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Minutes of the October 11 & 12, 2005
Meeting of the Ohio State Board of Pharmacy

TUESDAY, OCTOBER 11, 2005

9:09 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:

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

Also present were Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; and Sally Ann Steuk, *Assistant Attorney General*.

Mr. Benedict announced that the following settlement agreements were signed by all parties and are now effective:

R-2006-052

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number: D-050324-056

in the matter of:

DONNA RENEE SCHMITTGEN, R.PH.

18525 Lomond Boulevard
Shaker Heights, Ohio 44122

R.Ph. Number 03-1-22839

This Settlement Agreement is entered into by and between Donna Renee Schmittgen 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.

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

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

Whereas, Donna Renee Schmittgen is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 24, 2005 pursuant to Chapter 119. of the Ohio Revised Code, Donna Renee Schmittgen was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Donna Renee Schmittgen requested a hearing; it was scheduled and continued. The March 24, 2005, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Donna Renee Schmittgen was originally licensed by the State of Ohio as a pharmacist on February 27, 1998, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Donna Renee Schmittgen did, on or about January 19, 2004, misbrand a drug, to wit: when Donna Renee Schmittgen received a refill for Rx #1007163, she compounded and dispensed 15 mg/ml of Cytosan Elixir with directions for use to give 10 ml each morning for a 3-year-old patient, a concentration and quantity which had not been specifically prescribed by the physician, resulting in 3.75 times the prescribed daily dose. The patient was subsequently harmed, the extent of which remains unknown. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Donna Renee Schmittgen neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter May 24, 2005; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Donna Renee Schmittgen agrees to the imposition of a monetary penalty of two hundred-fifty dollars (\$250.00) and payment of the monetary penalty is due and owing within thirty (30) days from the effective date of this Agreement. 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, 17th Floor, Columbus, Ohio 43215-6126.
- (B) Donna Renee Schmittgen must obtain, within six months from the effective date of this Order, two hours of continuing pharmacy education (0.2 CEUs) on Medication Errors and (0.1 CEU) on Compounding, which may not also be used for license renewal.

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

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

Donna Renee Schmittgen waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Donna Renee Schmittgen 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/
Donna Renee Schmittgen, R.Ph., Respondent

/d/ 09/10/05
Date of Signature

/s/
Suzanne R. Eastman, President, Ohio State Board of Pharmacy

/d/ 10/11/05
Date of Signature

/s/
Sally Ann Steuk, Ohio Assistant Attorney General

/d/ 10/11/05
Date of Signature

R-2006-053

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number: D-050317-054

in the matter of:

ERIC SHAWN HIZER, R.PH.
6824 Cedar Cove Drive
Centerville, Ohio

R.Ph. Number 03-3-22141

This Settlement Agreement is entered into by and between Eric Shawn Hizer 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.

Eric Shawn Hizer 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. Eric Shawn Hizer 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, Eric Shawn Hizer is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 17, 2005, pursuant to Chapter 119. of the Ohio Revised Code, Eric Shawn Hizer 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. Eric Shawn Hizer requested a hearing; it was scheduled and continued. The March 17, 2005 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Eric Shawn Hizer was originally licensed by the State of Ohio as a pharmacist on February 27,

1997, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.

- (2) Eric Shawn Hizer did, on or about July, 2003, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens' Pharmacy #04976, beyond the express or implied consent of the owner, to wit: Eric Shawn Hizer has admitted to a Board agent that he stole 93 tablets of methocarbamol 500 mg from his employer. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) Eric Shawn Hizer did, on or about July 17, 2004, use a controlled substance when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: though prescribed Xanax, Eric Shawn Hizer ingested 15 to 20 tablets at one time, along with 2 to 3 shots of both Everclear and Tangueray alcohol in an attempt at suicide. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Eric Shawn Hizer did, on or about July 9, 2004, knowingly sell a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: though Eric Shawn Hizer had been prescribed Xanax, he gave 5 tablets to his then-wife, who wanted to try them to see the effects. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.

Eric Shawn Hizer neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 17, 2005; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

The State Board of Pharmacy hereby suspends for one year the pharmacist identification card, Number 03-3-22141, held by Eric Shawn Hizer effective as of the date of the mailing of this Agreement. Further, the Board suspends the suspension and places his identification card on probation for one year, with the following condition:

Eric Shawn Hizer must continue the recommended treatment plan as designed by D. Richard Bromberg, Ph.D. and Dr. Bromberg must provide progress reports and a final report, directly to the Board, at the end of probation or treatment, whichever comes first.

