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Minutes of the September 12-14, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, September 12, 2011

- 8:30 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., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph.; and Michael A. Moné, R.Ph.
- Also present were William T. Winsley, *Executive Director*; John Whittington, *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 Nave, *Assistant Attorney General*.
- 8:30 a.m. Mr. Kolezynski 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 Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.
- 11:00 a.m. The Executive Session ended and the meeting was opened to the public.
- 11:00 a.m. The Board recessed briefly.
- 11:10 a.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Joyce and a roll-call vote was conducted by President Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.
- 11:59 a.m. The Executive Session ended and the meeting was opened to the public.
- R-2012-024** Mr. Moné moved that the Board allow the continuance request in the matter of **Troy Dale Whaley**, R.Ph. (03-1-13060) South Point, Ohio. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.
- R-2012-025** The Board discussed the request for a continuance from **Anthony James Mink**, R.Ph. (03-3-16127) Cuyahoga Falls, Ohio and Mr. Moné moved that allowing the continuance would be contingent on Mr. Mink’s agreeing to refrain from the practice of pharmacy until the hearing date. The Board’s acceptance of such an agreement would be contingent on the

Mr. Mink's agreeing to the stipulation made by the Board. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 1.

R-2012-026 Mr. Gahm moved that the settlement offer in the matter of **Christine Michelle Marker**, R.Ph. (03-3-25219) Urbana, Ohio, be accepted as amended by the Board to include ten hours of approved continuing pharmacy education (1.0 CEUs) in the prevention of medication errors, which may not also be used for license renewal. The Board's acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 6.

R-2012-027 After discussion, Mr. Moné moved that the Board's Executive Director make an effort to arrange a meeting with the Veteran's Administration and the United States Attorney to discuss ways in which files needed for action against a licensee could be exchanged. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 6.

R-2012-028 After discussion, Ms. Lange moved that the settlement offer in the matter of **Brian Lee Martin**, R.Ph. (03-3-25201) Martinsville, Ohio, be denied. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 1.

R-2012-029 After reviewing a letter received from the attorney representing **Ryan Michael Griffin** (06-0-07357) Lancaster, Ohio, asking for clarification of certain matters, Mr. Moné moved that Mr. Griffin's hearing be moved to the March 2012, Board meeting. Mr. Gahm seconded the motion and was approved by the Board: *Aye* – 6.

R-2012-030 Ms. Lange moved that the August 18, 2011, citation issued to **Bella Charurat**, R.Ph. (03-1-23927) Issaquah, Washington, be withdrawn. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 6.

R-2012-031 Mr. Gahm moved that the August 18, 2011, citation issued to **Scott Douglas Tingler**, R.Ph. (03-1-26097) Morgantown, West Virginia, be withdrawn. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 5; *Nay* – 0; *Abstain* – 1 (Joyce).

R-2012-032 Mr. Joyce moved that the Board summarily suspend the license to practice pharmacy belonging to **Philip Mark Neiman**, R.Ph. (03-1-11107) Sylvania, Ohio, pursuant to Ohio Revised Code 3719.121(A). Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 6.

12:00 p.m. The Board recessed for lunch.

1:00 p.m. The Board reconvened in Room South A, 31st Floor of the Riffe Center for the public hearing on the proposed new and amended rules.

1:25 p.m. The public hearing ended.

1:26 p.m. The Board recessed briefly.

1:40 p.m. The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Nick Prentice Poore**, intern (06-0-07560) Springboro, Ohio.

3:06 p.m. The hearing ended and the record was closed.

3:06 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 Ms. Lange and a roll-call vote was conducted by President Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

3:07 p.m. The Board recessed briefly.

3:13 p.m. The Executive Session resumed.

3:32 p.m. The Executive Session ended and the meeting was opened to the public.

