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Minutes of the May 8, 9, & 10, 2006 Meeting of the Ohio State Board of Pharmacy

MONDAY, MAY 8, 2006

9:07 a.m. The Ohio State Board of Pharmacy convened in The Fawcett Center, The Ohio State University, 2400 Olentangy River Road, Columbus, Ohio 43210, 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.; Nathan S. Lipsyc, R.Ph.; and Kevin J. Mitchell, R.Ph.

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

President Eastman introduced Executive Director William T. Winsley and the Board members to the Ohio State University students attending the Board meeting. The Board members and Mr. Winsley then spoke briefly about their positions and backgrounds.

The Legislative Report was presented by Mr. Keeley.

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

10:30 a.m. The Licensing Report was presented by Mr. McMillen.

11:16 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 **Dave Wayne Blackwell**, R.Ph., Land O'Lakes, FL.

11:30 a.m. The hearing ended and the record was closed.

11:31 a.m. Mr. Turner moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; and Turner – yes.

11:54 a.m. The Executive Session ended and the Board recessed for lunch.

1:19 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.; Nathan S. Lipsyc, R.Ph.; and Kevin J. Mitchell, R.Ph.

R-2006-183 Mr. Mitchell moved that the Board adopt the following order in the matter of **Dave Wayne Blackwell**, R.Ph., Land O'Lakes, FL.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060216-061

in the matter of:

DAVE WAYNE BLACKWELL, R.PH.

4626 Tailfeather Court
Land O'Lakes, Florida 34639

R.Ph. Number 03-1-24395

INTRODUCTION

The matter of Dave Wayne Blackwell came for consideration on May 8, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Dave Wayne Blackwell 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: Timothy J. Benedict, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [02-16-06]
1A. Procedural
2. Renewal Application for Pharmacist License of Dave Wayne Blackwell [11-15-05]; Letter from Dave Blackwell, R.Ph. [not dated]; Letter from Joseph Molea, M.D. to Richard Rocha [05-26-05]
3. Wal Mart Stores, Inc. Investigative Report [03-16-06]; Drug Inventory Report [05-01-04 to 01-06-05]
4. Hillsborough County Sheriff's Department Criminal Report Affidavit/Notice to Appear [01-07-05]
5. Information, State of Florida v. David W. Blackwell, Case No. 05-CF-000449, Hillsborough County Thirteenth Circuit Judicial Circuit [01-25-05]; Judgment and Sentence [06-16-05]; Mandatory Costs in all Cases [06-16-05]; Order of Community Supervision [06-16-05]
6. Settlement Agreement, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [01-30-06]

Respondent's Exhibits:

- A. Two letters from Dave Blackwell [03-20-06]; Final Order, State of Florida Department of Health vs. Dave W. Blackwell, R.Ph., Case No. 2005-00455 [02-27-06]; Letter from Debra Troupe, MS, CAP [04-03-06]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Dave Wayne Blackwell was originally licensed by the State of Ohio as a pharmacist on October 25, 2000, pursuant to examination, and that his license was summarily suspended on February 16, 2006.
- (2) On or about June 16, 2005, Dave Wayne Blackwell pled guilty to one count of Trafficking in Illegal Drugs, a criminal offense equivalent to a felony drug abuse offense under Section 2925.03 of the Ohio Revised Code. State of Florida v. David W. Blackwell, Case No. 05-CF-000449, Hillsborough County Circuit Court.
- (3) Dave Wayne Blackwell was, on or about January 30, 2006, disciplined by the Florida State Board of Pharmacy.

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 (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 paragraphs (2) and (3) 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.
- (4) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 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 Dave Wayne Blackwell on February 16, 2006.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy takes the following actions in the matter of Dave Wayne Blackwell:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-24395, held by Dave Wayne Blackwell and such suspension is effective as of the date of the mailing of this Order.

- (1) Dave Wayne Blackwell, 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) Dave Wayne Blackwell, 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) Further, the Board will consider reinstatement provided that Dave Wayne Blackwell personally appears before the State Board of Pharmacy to show Dave Wayne Blackwell's fitness to practice pharmacy.

Upon such time as the Board may consider reinstatement, Dave Wayne Blackwell 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.

Mrs. Gregg seconded the motion and it was approved by the Board: Aye – 5.

- 1:37 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Colleen Megan Garlick**, Intern, Cincinnati, Ohio.
- 3:11 p.m. The hearing ended and the record was closed.
- 3:13 p.m. Mr. Keeley discussed additional Legislative issues with the students.
- 3:40 p.m. The Board adjourned for the day to reconvene Tuesday, May 9, 2006.