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

Eric Shawn Hizer 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.

Eric Shawn Hizer 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. Eric Shawn Hizer waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

<u>/s/</u> Eric Shawn Hizer, R.Ph., Respondent	<u>/d/ 10/04/05</u> Date of Signature
<u>/s/</u> John P. Carney, Attorney for Respondent	<u>/d/ 10/06/05</u> Date of Signature
<u>/s/</u> Suzanne R. Eastman, President, Ohio State Board of Pharmacy	<u>/d/ 10/11/05</u> Date of Signature
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/ 10/11/05</u> Date of Signature

The Board then discussed a letter from **Charles Wilson**, R.Ph., regarding the circumstances of his reinstatement to the practice of pharmacy. As no official Board action was needed, Board staff was instructed to reply to his questions.

9:26 a.m. Board member James E. Turner, R.Ph., arrived and joined the meeting in progress.

R-2006-054 The Board considered a request from **Michael Linhart**, R.Ph., seeking a payment plan for the \$1,000 fine imposed on him by Board Order. Mr. Linhart asked to be allowed to make 10 payments of \$100.00 each. After discussion, Mr. Turner moved that the Board approve the request. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

9:43 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the 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 Revised Code. The motion was seconded by Mr. Kost and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

10:19 a.m. The Executive Session ended and the meeting was opened to the public.

R-2006-055 Mr. Giacalone moved that the Board accept the proposed Settlement Offer presented in the matter of **Amin J. Abed**, R.Ph. The motion was seconded by Mrs. Gregg and approved by the Board: Aye – 1/Nay – 1.

R-2006-056 Mrs. Gregg then moved that, in consideration of documents submitted to the Board by his attorney, and pursuant to OAC Rule 4729-03-04 (Pharmacy intern identification card renewal), **Matthew Arthur Gildea** be permitted to renew his Pharmacy intern identification card for one additional year only and that he be notified that the internship license will not again be considered for extension. The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 7/Nay – 1.

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

10:31 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Jeffery Kline, R.Ph., Highland Heights.

10:59 a.m. The hearing ended and the record was closed.

11:07 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Matthew P. Bodnar, R.Ph., Toronto.

11:27 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.

11:37 a.m. The Executive Session ended and the hearing continued.

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

12:19 a.m. The Board recessed for lunch.

1:35 p.m. The Board reconvened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

R-2006-057 After a discussion of the draft minutes from the September 13-14, 2005 meeting, Mrs. Gregg moved that the minutes be approved as amended. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

R-2006-058 The Board next considered a request for an exemption to Rule 4729-5-11 (Responsible person) requesting that **Dawn Williams**, R.Ph., be permitted to be the responsible person for the following Terminal Distributor of Dangerous Drugs licenses:

Lorain Correctional Institution: (02-0619400)
Grafton Correctional Institution: (02-0575350)

After discussion, Mr. Braylock moved that the Board approve the exemption for one year. The motion was seconded by Mr. Lipsyc and approved by the Board: Aye – 8.

Board staff discussed a recent site visit conducted as part of the “work-at-home” program of **Medco Health Solutions, Inc.** pursuant to requirements for approval of the program as previously set by the Board. No official action by the Board was required.

R-2006-059 The Board then considered a request from **Asteres** for approval of its Script Center Kiosk. After discussion, Mrs. Gregg moved that the Board find the Script Center Kiosk approvable pending final inspection of the installed product and that the following restrictions on its use be placed on this product such as were previously placed on a similar product sold by the ddn Corporation:

1. The machine is to be accessible only when the pharmacy department is open for business.
2. Access to the machine by both staff and patients must be in compliance with the Board's definition of positive identification (OAC 4729-5-01(N)).
3. Controlled substances may be included in the medications in the machine.
4. The system may be used for both new and refill prescriptions.
5. The system must be physically attached to the Pharmacy Department with access only from inside the business.
6. The system must comply with all of the Board's recordkeeping requirements.
7. The offer to counsel must occur after the patient selects the products to be obtained.