3:32 p.m.
R-2012-033 After votes were taken in public session, the Board adopted the following order in the matter of **Nick Prentice Poore**, intern (06-0-07560) Springboro, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110113-158

in the matter of:

NICK PRENTICE POORE, INTERN

7150 Clearview Way
Springboro, Ohio 45066

Intern Number 06-0-07560

INTRODUCTION

The matter of Nick Prentice Poore came for hearing on Monday, September 12, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange; R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Edward T. Cain, Public Member, absent

Nick Prentice Poore was represented by Robert D. Noble. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Todd Knauss, Ohio Board of Pharmacy
Nick Prentice Poore, Intern, Respondent

Respondent's Witness: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-13-11]
1A-1F. Procedurals
2. Notarized written statement of intern Nick Poore [01-05-11]
3. Written statement of Arlene Pisel, R.Ph. [12-07-10]
4. Notarized written statement of Kyle Miller [01-13-11]
5. Notarized written statement of Brandon DePaoli [01-13-11]
6. Written statement of Brett Garver, Technician [01-13-11]
7. Thirty-four Accountability Statements for Walgreens #7440 [03-24-11]

Respondent's Exhibits:

- A. Letter from Nick Prentice Poore to the Ohio State Board of Pharmacy [02-10-11]; Letter from Robert Gillies, LISW, LICDC, The Woods at Parkside [09-09-11]; Letter from Debra Lux, CADC II, SHARP. Vista

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 Nick Prentice Poore was originally licensed as an intern in the State of Ohio on March 20, 2008 and that Nick Prentice Poore's intern license to practice pharmacy in Ohio was summarily suspended effective January 13, 2011.
- (2) Nick Prentice Poore is addicted to the use of controlled substances or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Nick Prentice Poore has admitted to Board agents that he is addicted to Percocet or OxyContin, both Scheduled II Controlled Substances. Nick Prentice Poore has also admitted that he became addicted after using Vicodin, a Scheduled III Controlled Substance, and then bought more prescriptions from friends and other students. Nick Prentice Poore was stealing drugs from dispensed prescriptions to support his addiction. Such conduct indicates that Nick Prentice Poore is within the ambit of Sections 3719.121 and/or 4729.16 (A)(3) of the Ohio Revised Code.
- (3) Nick Prentice Poore did, from September 12, 2010 through December 10, 2010, while employed as an intern at Walgreens Pharmacy #07441, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens Pharmacy #07441, beyond the express or implied consent of the owner, to wit: Nick Prentice Poore has admitted to stealing the following:

<u>DRUG</u>	<u>STRENGTH</u>
Adderall	30 mg
Adderall XR	30 mg
hydrocodone/APAP	10/325 mg
hydrocodone/APAP	7.5/750 mg

<u>DRUG</u>	<u>STRENGTH</u>
hydrocodone/APAP	5/500 mg
hydrocodone/APAP	10/650 mg
Xanax	2 mg
methadone	5 mg
Percocet	5/325 mg
oxycodone	5/325 mg
Vyvanse	30 mg
oxycodone IR	5 mg
OxyContin	unknown

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

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

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 Nick Prentice Poore on January 13, 2011.

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 intern identification card, No. 06-0-07560, held by Nick Prentice Poore and such suspension is effective as of the date of the mailing of this Order.

- (A) Nick Prentice Poore, 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) Nick Prentice Poore, 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 two years from the date of Nick Prentice Poore's Summary Suspension effective January 13, 2011, the Board will consider any petition filed by Nick Prentice Poore for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the intern license in Ohio if the following conditions have been met:

- (A) Nick Prentice Poore 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) 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.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Nick Prentice Poore must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (C) Nick Prentice Poore 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.
 - (4) Satisfactory documentation from a Board approved college of pharmacy demonstrating that college's intent to allow enrollment to take professional classes directly related to the practice of pharmacy once Nick Prentice Poore is licensed by the Board.

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

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

Michael Moné moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-4/Nay-2).

R-2012-034 The Board discussed the testimony given in the public hearing on proposed rules and Mr. Moné moved that the suggested changes be approved and the affected rules re-filed. Mr. Gahm seconded the motion and it was approved by the Board: *Aye – 6.*

3:54 p.m. Mr. Gahm 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 Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

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

Tuesday, September 13, 2011

8:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edwards T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph.; and Michael A. Moné, R.Ph.

8:00 a.m. Mr. Joyce 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. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

8:50 a.m. The Executive Session ended and the meeting was opened to the public..

9:02 a.m. The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Andrea Christine Bullock**, R.Ph. (03-2-26193) Massillon, Ohio.

9:36 a.m. The hearing ended and the record was closed.