TUESDAY, MAY 9, 2006

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:

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.; Nathan S. Lipsyc, R.Ph.; and Kevin J. Mitchell, R.Ph.

- 8:03 a.m. Mr. Turner moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; and Turner – yes.
- 8:11 a.m. Board members Dorothy S. Teater, R.Ph., and Gregory Braylock, R.Ph., arrived and joined the Executive Session in progress. Mrs. Teater, Mr. Braylock and Mr. Kost did not participate in the discussion, or vote in the matter of Colleen Garlick.
- 9:00 a.m. The Executive Session ended and the meeting was opened to the public.

R-2006-184 Mr. Turner moved that the Board adopt the following order in the matter of **Colleen Megan Garlick**, Intern, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050811-016

in the matter of:

COLLEEN MEGAN GARLICK
8305 Rollinhitch Court, #13
Maineville, Ohio 45039

Pharmacy Intern Number 06-0-03856

INTRODUCTION

The matter of Colleen Megan Garlick came for hearing on May 8, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and James E. Turner, R.Ph.

Colleen Megan Garlick was represented by David W. Grauer. The State Of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Ann Abele, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Colleen Garlick, Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [08-11-05]
1A-1D. Procedurals
2. Blue Ash Police Department Traffic Citation No. 04 95623 4 [02-29-04];
Intoxilyzer 5000 Subject Test Form [02-29-04]
3. Journal Entry, State of Ohio vs. Colleen M. Garlick, Case No. C-04-TRC-
8814B, Hamilton County Municipal Court [08-25-04]
4. Hamilton County Probation Violation Citation No. 80C 62658 [01-10-05]
5. Hamilton County Forensic Laboratory Drug Screen Report [01-26-05]
6. Journal Entry [02-04-05]
7. Letter from Colleen Garlick [02-14-05]
8. Facsimile from David Kiser, Hamilton County Probation Department [02-15-
05]
9. Notarized Statement of David Kiser [03-15-05]
10. Renewal Application for Intern License for Colleen Megan Garlick [08-30-04]
11. Computer E-mail letter from Colleen Garlick to Ann Abele [02-19-05]
12. Computer E-mail letter from Colleen Garlick to Ann Abele [02-21-05]

Respondent's Exhibits:

- A. The Talbert House Driver Intervention Program letter from Ms. W. Hillman
[04-12-06]; Assessment Results for Colleen Garlick [09-19-04]
- B. The Crossroads Center Certificate of Completion [07-07-05]; Letter from
Shirley A. Middleton, MSW, LSW, CCDCIIIIE [04-26-06]
- C. Letter from David Kiser, Hamilton County Probation Officer [05-02-06]
- D. Drug Screen Reports [09-02-04 to 10-21-05]
- E. Four Letters of Recommendation [03-14-06 to 04-10-06]
- F. Rotation Evaluations [06-27-05 to 03-06-06]
- G. Resume of Colleen Garlick, Pharm. D. Candidate
- I. List of Projects completed by Colleen Garlick [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) Records of the State Board of Pharmacy indicate that Colleen Megan Garlick was originally licensed by the State of Ohio as a Pharmacy Intern on June 17, 2002.
- (2) Colleen Megan Garlick was, on or about August 24, 2004, convicted of Operating a Vehicle while under the Influence of Alcohol and/or Drugs in violation of Section 4511.19 of the Ohio Revised Code, a misdemeanor of the first degree. State of Ohio v Colleen M. Garlick, Case No. 04 TRC 8814, Hamilton County Municipal Court. Colleen Megan Garlick was placed on probation, and was subsequently given additional sanctions for having been found guilty of violating her probation on February 4, 2005. Such conduct indicates that Colleen Megan Garlick is guilty of gross immorality within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Colleen Megan Garlick did, on or about August 30, 2004, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Colleen Megan Garlick indicated on her pharmacy intern application that she had not been charged with a crime when in fact she had been convicted of a violation of Section 4511.19 of the Ohio Revised Code. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Colleen Megan Garlick did, on or about January 26, 2005, knowingly possess and use a controlled substance when the conduct was not in accordance with Chapters 3719, 4729., and 4731. of the Ohio Revised Code, to wit: Colleen Megan Garlick tested positive for having consumed cocaine. Colleen Megan Garlick admitted her conduct to her probation officer and the court, and she admitted to a Board agent to having used cocaine on two occasions. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitutes abusing liquor or drugs as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes committing fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the Board under the provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby denies Colleen Megan Garlick admission to the licensure examination for a period of six months from the date of the Board Order.

Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 5/Abstain – 3.*

Following a discussion concerning dates for the June and November, 2006 Board meetings, the calendar was revised to reflect the elimination of Wednesday, June 7 and Wednesday, November 8 from the meeting schedule.

9:05 a.m. The Board recessed briefly.

9:13 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Patrica Ann Flack**, R.Ph., Springfield, Ohio.

9:30 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. 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; Turner – yes; and Teater – yes.

9:35 a.m. The Executive Session ended and the hearing resumed. President Eastman stated that the information submitted by Patrica Flack was insufficient for the Board to proceed. Therefore, the matter was continued until a later date.

R-2006-185 The Board considered a request for an exemption to OAC Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Teregen Laboratories (02-1235150)
Various Physician Offices listed on letter of request

After discussion, Mrs. Gregg moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Kost and approved by the Board: *Aye – 8.*

Mr. Winsley reported that the appointment to the Clinical Pharmacist seat on the Nursing Board's Committee on Prescriptive Governance was still in process.

R-2006-186 Mrs. Gregg moved that the meeting minutes of April, 2006 be approved as amended. The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 8.*

9:58 a.m. The Board recessed briefly.

10:09 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Timothy S. MacTaggart**, Akron, Ohio.

11:50 a.m. The hearing ended and the Board recessed for lunch.

1:30 p.m. The Board reconvened in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present.

R-2006-187 The following candidates for licensure by reciprocity introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Sanjay Kumar Birru	03-3-27074	Maryland
Kirt Edward Brown	03-3-27168	Texas
Dorae Christina Bush	03-3-27145	Louisiana
Douglas Charles Callihan	03-3-27170	Michigan
Louise Ava Callihan	03-3-27171	Michigan
Reginald Allan Carey	03-3-27150	Oregon

Andrew John Frasco	03-3-27156	Virginia
Anthony Mason Hughes	03-3-27148	Arkansas
Catherine Pearl Janney	03-3-27146	Indiana
Matthew Ryan Knisley	03-3-27185	Indiana
Sirisha Namburi	03-3-27154	Maryland
Tarun R. Patel	03-3-27147	Texas

1:51 p.m. The Board then 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.

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

1:57 p.m. The Executive Session ended and the meeting was opened to the public.

R-2006-188 Mr. Kost moved that the Board adopt the following order in the matter of **Timothy S. MacTaggart**, Akron, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050908-026

in the matter of:

TIMOTHY SCOTT MACTAGGART

54 Kenilworth Drive
Akron, Ohio 44313

INTRODUCTION

The matter of Timothy Scott MacTaggart came for hearing on May 9, 2006, 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.

Timothy Scott MacTaggart was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: George Pavlich, Ohio State Board of Pharmacy

Respondent's Witness: Timothy S. MacTaggart, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [09-08-05] 1A-1C. Procedurals
2. State Board of Pharmacy Order in re Timothy Scott MacTaggart, R.Ph. [05-05-93]
3. Application For Examination As A Pharmacist with attachments submitted by Timothy Scott MacTaggart [08-29-05]
4. Summit County Coroner's Report of Investigation in re Ferdinand Montanino, Jr. [12-30-90]
5. Two-page Prescription Dispensing Chart [not dated]

6. Friendly Drug Tax Insurance Summary for Fred Montanino [10-12-89 to 10-12-90]
7. Friendly Drug Tax Insurance Summary for Fred Montanino [01-01-90 to 01-14-91]
8. Complaint, State of Ohio vs Timothy Scott MacTaggart, Case No. B93-6-747, Wayne County Municipal Court [06-11-93]
9. Indictment, State of Ohio vs Timothy Scott MacTaggart, Case No. 93-CR-121, Wayne County Common Pleas Court [09-13-93]; Judgment Entry Change of Plea [11-10-93]; Judgment Entry Sentencing and Probation [12-16-93]

Respondent's Exhibits:

- A. Fifteen Letters of Support [03-24-06 to 05-08-06]; Description of TSM Consulting [not dated]

DECISION OF THE BOARD

Pursuant to Section 4729.08 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card and, therefore, denies the Application for Examination as a Pharmacist submitted by Timothy Scott MacTaggart on or about August 29, 2005.

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

Mr. Braylock left the meeting to attend the Accreditation Council for Pharmacy Education Survey at the University of Findlay.

2:05 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Tim Ivan Miller**, R.Ph., of Akron, Ohio.

2:55 p.m. The hearing ended and the record was closed.

