [02-06-09]
3. Correspondence from Susan Wolfe, Ph.D. [04-09-09]

Respondent's Exhibits:

- A. Full psychiatric evaluation and treatment plan in re Charles T. Hodapp from Brendan Carroll, M.D. [04-05-10]
- B. Medical notes on compliance and fitness to practice pharmacy in re Charles T. Hodapp from Brendan Carroll, M.D. [05-28-10]
- C. Continuing pharmacy education credits [03-09-10 to 07-29-10]

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 that Charles Thomas Hodapp has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-081030-028, effective February 6, 2009.

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. 03-3-26992, held by Charles Thomas Hodapp to practice pharmacy in Ohio subject to a period of probation of three years beginning on the effective date of this Order, with the following conditions:

- (1) Charles Thomas Hodapp must provide an update to this Board from his psychiatrist within 30 days from the date of this Order and the psychiatrist shall submit quarterly updates for the remainder of his probation or the termination of his therapy, whichever comes first.
- (2) Charles Thomas Hodapp may not work in a pharmacy more than 80 hours in a two week period.
- (3) Charles Thomas Hodapp must submit quarterly, random, observed urine drug screens for medication compliance and substance abuse by a Board approved provider. All test results shall be forwarded to this Board by the provider.

- (4) Charles Thomas Hodapp must attend one weekly AA/NA meeting.
- (5) Charles Thomas Hodapp may not serve as a responsible pharmacist.

Other terms of probation are as follows:

- (A) Charles Thomas Hodapp must not violate the drug laws of Ohio, any other state, or the federal government.
- (B) Charles Thomas Hodapp must abide by the rules of the State Board of Pharmacy.
- (C) Charles Thomas Hodapp must comply with the terms of this Order.
- (D) Charles Thomas Hodapp's license is deemed to be not in good standing until successful completion of the probationary period.
- (E) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.
- (F) Any violation of probation or any unsatisfactory performance review may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Charles Thomas Hodapp 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.

Michael Moné moved for Action of the Board; Brian Joyce seconded the motion.
Motion passed (Aye-8/Nay-0).

3:22 p.m. The Board recessed briefly.

3:30 p.m. Mr. Casar moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Casar – *yes*; Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

3:45 p.m. The Executive Session ended and the meeting was recessed for the day.

Wednesday, September 15

9:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

R-2011-078 After discussion, Mr. Joyce moved that the Board minutes of August 2-3, 2010, be approved as amended. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 6.

After discussion, Mr. Joyce moved that the Board minutes of August 11, 2010, be approved as written. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 6.

R-2011-079 After discussion, Mr. Gahm moved that the **Talyst InSiteRx** remote dispensing system was found approvable pending final inspection for installation in long-term care facilities only. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 6.

Mrs. Droz presented the Ohio Automated Prescription Reporting System update.

9:41 a.m. Mr. Gahm 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. Joyce and a roll-call vote was conducted by Vice-President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

10:23 a.m. The Executive Session ended and the meeting was opened to the public.

10:31 a.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Cathy Sue Brinkman**, R.Ph. (03-1-20796) Bolivar, Ohio.

2:05 p.m. The hearing ended and the record was closed.

2:06 p.m. Mr. Gahm 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. Joyce and a roll-call vote was conducted by Vice-President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

2:19 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-080 After votes were taken in public session, the Board adopted the following order in the matter of **Cathy Sue Brinkman**, R.Ph. (03-1-20796) Bolivar, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100609-119

in the matter of:

CATHY SUE BRINKMAN, R.Ph.

9436 Ft. Laurens Road N.W.

Bolivar, Ohio 44612

R.Ph. Number 03-1-20796

INTRODUCTION

The matter of Cathy Sue Brinkman came for hearing on September 15, 2010 before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Richard F. Kolezynski, R.Ph., absent.

Deborah A. Lange, R.Ph., absent.

Cathy Sue Brinkman was represented by John R. Irwin. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Cathy Sue Brinkman, R.Ph., Respondent
David Gallagher, Ohio State Board of Pharmacy

Respondent's Witnesses: Cathy Sue Brinkman, R.Ph., Respondent
Mark Brinkman
Lisa Baker, R.Ph.
Thomas Foti, R.Ph.