9:37 a.m. Ms. Lange 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 President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

9:42 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-035 After votes were taken in public session, the Board adopted the following order in the matter of **Andrea Christine Bullock**, R.Ph. (03- 2- 26193) Massillon, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110617-183

in the matter of:

ANDREA CHRISTINE BULLOCK, R.Ph.

1027 Queen Anne Drive, N.W.

Massillon, Ohio 44647

R.Ph. Number 03-2-26193

INTRODUCTION

The matter of Andrea Christine Bullock came for hearing on Tuesday, September 13, 2011, 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.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph. and Michael A. Moné, R.Ph.

Andrea Christine Bullock was represented by Terri-Lynne B. Smiles. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witness: Andrea Christine Bullock, R.Ph., Respondent

State's Exhibits:

1. Copy of reinstatement hearing request letter [06-15-11]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Andrea Christine Bullock, R.Ph. [04-08-11]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Andrea Bullock [05-06-11]
- B. Test History Report [05-25-11 to 08-30-11]
- C. Support group attendance records [05-08-11 to 09-11-11]
- D. Letter from Justin Bracken [09-01-11]
- E. Continuing education credits and certificates [03-12-11 to 05-14-11]
- F. Copy of four current prescriptions for Andrea Bullock [05-10-11 to 08-11-11]
- G. Judgment Entry, The State of Ohio vs. Andrea Christine Bullock, Case No. 2010CR0490, Stark County Common Pleas Court [04-06-11]
- H. Letter from Jeff Higginson, LICDC, Glenbeigh to Ohio State Board of Pharmacy [08-31-11]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Andrea Christine Bullock has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-100908-144, effective April 8, 2011.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-26193, held by Andrea Christine Bullock to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Andrea Christine Bullock 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) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before Andrea Christine Bullock's pharmacist identification card is issued. The contract must provide that:
- (1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit 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) Andrea Christine Bullock must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and

- (2) A written description of Andrea Christine Bullock's progress towards recovery and what Andrea Christine Bullock has been doing during the previous three months.
- (C) The State Board of Pharmacy hereby limits Andrea Christine Bullock's practice of pharmacy in that she may not dispense prescriptions for herself or for any member of her family.
- (D) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Andrea Christine Bullock'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) Andrea Christine Bullock may not serve as a responsible pharmacist.
 - (3) Andrea Christine Bullock may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Andrea Christine Bullock must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Andrea Christine Bullock must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Andrea Christine Bullock must abide by the rules of the State Board of Pharmacy.
 - (7) Andrea Christine Bullock must comply with the terms of this Order.
 - (8) Andrea Christine Bullock's license is deemed 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.

Andrea Christine Bullock 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.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Decision of the Board; Brian Joyce seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Keeley presented the Legislative Report.

Mrs. Droz reported on the current status of OARRS.

10:22 a.m. The Board recessed briefly.

10:35 a.m. The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **James C. Burke**, R.Ph. Venetia, Pennsylvania.

11:26 p.m. The hearing ended and the record was closed.

11:26 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. Mitchell and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

11:54 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-036 After votes were taken in public session, the Board adopted the following order in the matter of **James C. Burke**, R.Ph. Venetia, Pennsylvania.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110630-190

in the matter of:

JAMES C. BURKE, R.Ph.

394 Pine Ridge Drive
Venetia, PA 15367

INTRODUCTION

The matter of James C. Burke came for hearing on September 13, 2011, 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.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph. and Michael A. Moné, R.Ph.

James C. Burke was represented by Terri-Lynne B. Smiles. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: James C. Burke, R.Ph., Respondent

Respondent's Witness: James C. Burke, R.Ph., Respondent

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [06-30-11]
1A-1C. Procedurals
2. NABP Official Application for Transfer of Pharmacist License [11-16-10]; Letter from James C. Burke [11-14-10]; Criminal History Record [08-05-09]; Request for Criminal Record Check [08-04-09]; Letter from Jason M. Walsh to Mr. Fred Wagoner [08-12-09]; Order Reinstating License to Unrestricted Status, File No. 02-54-05337, Commonwealth of Pennsylvania [10-31-02]; Consent Agreement and

Order, Commonwealth of Pennsylvania, Bureau of Professional and Occupation Affairs vs. James C. Burke, R.Ph., Docket No. 0511-54-95 [12-30-08];

Respondent's Exhibits:

- A. Order Reinstating License to Unrestricted Status, File No. 02-54-05337, Commonwealth of Pennsylvania [10-31-02];
- B. Order, Commonwealth of Pennsylvania No. (sic) James Conrad Burke, No. 1864 of 1993, Washington County, Pennsylvania Common Pleas Court [06-30-95];
- C. Rules of Criminal Procedure [not dated]

FINDINGS OF FACT

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

- (1) James C. Burke is a registered pharmacist in the states of Pennsylvania and West Virginia, and on or about November 16, 2010, James C. Burke applied for reciprocal registration into the State of Ohio.
- (2) James C. Burke was, on or about June 30, 1995, charged in Washington County, Pennsylvania, of eighteen (18) felony counts of illegally dispensing anadrol and testosterone, Schedule III Controlled Substances, during a nineteen (19) month time period. James C. Burke was placed on a period of probation with conditions.
- (3) James C. Burke was, effective retroactively from October 8, 1996, suspended from the practice of pharmacy for a period of five (5) years by the Pennsylvania Board of Pharmacy. James C. Burke was placed on "restricted" status by the Pennsylvania Board, and restored to unrestricted on October 31, 2002.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) and (3) 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, if committed in Ohio, 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.
- (4) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been disciplined by any board of

pharmacy as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

DECISION OF THE BOARD

On the basis of the Findings of Fact set for above and after consideration of the record as a whole, inasmuch as James C. Burke has sufficiently rehabilitated himself, the State Board of Pharmacy hereby approves the application for reciprocity submitted by James C. Burke and directs James C. Burke to attend the Reciprocity Review session.

Further, the Board places James C. Burke on probation for three years beginning on the effective date of this Order. The terms of probation are as follows:

- (A) James C. Burke may not serve as a responsible pharmacist.
- (B) James C. Burke must not violate the drug laws of Ohio, any other state, or the federal government.
- (C) James C. Burke must abide by the rules of the State Board of Pharmacy.
- (D) James C. Burke must comply with the terms of this Order.
- (E) James C. Burke's license is deemed to be not in good standing until successful completion of the probationary period.
- (F) 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.

James C. Burke 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.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-6/Nay-1).

Troy Gahm moved for Action of the Board; Richard Kolezynski seconded the motion. Motion passed (Aye-4/Nay-3).

11:57 a.m. The Board recessed for lunch.

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

Francine M. Bellofatto	<i>New Jersey</i>	Jennifer Lynn Jukes	<i>Pennsylvania</i>
Renee R. Campbell	<i>Illinois</i>	Lori Ann Kratz	<i>Pennsylvania</i>
Aleda Chen	<i>Indiana</i>	Victor Paul Long, III	<i>California</i>
Kimberly Anne Czajka	<i>Florida</i>	Jason Paul Ott	<i>Arizona</i>
Kristen R. Dubowski	<i>West Virginia</i>	Chelsey Christine Seaman	<i>Pennsylvania</i>
Stephen Blaine Eckstein	<i>Virginia</i>	Carrie Elizabeth Sechler	<i>West Virginia</i>
Ann Marie Fields	<i>Kentucky</i>	Shian-Wen Tu	<i>New Jersey</i>
Mary Ellen Houseman	<i>Indiana</i>	Kristina M. Vartazaryants	<i>Florida</i>
Earl Frank Hussett	<i>Michigan</i>	Michael Woodstuff	<i>West Virginia</i>

- 2:01 p.m. The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Brian Lee Martin**, R.Ph. (03-3-25201) Martinsville, Ohio.
- 3:45 p.m. The hearing ended and the record was closed.
The Board recessed briefly.
- 3:51 p.m. Ms. Lange 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 President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.
- 4:23 p.m. The Executive Session ended and the meeting was opened to the public.
- 4:24 p.m.
R-2012-037 After votes were taken in public session, the Board adopted the following order in the matter of **Brian Lee Martin**, R.Ph. (03-3-25201) Martinsville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090806-009

in the matter of:

BRIAN LEE MARTIN, R.Ph.

1528 Mud Switch Road
Martinsville, Ohio 45146

R.Ph. Number 03-3-25201

INTRODUCTION

The matter of Brian Lee Martin came for hearing on September 13, 2011, 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.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph. and Michael A. Moné, R.Ph.