The Nursing Board's Committee on Prescriptive Governance Report will be heard at the June Board meeting so that Mr. Braylock may participate in the discussion.

Mr. Keeley reported on a recent meeting with Representative Earl J. Martin, District 57, concerning the addition of an amendment to HB524.

3:28 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **James M. Rossellit, Jr.**, D.O., R.Ph., Tipp City, Ohio.

4:13 p.m. The hearing ended and the record was closed.

4:14 p.m. Mr. Mitchell moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Kost and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.

4:19 p.m. The Executive Session ended and the meeting was opened to the public.

R-2006-189 Mr. Giacalone moved that the Board adopt the following order in the matter of **Tim Ivan Miller**, R.Ph., West Lafayette, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050701-001

in the matter of:

TIM IVAN MILLER, R.PH.
660 East Russell Avenue
West Lafayette, Ohio 43845

R.Ph. Number 03-3-11708

INTRODUCTION

The matter of Tim Ivan Miller came for consideration on May 9, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); 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.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Tim Ivan Miller 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: Tim Ivan Miller, R.Ph., Respondent
Larry Shaffer, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Tim Ivan Miller [06-23-05]
1A-1C. Procedurals
2. State Board of Pharmacy Order in re Tim Ivan Miller, R.Ph. [05-06-04]
3. Notarized Statement of Tim I. Miller [12-05-03]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Tim I. Miller [09-15-04]
- B. Drug Screen Reports [10-27-04 to 04-26-06]
- C. Calendar Pages for September 2004 through May 2006; Support Group Attendance Records [09-12-04 to 05-07-06]
- D. Shepherd Hill Progress Report Letter [04-05-06]; Recovery Plan [09-10-04]
- E. Restitution Documentation letter [04-24-06]; Judgment Entry, State of Ohio vs. Timothy I. Miller, Case 04-CR-059, Coshocton County Common Pleas Court [06-11-04]
- F. Judgment Entry [06-11-04]; Judgment Entry [06-30-05]; Letter from Darin J. Desender, State Parole Officer [06-28-05]
- G. Two Letters of Support [04-17-06 and 05-05-06]
- H. Continuing Pharmaceutical Education Credits and Certificates [04-14-05 to 02-09-06]

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 Tim Ivan Miller has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-031224-049, effective May 6, 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, No. 03-3-11708, held by Tim Ivan Miller to practice pharmacy in Ohio with the stipulation that Tim Ivan Miller shall be on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Tim Ivan Miller must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office 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. 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 to the Board, reports in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Tim Ivan Miller 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 Tim Ivan Miller's progress towards recovery and what Tim Ivan Miller 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 Tim Ivan Miller'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) Tim Ivan Miller may not serve as a responsible pharmacist.
 - (3) Tim Ivan Miller may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Tim Ivan Miller must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Tim Ivan Miller must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Tim Ivan Miller must abide by the rules of the State Board of Pharmacy.
 - (7) Tim Ivan Miller 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.

Tim Ivan Miller 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.

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

R-2006-190 Mr. Turner moved that the Board adopt the following order in the matter of **James Rosselit, Jr.**, D. O., R.Ph., Tipp City, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060406-068

in the matter of:

JAMES M. ROSSELIT, JR., D.O., R.PH.

7890 Winding Way South
Tipp City, Ohio 45371

R.Ph. No. 03-2-16535

INTRODUCTION

The matter of James M. Rosselit, Jr. came for hearing on May 9, 2006, 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.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public member; and James E. Turner, R.Ph.

James M. Rosselit, Jr. was represented by Douglas E. Graff. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witness: James M. Rosselit, Jr., D.O., R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request letter from Douglas E. Graff, Esq. [04-06-06]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re James M. Rosselit, Jr., D.O., R.Ph. [05-15-03]
3. State Medical Board Consent Agreement in re James M. Rosselit, Jr., D.O. [02-13-03]

Respondent's Exhibits:

- A. Letter of Compliance from the Ohio Medical Board of Ohio [05-03-06]; State Medical Board of Ohio Consent Agreement Step I re James M. Rosselit, Jr., D.O. [02-13-03]; State Medical Board of Ohio Consent Agreement Step II re James M. Rosselit, Jr., D.O. [03-10-04]
- B. Decision and Order of Intervention in Lieu of Conviction, State of Ohio vs James Rosselit, Montgomery County Common Pleas Court [04-23-03]
- C. Treatment Compliance letter from David D. Goldberg, D.O. [04-13-06]
- D. Treatment Compliance letter from R. Jason Jones, MA, LICDC, PC, LSW [04-18-06]; Ohio Physicians Effectiveness Program, Inc. Advocacy Contract for James Rosselit, D.O. [03-17-03]; Three Drug Screen Reports [04-11-06 to 04-26-06]; Fourteen Status Reports [05-07-03 to 01-30-06]
- E. Treatment Compliance letter from R. Jason Jones, MA, LICDC, PC, LSW [04-18-06]; Drug Screen Reports [07-11-05 to 04-05-06]; Computer E-Mail letter between James M. Rosselit Jr. D.O. and Danielle Bickers [06-21-05 and 06-30-05]; Drug Screen Reports [03-12-03 to 06-28-05]
- F. Support Group Attendance Records [01-31-05 to 04-28-06]
- G. C.P.E. Report Form for James M. Rosselit [04-30-06]; Continuing Pharmaceutical Education Credits and Certificates [05-03-04 to 04-30-06]
- H. Support Group Attendance Records [02-08-03 to 05-06-06]

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 James M. Rosselit has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-030305-003, effective May 15, 2003.

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. 03-2-16535, held by James M. Rosselit to practice pharmacy in Ohio with the stipulation that James M. Rosselit shows continuous compliance with his March 10, 2004 State Medical Board of Ohio Consent Agreement. In order to show compliance, James M. Rosselit must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year until the termination of his Medical Board agreement) that states that he remains in compliance with his Medical Board Consent Agreement.

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

4:25 p.m. The Board adjourned for the day to reconvene Wednesday, May 10, 2006.

WEDNESDAY, MAY 10, 2006

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:

James E. Turner, R.Ph., *Vice-President*; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Lawrence J. Kost, R.Ph.; Nathan S. Lipsyc, R.Ph.; and Kevin J. Mitchell, R.Ph.

Vice-President Turner opened the meeting.

R-2006-191 The Board considered a request for an exemption to OAC Rule 4729-5-11 (Responsible person) requesting that **David Ely**, R.Ph., be permitted to be the responsible person for the following sites:

Rite Aid #4748 (02-0102270)

Rite Aid #3134 (02-0355450)

After discussion, Mrs. Gregg moved that the Board approve the request for 120 days. The motion was seconded by Mr. Kost and approved by the Board: *Aye* – 6.

8:39 a.m. President Eastman arrived and assumed the Chair.

R-2006-192 The Board considered a request for an exemption to OAC Rule 4729-5-11 (Responsible person) requesting that **Charles Pearlmutter**, R.Ph., be permitted to be the responsible person for the following sites:

Hillmed Pharmacy (license pending)

Hillmed Home Medical Systems (02-0592900)

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

8:40 a.m. Board member Dorothy S. Teater arrived and joined the meeting in progress.

R-2006-193 The request for approval of a central-fill system by **Smart-Fill Pharmacy**, Austin, MN was held pending receipt of additional information.

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

9:06 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Frank James Szep**, Erie, PA.

10:20 a.m. The hearing ended and the meeting was opened to the public.

10:30 a.m. Mr. Lipsyc 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 Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Turner – yes; and Teater – yes.

10:50 a.m. The Executive Session ended and the meeting was opened to the public.

R-2006-194 Mrs. Gregg moved that the Board adopt the following order in the matter of **Frank Szep**, Erie, PA.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-050428-060

in the matter of:

FRANK JAMES SZEP, R.PH.
4149 Magnolia Blossom Drive
Erie, Pennsylvania 16510

INTRODUCTION

The matter of Frank James Szep came for hearing on May 10, 2006, 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.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Frank James Szep was represented by Douglas E. Graff. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: William F. McMillen, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Frank James Szep, R.Ph., Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity For Hearing letter [04-28-05] 1A-1D. Procedurals
2. State Board of Pharmacy Order in re Frank James Szep [11-09-89]
3. State Board of Pharmacy Order in re Frank James Szep [04-30-92]
4. State Board of Pharmacy Order in re Frank James Szep [08-15-94]
5. State Board of Pharmacy Order in re Frank James Szep [10-29-96]
6. Decision, Szep v. Ohio State Bd. of Pharmacy, (1995), 106 Ohio App.3d 621 [10-16-95]
7. Application for Pharmacy Intern Registration submitted by Frank James Szep [05-12-95]

Respondent's Exhibits:

- A. Proposal to Deny/Notice of Opportunity For Hearing letter [04-28-05]
- B.
- C. Copy of Commonwealth of Pennsylvania Pharmacist Identification Card [Expiration Date 09-30-2006]; Letter from Frank J. Szep, R.Ph. to Melanie Zimmerman [09-13-01]; Letter from Melanie Zimmerman, R.Ph. to Frank Szep [09-25-01]; Waiver for Information [10-11-01]
- D. Indiana State Board of Pharmacy Licensure Information [06-10-04]; Letter from Thomas A. Christy to Frank James Szep, R.Ph. [05-23-01]; Letter from J. Jeremy Crouch to Frank J. Szep (sic), R.Ph. [06-03-02]
- E. Four Drug Screen Reports [02-07-92 to 03-29-06]
- F. Continuing Pharmaceutical Education Credits and Certificates [03-17-98 to 11-18-05]
- G. Northeast Indiana Pharmacists Association Certificate of Recognition [2000]
- H. Two Letters of Support [04-25-06 and 04-27-06]

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 Frank James Szep qualifies for reciprocal registration.

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 application for reciprocity, and directs Frank James Szep to attend the Reciprocity Review session. Information regarding attendance is enclosed herewith.

Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 6/Nay – 1*.

R-2006-195 After discussion, Mrs. Teater moved that the Board summarily suspend the license to practice pharmacy belonging to **Corey Y. Thompson**, R.Ph. (03-3-23719), Ashland, Ohio, pursuant to Ohio Revised Code 3719.121(A) and 3719.121(B). The motion was seconded by Mr. Turner and approved by the Board: *Aye – 7*.

R-2006-196 After discussion, Mr. Mitchell moved that the Board summarily suspend the license to practice pharmacy belonging to **Christopher Ball**, Intern, (06-0-03830), Cincinnati, Ohio, pursuant to Ohio Revised Code 3719.121(A). The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 7*.

R-2006-197 After discussion, Mrs. Gregg moved that the Board summarily suspend the license to practice pharmacy belonging to **Lisa Ann Baker**, R.Ph. (03-2-15516), Bolivar, Ohio, pursuant to Ohio Revised Code 3719.121(A) and 3719.121(B). The motion was seconded by Mr. Mitchell and approved by the Board: *Aye – 7*.

11:02 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Gregory S. Mills**, R.Ph., Chillicothe, Ohio.

12:06 p.m. The hearing ended and the record was closed.

12: 07 p.m. The Board recessed for lunch.

1:22 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.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; and Dorothy S. Teater, Public Member.

The Board approved the revised Pseudoephedrine Laws Compliance Bulletin to be posted on the Board's web site.

Mr. Keeley presented a Legislative Report update on HB524.

R-2006-198 After discussion, Mr. Mitchell moved that the **iMedica** electronic prescription transmission system be approved pending final inspection. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye – 7*.

1:36 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Janet Ann Berrett**, R.Ph., Pepper Pike, Ohio.

Mr. Kost recused himself from the hearing and vote.

- 2:23 p.m. The hearing ended and the record was closed. The Board recessed briefly.
- 2:40 p.m. Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Eastman as follows: Giacalone – yes; Gregg – yes; Kost – yes; Lipsyc – yes; Mitchell – yes; Teater – yes; and Turner – yes.
- 2:42 p.m. Mr. Kost left the Executive Session during the deliberations in the matter of Janet Ann Berrett.
- 2:56 p.m. Mr. Kost returned to the Executive Session.
- 4:07 p.m. The Executive Session ended and the meeting was opened to the public.

R-2006-199 Mrs. Gregg moved that the Board adopt the following order in the matter of **Janet Ann Berrett, R.Ph., Pepper Pike, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060216-070

in the matter of:

JANET ANN BERRETT, R.PH.

29276 Bolingbrook Road
Pepper Pike, Ohio 44124

R.Ph. Number 03-2-12876

INTRODUCTION

The matter of Janet Ann Berrett came for hearing on May 10, 2006, before the following members of the Board: Suzanne R. Eastman, R.Ph. (*presiding*); Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Janet Ann Berrett 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: Janet Ann Berrett, R.Ph., Respondent
Ruth Easton
Terry Berrett

State's Exhibits:

1. Reinstatement Hearing Request letter from Janet A. Berrett [02-16-06]
1A-1B. Procedurals
2. Notarized Statement of Janet A. Berrett [08-23-05]
3. Glenbeigh Health Sources Intensive Outpatient Treatment Plan for Janet Berrett [07-28-05]
4. Notarized Statement of Reneé Mills [07-20-05]
5. Statement of Marie Groth [07-22-05]
6. Giant Eagle Advantage Card transaction report [06-01-05]
7. Rx #6014104 [06-01-05]; Rx #6014105 [06-01-05]; Rx #6014110 [06-01-05]