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

The Board then discussed correspondence received from **Kaiser Permanente** regarding the substitution of folic acid products. After discussion, it was determined that no official action needed to be taken by the Board on this issue.

- 2:20 p.m. The Board recessed briefly.
- 2:24 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Anthony Medenhall, R.Ph., Strongsville.
- 3:25 p.m. The hearing ended and the record was closed. The Board recessed briefly.
- 3:35 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk for an adjudication hearing in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of Pamela Sweeney, R.Ph., Indianapolis, IN.
- 4:06 p.m. The hearing concluded and the record was closed. The Board recessed briefly.
- 4:09 p.m. Mr. Giacalone 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 Revised Code. The motion was seconded by Mr. Kost and a roll call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.
- 5:05 p.m. The Executive Session ended and the meeting was opened to the public.
- Mrs. Gregg moved that the Board adopt the following order in the matter of Matthew Bodnar, R.Ph.:

R-2006-060

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050621-064

in the matter of:

MATTHEW P. BODNAR, R.PH.

634 Henry Street

Toronto, Ohio 43964

R.Ph. Number 03-2-24736

INTRODUCTION

The matter of Matthew P. Bodnar came for hearing on October 11, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public member; and James E. Turner, R.Ph.

Matthew P. Bodnar was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Matthew P. Bodnar, R.Ph., Respondent
Caryn Bodnar

State's Exhibits:

1. Reinstatement Hearing Request letter from Matthew P. Bodnar, R.Ph. [06-17-05]
- 1A-1B. Procedurals

2. State Board of Pharmacy Order in re Matthew P. Bodnar, R.Ph. [09-16-04]
3. Four photographs of money and drugs [not dated]
4. Copy of Bureau of Criminal Identification and Investigation Laboratory Report #03-61001 [10-14-03]
5. Indictment, State of Ohio vs. Matthew P. Bodnar, Case Number 2003-CR-306, Columbiana County Common Pleas Court [10-31-03]; Judgment Entry [05-14-04]

Respondent's Exhibits:

- A. State Board of Pharmacy Order in re Matthew P. Bodnar, R.Ph. [09-16-04]
- B. Judgment Entry, State of Ohio vs. Matthew P. Bodnar, Case Number 2003-CR-306, Columbiana County Common Pleas Court [05-18-04]
- C. Trinity Health System Discharge Instructions for Matthew P. Bodnar [10-01-03]
- D. Trinity Behavioral Medicine Substance Abuse Treatment Contract for Matthew Phillip Bodnar [10-06-04]; Eight Redwood Toxicology Laboratory Drug Screen Reports [01-06-05 to 07-28-05]; Three-page Trinity Health System Drug Screen Report [12-07-04]; Eight Treatment Plan Reviews [January 2005 to August 2005]; Authorization for Disclosure of Health Information [10-06-04 to 01-06-05 and 08-11-05 to 11-11-05]
- E. Support Group Attendance Records [10-10-04 to 10-06-05]
- F. Eleven Letters of Support [08-11-05 to 09-21-05]
- G. Continuing Pharmaceutical Education Credits and Certificates [03-17-02 to 08-02-04]
- H. Receipt Number 27687, Columbiana County Adult Probation Department [08-02-05] copy of National City Bank Personal Money Order Number 746847296 [08-29-05]; Receipt Number 49815, Columbiana County Court of Common Pleas, showing zero balance due [06-09-04]
- I. Employee Weekly Earnings and Benefits Statement from Cattrell Companies, Inc. [09-21-05]

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Matthew P. Bodnar has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket Number D-030825-004, effective September 16, 2004.

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, Number 03-2-24736, held by Matthew P. Bodnar to practice pharmacy in Ohio and places Matthew P. Bodnar on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Matthew P. Bodnar 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 his 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. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.
 - (c) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.
- (2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.
- (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
- (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Matthew P. Bodnar 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 Matthew P. Bodnar's progress towards recovery and what Matthew P. Bodnar has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Matthew P. Bodnar'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) Matthew P. Bodnar may not serve as a responsible pharmacist.
 - (3) Matthew P. Bodnar may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Matthew P. Bodnar must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Matthew P. Bodnar must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Matthew P. Bodnar must abide by the rules of the State Board of Pharmacy.
 - (7) Matthew P. Bodnar must comply with the terms of this Order.
- (D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Matthew P. Bodnar is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

The motion was seconded by Mrs. Teater and approved by the Board: *Aye – 6/Nay – 2.*

Mr. Mitchell moved that the Board adopt the following order in the matter of Anthony Mendenhall, R.Ph.:

R-2006-061

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050427-059

in the matter of:

ANTHONY RAY MENDENHALL, R.PH.