Brian Lee Martin was represented by Todd W. Newkirk. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Brian Lee Martin, R.Ph., Respondent

Respondent's Witnesses: Brian Lee Martin, R.Ph., Respondent
Tabitha McCracken

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [08-06-09]
1A-1F. Procedurals
2. Indictment, United States vs. Brian L. Martin, Case No. 2:08cr046, U.S. District Court for the Southern District of Ohio [03-11-08]
3. Judgment in a Criminal Case, United States v. Brian L. Martin, Case No. CR-2-08-046, U.S. District Court for the Southern District of Ohio [03-04-09]

Respondent's Exhibits:

- A. Five sheets of patient Medicaid Individual Eligibility History sheets [7-24-08 and 7-30-08]
- B. Excerpted Transcript of the Sentencing, United States of America vs. Brian L. Martin, United States District Court Southern District of Ohio Eastern Division [02-12-09]
- C. One hundred and ten letters of support [09-23-08 to 10-08-08]

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 Brian Lee Martin was originally licensed in the State of Ohio on August 22, 2002 pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Brian Lee Martin was, on or about February 12, 2009, convicted of Medicaid Fraud in the United States District Court, Southern District of Ohio, in violation of Title 18 U.S.C. Sections 1347 and 1035, both felonies. Brian Lee Martin was sentenced to 36 months in federal prison followed by 2 years of supervised probation and a \$3,700.00 fine. United States of America v. Brian L. Martin, Case No. CR-2-08-046.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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 suspends the pharmacist identification card, No. 03-3-25201, held

by Brian Lee Martin and such suspension is effective as of the date of the mailing of this Order.

- (A) Brian Lee Martin, 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) Brian Lee Martin, 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 five years from the effective date of this Order, the Board will reinstate Brian Lee Martin's license to practice pharmacy in Ohio only if the following conditions have been met:

- (A) Brian Lee Martin must show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE) within six months of applying for renewal of his license to practice pharmacy.
- (B) 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.
- (C) Compliance with the terms of this Order.

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 dollars (\$1,000.00) on Brian Lee Martin 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.

Additionally, upon being relicensed, Brian Lee Martin's license to practice pharmacy in Ohio will be placed on probation for a period of five years.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Conclusions of Law; Michael Moné seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Action of the Board; Michael Moné seconded the motion. Motion passed (Aye-5/Nay-2).

4:30 p.m. The Board recessed for the day.

Wednesday, September 14, 2011

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., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph.; and Michael A. Moné, R.Ph.

Mrs. Droz distributed a map detailing non-Ohio patients filling prescriptions for reported drugs at Ohio pharmacies in the period January through June, 2011, and discussed its implications with the Board.

R-2012-038 A request to be registered as a Continuing Pharmacy Education provider was received from **Ohio Department of Mental Health, Office of Support Services; Dr. Edward Charles Payne**, R.Ph. (03-3-22007) Cincinnati, Ohio. After discussion, Mr. Kolezynski moved that the request be approved. Mr. Gahm seconded the motion and it was approved by the Board: *Aye – 5; Nay – 0; Abstain – 1 (Moné)*.

R-2012-039 A request to be registered as a Continuing Pharmacy Education provider was received from **West Chester Hospital; David Kurtzman**, Pharm. D. (03-2-28298) Cincinnati, Ohio. After discussion, Mr. Joyce moved that the request be approved. Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 5; Nay – 0; Abstain – 1 (Moné)*.

R-2012-040 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:

Humana RightSource, Cincinnati, Ohio (02-1972850)
Multiple Locations on the Letter of Request

After discussion, Ms. Lange 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. Gahm and approved by the Board: *Aye – 6*.

R-2012-041 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:

PharMEDium Services, LLC, Sugar Land, Texas (02-1703850)
Abbott Infusion Care, Coshocton, Ohio (02-1991050)

After discussion, Ms. Lange 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. Kolezynski and approved by the Board: *Aye – 6*.

R-2012-042 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:

Central Admixture Pharmacy, City, Ohio (02-1312700)
Abbott Infusion Care, Coshocton, Ohio (02-1991050)

After discussion, Mr. Moné 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. Joyce and approved by the Board: *Aye – 6*.