8. State Board of Pharmacy Order in re Janet Ann Berrett, R.Ph. [02-13-06]

Respondent's Exhibits:

- A. Letter from Janet Berrett [not dated]
- B. Letter from Robin Zizzo [05-05-06]
- C. Letter from Ruth Arnoff Easthon [05-03-06]
- D. Glenbeigh Hospital and Outpatient Centers 2005 and 2006 Attendance Records [08-01-05 to 05-05-06]
- E1-E2. Support Group Attendance Records [09-01-05 to 12-31-05]
- F1-F4. Support Group Attendance Records [01-01-06 to 05-05-06]

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 Janet Ann Berrett has appeared before the Board as required by the Order of the State Board of Pharmacy, Docket No. D-050916-031, effective February 13, 2006.

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 Janet Ann Berrett as follows:

- (A) On the basis of the Finding of Fact, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-2-12876, held by Janet Ann Berrett (for three additional months) effective as of the date of the mailing of this Order.
 - (1) Janet Ann Berrett, 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) Janet Ann Berrett, 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.
- (B) On the basis of the Finding of Fact, the State Board of Pharmacy hereby places Janet Ann Berrett on probation for five years effective upon reinstatement of her identification card. The terms of probation are as follows:
 - (1) Janet Ann Berrett must continue to attend at least three meetings per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group.
 - (2) Janet Ann Berrett 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:
 - (a) A written description of Janet Ann Berrett's progress towards recovery and what Janet Ann Berrett has been doing during the previous three months, and

- (b) Copies of signed documentation of attendance as required in paragraph (1)
- (3) The State Board of Pharmacy hereby declares that Janet Ann Berrett'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.
 - (4) Janet Ann Berrett may not serve as a responsible pharmacist.
 - (5) Janet Ann Berrett may not destroy, assist in, or witness the destruction of controlled substances.
 - (6) Janet Ann Berrett must not violate the drug laws of Ohio, any other state, or the federal government.
 - (7) Janet Ann Berrett must abide by the rules of the State Board of Pharmacy.
 - (8) Janet Ann Berrett must comply with the terms of this Order.
 - (9) Janet Ann Berrett's license is deemed not in good standing until successful completion of the probationary period.
 - (10) 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.

Janet Ann Berrett 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

Mr. Giacalone seconded the motion and it was approved by the Board: *Aye – 5/Nay – 1/Abstain – 1.*

R-2006-200 Mrs. Gregg moved that the Board adopt the following order in the matter of **Gregory Mills**, R.Ph., Chillicothe, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-051110-045

in the matter of:

GREGORY SCOTT MILLS, R.PH.

1911 Western Avenue, #4D

Chillicothe, Ohio 45601

R.Ph. Number 03-1-17638

INTRODUCTION

The matter of Gregory Scott Mills came for hearing on May 10, 2006, 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.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Dorothy S. Teater, Public Member; and James E. Turner, R.Ph.

Gregory Scott Mills 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 Witness: Gregory Scott Mills, R.Ph., Respondent

State's Exhibits:

1. Reinstatement Hearing Request letter from Gregory S. Mills [11-08-05]
A-1B. Procedurals
2. State Board of Pharmacy Order in re Gregory Scott Mills, R.Ph. [03-06-03]
3. Notarized Statement of Regina Dunn [03-08-02]
4. Indictment, State of Ohio vs. Gregory S. Mills, Case No. 02 CR 158, Ross County Common Pleas Court [06-14-02]; Defendant's Guilty Plea and Waiver [09-05-02]; Petition to Enter Guilty Plea [09-13-02]; Entry [09-13-02]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Gregory Mills [03-18-03]
- B. List of Chillicothe AA Meetings [08-01-05]; Support Group Attendance Records [03-21-03 to 05-09-06]
- C. Ohio Pharmacists Rehabilitation Organization Inc. Licensee Summary Reports [07-24-03 to 08-26-05]; Drug Panel [not dated]; Northwest Toxicology Drug Test Results [09-12-05 to 04-11-06]; Chillicothe, OH VAMC Drug Screen Reports [04-29-02 to 06-03-05]
- D. Psychological Evaluation and Progress Notes [05-02-03 to 04-27-06]
- E. Treatment Compliance Letter from Judith L. Clark, M.S.W., L.I.S.W. [05-03-06]; Letter from Gregory S. Mills [04-14-06]; Letter from Sharon Seekatz and Carol Jacobs [09-19-02]; Behavior Treatment Plan [08-16-02]; Domiciliary Discharge Note [03-14-03]; Program Participation Agreement, Behavior Treatment Plan, Aftercare Agreement and Aftercare Treatment Plan [08-20-02 to 11-18-03]; Letter from Sandra Johnson [04-19-06]
- F. Journal Entry, State of Ohio vs Gregory Mills, Case No. 02-CR-158, Ross County Common Pleas Court [09-15-04]
- G. Three Letters of Support [04-14-06 to 04-30-06]
- H. Continuing Pharmaceutical Education Credits and Certificates [05-01-05 to 04-30-06]

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 Gregory Scott Mills has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-020326-048, effective March 6, 2003.