13463 Rosewood Lane
Strongsville, Ohio 44136

R.Ph. Number 03-3-18272

INTRODUCTION

The matter of Anthony Ray Mendenhall came for hearing on October 11, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (presiding); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public member; and James E. Turner, R.Ph.

Anthony Ray Mendenhall was represented by John R. Irwin, M.D. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Paul Kover, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Anthony Ray Mendenhall, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [04-27-05]
- 1-1C. Procedurals
2. Notarized Statement of Anthony R. Mendenhall [01-06-05]
3. Twenty-One Photographs [01-07-05 to 01-10-05]
4. CHAN Healthcare Auditors Fax Cover from Michael C. Javorsky [02-07-05]; Pharmacy Review Summary of Employee Purchases for Tony Mendenhall [04-14-04 to 10-12-04]
5. Restitution Agreement for Community Health Partners Regional Medical Center by Anthony R. Mendenhall [01-19-05]
6. Summary Report of Dangerous Drugs Removed by Respondent [04-14-04 to 10-12-04]

Respondent's Exhibit:

- A. Psychological Report of Anthony R. Mendenhall [07-05-05]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Anthony Ray Mendenhall was originally licensed by the State of Ohio on July 30, 1990, pursuant to examination, and is currently licensed to practice pharmacy in the Ohio.
- (2) Anthony Ray Mendenhall did, from on or about April 14, 2004, through December 3, 2004, with purpose to deprive, knowingly obtain or exert control over property of the Community Health Partners, beyond the express or implied consent of the owner, to wit: Anthony Ray Mendenhall has admitted to Board agents that he stole the following merchandise valued at \$2,624.76 during his employment as the pharmacy manager:

Date	Item	Cost
04/14/04	Minimed Insulin Pump Supplies	\$106.81
04/14/04	Batteries, Miscellaneous OTC Medications	24.45
04/16/04	Dental Floss	3.40
04/20/04	OTC Medications	23.73
04/26/04	Pediatric OTC Medications and Formula	67.92
05/11/04	Pull-up Pants	40.40
05/11/04	Bodywash, Shampoo, OTC Medications	39.88
05/21/04	Vitamins, Bug Spray	49.13
06/01/04	Band-Aids, Smoothe	20.08
06/01/04	Ivy Block, OTC Medications	46.53
06/16/04	Gummy Vitamins, One Touch, Glucosamine	186.19
06/21/04	Deodorant, Bodywash, Miscellaneous	15.66
07/09/04	Ear Drops, OTC Mediations, One Touch	92.96
07/21/04	Condoms, Tampons, Razor Blades	38.33
08/02/04	Diapers, Exercise Materials, Miscellaneous	124.79
08/02/04	Batteries, Q-Tips	11.84
08/04/04	Theraband Exercise Band, Gummy Vitamins	67.47
08/11/04	OTC Medications	44.49
08/23/04	Bandages, Hydrogen Peroxide, Ice Paks, Miscellaneous	195.48
08/23/04	Motrin Liquid	11.69
08/23/04	Cotton Products, OTC Medications	28.02
08/30/04	Dressings, Theraband	97.46
09/07/04	Finger Splints, Glucosamine, Dressing Ace	126.43
09/07/04	ASA, OTC Medications, Shampoo	71.77
09/07/04	Razor Blades, Old Spice Products	27.55
09/27/04	Therabands Exercise Band, Diapers, OTC Medications	409.12
10/06/04	Batteries, Air Purifier, EnviroScape Soothing Rains	228.26
10/12/04	Chapstick, Theraband Exercise Band, OTC Medications	88.90
10/15/04	OTC Medications, Theraband Exercise Band	210.64
10/15/04	Theraband	20.35
10/15/04	Theraband Exercise Mat	98.01
12/03/04	Diaper Rash Cream, OTC Medications	7.02
Total		\$2,624.76

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

- (3) Anthony Ray Mendenhall did, from on or about April 14, 2004, through October 12, 2004, with purpose to deprive, knowingly obtain or exert control

over dangerous drugs, property of the Community Health Partners, beyond the express or implied consent of the owner, to wit: Anthony Ray Mendenhall has admitted to Board agents that he stole a 1,000-count bottle of lisinopril 5 mg tablets, 3 bottles of 100-count Avandia 4 mg tablets, and 15 to 16 vials of NovoLog Insulin during his employment as the pharmacy manager. Audits confirm thefts of other dangerous drugs as well. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) 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.