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [06-09-10]
1A-1C. Procedurals
2. Notarized Statement of Steven Gooding, R.Ph. [06-02-10]
3. Notarized statement of Cathy S. Brinkman [05-28-10]
4. Photograph of three prescription vials containing various tablets taken from the home of Cathy Brinkman [05-28-10]
5. Dangerous Drug Distributor Inspection Report receipt for dangerous drugs recovered from home of Cathy Brinkman [05-28-10]
6. Error in dispensing report from Buehler's pharmacy [02-26-10]
7. Error in dispensing report from Buehler's pharmacy [03-26-10]
8. Error in dispensing report from Buehler's pharmacy [03-26-10]
9. Error in dispensing report from Buehler's pharmacy [05-04-10]
10. Buehler Food Markets, Inc. #10 Patient Drug History report for Cathy Brinkman [06-02-07 to 06-10-07]
11. Ten Drug Accountability Statements at Buehler's Pharmacy #10 for alprazolam .5 mg; alprazolam 1 mg; lorazepam 2 mg; Ambien 10 mg; zolpidem 10 mg; hydrocodone/APAP 7.5/750; zaleplon 10 mg; Lunesta 3 mg; lorazepam 1 mg; Lunesta 2 mg [06-29-10]

Respondent's Exhibits:

- A. Statement of Cathy Sue Brinkman [09-15-10]
- B. Letter of support from Andrea Glassford, M.Ed., LICDC of Glenbeigh [09-13-10]
- C. Glenbeigh women's weekly schedule [06-09-10 to 06-30-10]
- D. Glenbeigh Hospital Discharge Plan for Cathy Brinkman [06-09-10 to 06-30-10]
- E. Pharmacists Rehabilitation Organization Inc. Pharmacist's Treatment Contract for Cathy S. Brinkman [08-19-10]
- F. Support group monthly calendars [July through September 2010]; Support group attendance records [07-11-10 to 09-12-10]
- G. Urine Drug Screens [07-12-10 to 09-13-10]
- H. Plea to Drug Court Hearing, State of Ohio v. Cathy Brinkman [09-07-10]
- I. Referral letter from Tamara L. Sabo, MA, PC-CR, LCDC-III and Mark Welty, PhD, LPCC-S of Tuscarawas County General Health District [09-13-10]

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 Cathy Sue Brinkman was originally licensed in the State of Ohio on November 2, 1994, pursuant to examination, and her license to practice pharmacy in Ohio was summarily suspended on July 9, 2010.

- (2) Cathy Sue Brinkman 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: Cathy Sue Brinkman admitted to a board agent that she is addicted to the use of controlled substances. Additionally, Cathy Sue Brinkman has admittedly stolen and abused controlled substances on a daily basis. Cathy Sue Brinkman has admittedly made four errors when dispensing medication during February, March, and April of 2010. Such conduct indicates that Cathy Sue Brinkman is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Cathy Sue Brinkman did, on or about May 22, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Buehler's Pharmacy #10, beyond the scope of consent of the owner, to wit: Cathy Sue Brinkman admittedly stole the following drugs:

<u>Drug</u>	<u>Qty.</u>
alprazolam .5 mg	20
alprazolam 1 mg	19
lorazepam 2 mg	8
Ambien 10 mg	15
zolpidem 10 mg	13
hydrocodone/APAP 7.5 / 750 mg	14
zaleplon 10 mg	11
Lunesta 3 mg	11
<u>Drug</u>	<u>Qty.</u>
temazepam 30 mg	8
tramadol 50 mg	13
Tricor 145 mg	14

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

- (4) Cathy Sue Brinkman did, on or about May 28, 2010, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Cathy Sue Brinkman possessed the following drugs in her home, outside the confines of a pharmacy, which had not been prescribed to her:

<u>Drug</u>	<u>Qty.</u>
hydrocodone /APAP 7.5 / 750 mg	10
alprazolam .5 mg	82
alprazolam 1 mg	5
lorazepam 1 mg	69 ½
lorazepam 2 mg	1
Lunesta 2 mg	4
zaleplon 10 mg	1
Ambien 10 mg	4
zolpidem 10 mg	

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (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 her 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 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Cathy Sue Brinkman on June 9, 2010.

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. 03-1-20796, held by Cathy Sue Brinkman on and such suspension is effective as of the date of the mailing of this Order.

- (A) Cathy Sue Brinkman, 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) Cathy Sue Brinkman, 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 twelve months from the effective date of this Order, the Board will consider any petition filed by Cathy Sue Brinkman 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) Cathy Sue Brinkman must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

- (b) 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 calendar week (Sunday through Saturday), 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) Cathy Sue Brinkman must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Cathy Sue Brinkman 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 and alcohol 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, Cathy Sue Brinkman must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

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

Brian Joyce moved for Action of the Board; Lori Woodson seconded the motion. Motion passed (Aye-5/Nay-1).

2:25 p.m.

Mr. Wiesenhahn moved that the Board receive Per Diem as follows:

PER DIEM	09/13	09/14	09/15	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	-	2
Lange	1	1	-	2
Moné	1	1	1	3
Wiesenhahn	1	1	1	3
Woodson	1	1	1	3

Mr. Gahm seconded the motion and it was approved by the Board: *Aye* — 6.

2:25 p.m.

Mr. Joyce moved that the meeting be adjourned. The motion was seconded by Mr. Moné and approved by the Board: *Aye* — 6.

**The Ohio State Board of Pharmacy Approved
these Minutes September 15, 2010**