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. 03-1-17638, held by Gregory Scott Mills to practice pharmacy in Ohio with the stipulation that Gregory Scott Mills shall be on probation for ten years beginning on the effective date of this Order, with the following conditions:

- (A) Gregory Scott Mills must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and

Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office 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) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but the test must be conducted by an appropriately certified individual within twelve hours of notification.
 - (c) Results of all drug and alcohol screens must be negative. Refusal of a 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 to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Gregory Scott Mills 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 Gregory Scott Mills' progress towards recovery and what Gregory Scott Mills 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 Gregory Scott Mills' 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) Gregory Scott Mills may not serve as a responsible pharmacist.
 - (3) Gregory Scott Mills may not destroy, assist in, or witness the destruction of controlled substances.

- (4) Gregory Scott Mills must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
- (5) Gregory Scott Mills must not violate the drug laws of Ohio, any other state, or the federal government.
- (6) Gregory Scott Mills must abide by the rules of the State Board of Pharmacy.
- (7) Gregory Scott Mills must comply with the terms of this Order.

Gregory Scott Mills 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.

Mr. Lipsyc seconded the motion and it was approved by the Board: *Aye – 5/Nay – 2.*

R-2006-201 Mr. Lipsyc moved that the Board accept the Settlement Offer presented in the matter of **Phillip Brian Smith**, R.Ph., Canal Winchester, Ohio. The motion was seconded by Mr. Turner and approved by the Board: *Aye – 7.*

R-2006-202 Mr. Rowland announced that the following Settlement Agreement with **Robert W. Carter**, R.Ph., Beavercreek, Ohio, had been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-060112-056

in the matter of:

ROBERT W. CARTER, R.PH.
1863 Rich Court
Beavercreek, Ohio 45432

R.Ph. Number 03-3-14529

This Settlement Agreement is entered into by and between Robert W. Carter 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.

Robert W. Carter 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. Robert W. Carter 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, Robert W. Carter is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 12, 2006, pursuant to Chapter 119. of the Ohio Revised Code, Robert W. Carter 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. Robert W. Carter requested a hearing; it was scheduled. The January 12, 2006, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Robert W. Carter was originally licensed by the State of Ohio as a pharmacist on March 5, 1982, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Robert W. Carter did, on or about September 23, 2005, prior to dispensing a prescription to an in-patient, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Robert W. Carter failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Specifically, Robert W. Carter incorrectly entered an order for glyburide into the medication profile, and he did not check the profile so as to prevent his mistake. The patient received the drug, which had been intended for another patient, and was harmed. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

Robert W. Carter neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 12, 2006; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

Robert W. Carter agrees to the imposition of a monetary penalty of two hundred-fifty dollars (\$250.00), due and owing within thirty (30) days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

Robert W. Carter 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.

Robert W. Carter 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. Robert W. Carter 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/ Robert W. Carter, R.Ph., Respondent	/d/ 04/28/06 Date Signed
/s/ Catherine M. Ballard, Attorney for Respondent	/d/ 05/04/06 Date Signed
/s/ Suzanne R. Eastman, President, Ohio State Board of Pharmacy	/d/ 05/10/06 Date Signed
/s/ Sally Ann Steuk, Ohio Assistant Attorney General	/d/ 05/10/06 Date Signed

4:08 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>04/08</u>	<u>04/09</u>	<u>04/10</u>	<u>04-11</u>	<u>Total</u>
G. Braylock	-	1	1	1	3
S. Eastman	1	1	1	-	3
R. Giacalone	1	1	1	-	3
E. Gregg	1	1	1	-	3
L. Kost	-	1	1	-	2
N. Lipsyc	1	1	1	-	3
K. Mitchell	1	1	1	-	3
D. Teater	-	1	1	-	2
J. Turner	1	1	1	-	3

Mr. Lipsyc seconded the motion and it was approved by the Board: Aye – 7.

4:08 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mr. Kost and approved by the Board: Aye – 7.

The Ohio State Board of Pharmacy
approved these Minutes June 6, 2006