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 adjudicates the matter of Anthony Ray Mendenhall as follows:

- (A) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for three months the pharmacist identification card, Number 03-3-18272, held by Anthony Ray Mendenhall effective as of the date of the mailing of this Order.
 - (1) Anthony Ray Mendenhall, 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.
 - (2) Anthony Ray Mendenhall, 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.
- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand dollars (\$2,000.00) on Anthony Ray Mendenhall and payment of the monetary penalty 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.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Anthony Ray Mendenhall on probation for six months effective upon reinstatement of his identification card. The terms of probation are as follows:
 - (1) The State Board of Pharmacy hereby declares that Anthony Ray Mendenhall'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) Anthony Ray Mendenhall may not serve as a responsible pharmacist.
- (3) Anthony Ray Mendenhall may not, for six months from the effective date of this Order, work in a pharmacy more than 40 hours per week.
- (4) Anthony Ray Mendenhall must not violate the drug laws of Ohio, any other state, or the federal government.
- (5) Anthony Ray Mendenhall must abide by the rules of the State Board of Pharmacy.
- (6) Anthony Ray Mendenhall must comply with the terms of this Order.
- (7) Anthony Ray Mendenhall's license is deemed not in good standing until successful completion of the probationary period.
- (8) 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.

Anthony Ray Mendenhall is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

Mr. Braylock moved that the Board adopt the following order in the matter of Pamela Sweeny, R.Ph.:

R-2006-062

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050518-061

in the matter of:

PAMELA ANN SWEENEY, R.PH.

531 East 56th Street
Indianapolis, Indiana 46220

R.Ph. Number 03-2-17823

INTRODUCTION

The matter of Pamela Ann Sweeney came for hearing on October 11, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public member; and James E. Turner, R.Ph.

Pamela Ann Sweeney was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Timothy J. Benedict, R.Ph.

Respondent's Witness: Pamela Ann Sweeney, R.Ph., Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [05-18-05]
- 1A-1C. Procedurals
2. Ohio State Board of Pharmacy Application for Renewal of a Pharmacist Identification Card Which has Lapsed for More Than Three Years for Pamela Ann Sweeney [05-12-05]
3. Copy of Check Number 1137 made payable to Treasurer, State of Ohio [07-10-99]
4. State of Ohio, Office of the Treasurer notification of returned Check Number 1137 [07-26-99]
5. Ohio State Board of Pharmacy returned check notification to Pamela Ann Sweeney [07-29-99]
6. Letter from Pamela A. Sweeney [06-17-05]

Respondent's Exhibits:

- A1. Indiana Health Professions Bureau license verification Webpage [10-10-05]; Resume of Pamela Sweeney [08-84 to 08-05]
- A2. Copy of First Indiana Bank Certificate of Deposit Account Number 08262306 [07-16-99] and Cashier Check Number 0407826 [07-06-99]; Letter from Bank One to Pamela Sweeney [07-14-99]; First Indiana Bank letter to Pamela Sweeney [07-18-99]; Bank One Transaction History Report [06-17-99 to 07-16-99]; Indy Home Services, Inc. Proposal [06-02-99]
- A3. Three Letters of Support [10-10-05]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Pamela Ann Sweeney was originally licensed by the State of Ohio on July 27, 1989, pursuant to examination, and her license to practice pharmacy in Ohio lapsed on September 15, 1999; however, Pamela Ann Sweeney applied for renewal on or about May 12, 2005. Records further reflect that Pamela Ann Sweeney is licensed in the State of Indiana pursuant to reciprocity.
- (2) Pamela Ann Sweeney did, on or about July 10, 1999, with purpose to defraud, issue a check knowing that it would be dishonored, to wit: Pamela Ann Sweeney issued check number 1137, payable to the "Treasurer of the State of Ohio" for the renewal of her Ohio pharmacist identification card. The check was returned to the Board unpaid; Pamela Ann Sweeney was notified on July 29, 1999, and again on September 29, 1999, but failed to make satisfaction for the check. Such conduct is in violation of Section 2913.11 of the Ohio Revised Code.