R-2012-043 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Thomas P. Mullaney**, R.Ph. (03-3-18477) Cincinnati, Ohio, be permitted to be the responsible person for the following sites:

Mullaney's Pharmacy, Cincinnati, Ohio (02-0602900)
Mullaney's LTC Pharmacy, Cincinnati, Ohio (02-1620600)

After discussion, Mr. Joyce moved that the Board approve the request for one year. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

R-2012-044 After discussion, Mr. Gahm moved that **Dr. Mujeeb A. Ranginwala**, Springfield, Ohio, be permitted to withdraw his application for a TDDD License as a pain-management clinic. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 6.

R-2012-045 After discussion, Mr. Joyce moved that **Anthony P. Bertin, D.O.**, Canton, Ohio, be permitted to withdraw his application for a TDDD License as a pain-management clinic. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 6.

R-2012-046 After discussion, Mr. Gahm moved that **Dr. John Johnson**, New Albany, Ohio, be permitted to withdraw his application for a TDDD License as a pain-management clinic. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye* – 6.

R-2012-047 After discussion, Mr. Gahm moved that **Charles J. Kistler, D.O.**, Columbus, Ohio, be permitted to withdraw his application for a TDDD License as a pain-management clinic. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 6.

After considering a request from **G. P. Naum, III, D.O.**, Martins Ferry, Ohio, to withdraw his application for a TDDD License as a pain-management clinic, the Board chose to table the request pending receipt of additional information.

R-2012-048 The Board considered a request from **Sangita Rajbhandari**, pharmacy intern (06-0-09292) Hebron, Kentucky, for permission to extend her internship by one additional year due to extraordinary circumstances. After discussion, Mr. Mitchell moved that **Ms. Rajbhandari's** request be approved. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 6.

Ms. Lange reported that there was no report from the Medical Board Physician-Assistant Policy.

Mr. Keeley and Ms. Lange reported on the current status of the pharmacy technician exams.

There was no report about the Medical Board Prescribing Committee.

Mr. Casar said there was no report from the Nursing Board Committee on Prescriptive Governance.

Mr. Keeley presented the Legislative Report.

R-2012-049 Mr. Moné moved that the Board minutes of August 8-10, 2011, be approved as amended. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 6

9:50 a.m. The Board recessed briefly.

10:03 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 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 Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

11:08 a.m. The Executive Session ended and the meeting was opened to the public. The Board recessed briefly.

11:20 a.m. Ms. Lange 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. Kolezynski and a roll-call vote was conducted by President Casar as follows: Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

11:25 a.m. The Executive Session ended and the meeting was opened to the public.

R-2012-050 Mr. Casar announced that the Board had selected Kyle Parker as Executive Director effective January 1, 2012.

11:26 a.m.

R-2012-051 After having received information and input from the Ohio Attorney General’s Office, the Ohio Department of Rehabilitation and Correction, and representatives from the Federal Drug Enforcement Administration, the Board discussed the matter with staff. Mr. Gahm moved that the following resolution be approved. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 5; Nay – 0; Abstain– 1 (Moné)*

A certified copy of a Death Warrant issued by the Ohio Supreme Court, ordering the execution of an inmate by lethal injection, as provided for in R.C. §2949.22, shall have the same force and effect as a proper order for administration of the drug(s).

The Warden of a state correctional institution designated by the director of rehabilitation and correction as the location for executions, or said Warden’s designee, shall be designated as the Responsible Person on a Terminal Distributor of Dangerous Drugs license and shall ensure proper licensing with the Federal Drug Enforcement Administration if appropriate. The facility may order drugs for use in the execution of a death sentence by lethal injection pursuant to said license(s).

Alternatively, a pharmacist in receipt of said Warden’s order for drugs for use in carrying out a court order for execution shall release the requested drugs pursuant to the direction of the Warden and shall maintain a record of the release for a period of at least three years from the date of the release.

12:10 p.m. Mr. Gahm moved that the Board receive Per Diem as follows:

PER DIEM	07/13	09/12	09/13	09/14	Total
Cain	-	-	1	-	1
Casar	-	1	1	1	3
Gahm	-	1	1	1	3
Joyce	-	1	1	1	3
Lange	-	1	1	1	3
Kolezynski	-	1	1	1	3
Mitchell	1	1	1	1	4
Moné	1	1	1	1	4

Ms. Lange seconded the motion and it was approved by the Board: *Aye – 6*.

12:12 p.m. Ms. Lange 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 October 4, 2011**