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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.

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 Pamela Ann Sweeney as follows:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby approves the renewal of the pharmacist identification card, Number 03-2-17823, held by Pamela Ann Sweeney to practice pharmacy in Ohio.

(B) On the basis of the Findings of Fact and Conclusion of Law set forth above, the State Board of Pharmacy hereby imposes on Pamela Ann Sweeney a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days of the issuance of this Order. The monetary penalty 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.

The motion was seconded by Mr. Kost and approved by the Board: *Aye – 5/Nay – 3*.

R-2006-063

ORDER OF THE STATE BOARD OF PHARMACY

R E S C I N D E D

5:15 p.m. The meeting was recessed until Wednesday, October 12, 2005.

WEDNESDAY, OCTOBER 12, 2005

8:04 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:

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

R-2006-064 The Board considered a request for an exemption from OAC Rule 4729-5-10 (Prescription pick-up station) received from the following site:

Teregen Laboratories (02-1235150)
Various Physician Offices contained in the letter of request

After discussion, Mrs. Gregg moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 7/Nay – 0/Abstain – 1* (Lipsyc).

There was no report on the Medical Board's Prescribing Committee.

There was no report on the Nursing Board's Committee on Prescriptive Governance.

Mrs. Gregg and Mr. Benedict presented their Probationary Report to the Board. There were no items requiring official action by the Board.

Mr. Keeley presented his Legislative Report to the Board.

The Board was joined by Michael J. Smith, Executive V.P. of Sales and Marketing for **Opus Medication Systems** for a presentation of the Opus system of packaging unit dose medications. After the presentation, a decision on the matter was deferred to allow the Board to discuss it at a later time.

- 9:16 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the ORC Chapters 119. and 4729. in the matter of Scott Gray, R.Ph., Silverthorne, CO.
- 9:25 a.m. The hearing ended and the record was closed.
- 9:28 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Revised Code. The motion was seconded by Mr. Kost and a roll-call vote was conducted by President Eastman as follows: Braylock – yes; Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.
- 9:52 a.m. The Executive Session ended and the meeting was opened to the public.

Mr. Braylock moved that the Board approve the following Order in the matter of Scott Gray.

R-2006-065

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050310-049

in the matter of:

SCOTT AARON GRAY, R.PH.

P.O. Box 2793

4040 Silverheels Drive

Silverthorne, Colorado 80498

R.Ph. Number 03-1-23601

INTRODUCTION

The matter of Scott Aaron Gray came for hearing on October 12, 2005 before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Scott Aaron Gray was not present nor was he represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Robert Amiet, Jr., R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [03-10-05]
- 1A-1C. Procedurals
2. Letter from Stephanie Gowins, Complaint Analyst, Colorado State Board of Pharmacy [08-19-04]; Letter of Admonishment [05-21-04]
3. Pharmacist Renewal Form for Scott Aaron Gray [07-02-04]

4. NABP Information Report of Pharmacists Licensed in Ohio Disciplined by Another State [not dated]
5. Letter from Scott A. Gray [04-06-05]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Scott Aaron Gray was originally licensed by the State of Ohio on April 13, 2001, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Scott Aaron Gray did, on or about July 2, 2004, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Scott Aaron Gray indicated on his pharmacist license renewal application that he had not been the subject of disciplinary action by any state or federal agency when in fact he had been formally admonished by the Colorado Board of Pharmacy. Colorado Board of Pharmacy, Case Number 2004-1433. In fact, the Colorado Board Order, dated May 21, 2004, indicated that it was a "disciplinary action." Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSION OF LAW

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 adjudicates the matter of Scott Aaron Gray as follows.

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) on Scott Aaron Gray and payment of the monetary penalty 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.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 7/ Nay – 1.*

9:55 a.m. The Board recessed until the next hearing.

1:10 p.m. The Board reconvened with the following members present: Suzanne R. Eastman, R.Ph., *President*; James E. Turner, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; and Dorothy S. Teater, Public Member.

1:12 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the ORC Chapters 119. and 4729. in the matter of Andrea Lynn Holstein, R.Ph., Dublin.

1:30 p.m. Mr. McMillen met with the candidates for licensure by reciprocity in Room South-A, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio.

R-2005-066 The following candidates for licensure by reciprocity introduced themselves and then participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented with their pharmacist identification cards.

William Boerger	03-3-26957	Maryland
Carrie Louise Brown Liebttag	03-3-26968	Pennsylvania
Angela Turner Cassano	03-3-27021	Virginia
Daniela V. Castaneda	03-3-27024	Texas
Mark Douglas McIntyre	03-3-26991	West Virginia
David Enoch Milhous	03-3-27029	Pennsylvania
Peter George Nasios	03-3-27011	Illinois
Jeffrey Mark Rowe	03-3-27027	Michigan
Ewa Rozanski	03-3-27026	Michigan

2:25 p.m. The hearing in the matter of Andrea Lynn Holstein, R.Ph., ended and the record was closed.

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

3:39 p.m. The Executive Session ended and the meeting was opened to the public.

Mrs. Gregg moved that the Board approve the following Order in the matter of Andrea Holstein:

R-2006-067

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050210-046

in the matter of:

ANDREA LYNN HOLSTEIN, R.PH.

4766 Vista Ridge Drive
Dublin, Ohio 43017

R.Ph. Number 03-3-25659

INTRODUCTION

The matter of Andrea Lynn Holstein came for hearing on October 12, 2005, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Andrea Lynn Holstein was represented by Anthony M. Heald. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: Andrea L. Holstein, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-10-05]
- 1A-1E. Procedurals
 2. Notarized Statement of Andrea L. Holstein [02-02-05]
 3. Drug Accountability Statement at Walgreens #06116 for hydrocodone/APAP 10/500 mg [01-09-05]
 4. Drug Accountability Statement at Walgreens #06116 for hydrocodone/APAP 10/325 mg [01-09-05]
 5. Drug Accountability Statement at Walgreens #06116 for Ambien 10 mg [01-09-05]
 6. Vial of thirteen hydrocodone/APAP 10/325 mg tablets [not dated]
 7. Vial of four Phentermine HCL 37.5 mg tablets [not dated]
 8. Vial of nine carisoprodol 350 mg tablets [not dated]
 9. Four photographs of Andrea L. Holstein [01-10-05]
 10. Four photographs of Andrea L. Holstein [01-19-05]
 11. Notarized Statement of Jason Christopher Stoner [02-02-05]
 12. Rx #65504 [12-01-03]; Rx #69804 [02-08-04]; Rx #78145 [06-27-04]; Rx #80329 [07-30-04]; Rx #81317 [08-16-04]; Rx #92233 [01-24-05]

Respondent's Exhibits:

- A1. PRO Pharmacist's Recovery Contract for Andrea Holstein [05-01-05]
- A2. Support Group Attendance Records [02-07-05 to 10-11-05]; Calendar pages for February 2005 to October 2005
- A3. Letter from Michael D. Quigley, R.Ph. [10-03-05]; Compass Vision Licensee Summary Report [05-27-05 to 08-26-05]; Two-page Compass Vision Drug Panel [not dated]; Northwest Toxicology Drug Screen Reports [09-13-05 and 09-26-05]; National Medical Services Drug Screen Reports [05-27-05 to 08-26-05]; LabOne Drug Screen Reports [09-13-05 to 09-26-05]
- A4. Continuing Pharmaceutical Education Credits and Certificates [08-20-03 to 05-01-05]
- A5. Visa Account Statement showing payment to Civil Recovery Services [03-01-05]; Civil Recovery Services Demand for Payment letter [02-24-05]; Treatment Progress letter from Edna M. Jones, M.D. [09-25-05]; Support Group Attendance Records [04-25-05 to 10-10-05] Seventeen letters of Support [09-26-05 to 10-07-05]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Andrea Lynn Holstein was originally licensed by the State of Ohio on May 13, 2003, pursuant to reciprocity, and that her license to practice pharmacy in Ohio was Summarily Suspended effective February 10, 2005.
- (2) Andrea Lynn Holstein is abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Andrea Lynn Holstein has admitted to a Board agent that she has been stealing controlled substances and abusing them while practicing pharmacy, and Andrea Lynn Holstein has admitted to forging prescriptions to cover for thefts of drugs. Such conduct, indicates that Andrea Lynn Holstein falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

- (3) Andrea Lynn Holstein did, from June 10, 2004, through January 9, 2005, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, by deception, to wit: Andrea Lynn Holstein has admitted to stealing the following controlled substances:

Date	Drug	Qty
06/10/04 to 01/09/05	hydrocodone/APAP 10/500 mg	196
06/10/04 to 01/09/05	hydrocodone/APAP 10/325 mg	379
06/10/04 to 01/09/05	Ambien 10 mg	11

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

- (4) Andrea Lynn Holstein did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, by deception, to wit: Andrea Lynn Holstein was observed on video camera, and Andrea Lynn Holstein has admitted to stealing the following drugs:

Date	Drug	Qty
01/10/05	hydrocodone/APAP 10/325 mg	32
01/19/05	hydrocodone/APAP 10/325 mg	27
01/19/05	Ambien 10 mg	14
01/24/05	hydrocodone/APAP 10/325 mg	17
02/02/05	hydrocodone/APAP 10/325 mg	21
02/02/05	phentermine HCL 37.5 mg	4
02/02/05	carisoprodol 350 mg	9

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

- (5) Andrea Lynn Holstein did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: Andrea Lynn Holstein forged the following documents so as to cover for thefts of the drugs:

Rx#	Drug	Qty	Date
65504	hydrocodone/APAP 10/325 mg	30	12/01/03
69804	hydrocodone/APAP 10/325 mg	30	02/08/04
78145	hydrocodone/APAP 10/325 mg	30	06/27/04
80329	hydrocodone/APAP 10/325 mg	30	07/30/04
81317	hydrocodone/APAP 10/325 mg	30	08/16/04
92233	hydrocodone/APAP 10/325 mg	30	01/24/05

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.

- (6) Andrea Lynn Holstein did, on or about the following dates, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, by deception, to wit: Andrea Lynn Holstein has admitted to stealing the following controlled substances after forging the documents to cover the thefts:

Rx#	Drug	Qty	Date
65504	hydrocodone/APAP 10/325 mg.	30	12/01/03
69804	hydrocodone/APAP 10/325 mg	30	02/08/04
78145	hydrocodone/APAP 10/325 mg	30	06/27/04
80329	hydrocodone/APAP 10/325 mg	30	07/30/04
81317	hydrocodone/APAP 10/325 mg	30	08/16/04
92233	hydrocodone/APAP 10/325 mg	30	01/24/05

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

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (6) 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) through (6) 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 (5) 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 Andrea Lynn Holstein on February 10, 2005.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, Number 03-3-25659, held by Andrea Lynn Holstein and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Andrea Lynn Holstein 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) Andrea Lynn Holstein 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, 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 week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Andrea Lynn Holstein must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Andrea Lynn Holstein must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Andrea Lynn Holstein must also show successful completion of the NAPLEX examination or an equivalent examination approved by the Board.
- (E) Upon such time as the Board may consider reinstatement, Andrea Lynn Holstein will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

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

R-2006-068 Mr. Turner moved that the citation issued to **Matthew Gildea** be withdrawn. Mr. Giacalone seconded the motion and it was approved by the Board: *Aye – 5/Nay – 1.*

R-2006-069 After discussion, Mrs. Gregg then moved that the **Opus Medication System** that had been demonstrated to the Board earlier during the meeting be approved as meeting the requirements of OAC Rule 4729-9-04(A). The motion was seconded by Mr. Turner and approved by the Board: *Aye – 5/Nay – 1.*

3: 52 p.m. Mrs. Teater moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>6/30</u>	<u>10/11</u>	<u>10/12</u>	<u>Total</u>
G. Braylock	1	1	1	3
S. Eastman	-	1	1	2
R. Giacalone	-	1	1	2
E. Gregg	-	1	1	2
L. Kost	-	1	1	2
N. Lipsyc	-	1	1	2
K. Mitchell	-	1	1	2
D. Teater	-	1	1	2
J. Turner	-	1	1	2

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

3: 53 p.m. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 6.

**THE OHIO STATE BOARD OF PHARMACY
APPROVED THESE MINUTES NOVEMBER 7, 2005**