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Minutes of the April 9-11, 2007 Meeting of the Ohio State Board of Pharmacy

MONDAY, APRIL 9, 2007

9:00 a.m. The Ohio State Board of Pharmacy convened in Room 2592, of the University of Toledo Student Union, Toledo, Ohio with the following members present:

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

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*.

The Board members introduced themselves to the attendees.

Mr. Turner and Mr. Winsley gave a brief overview of the Board and its activities.

Mr. McMillen discussed the Licensing Report and Mr. Keeley discussed several items on the Legislative Report with the Board and the attendees.

9:55 a.m. The Board recessed briefly.

10:13 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 **Jennifer Ann Mender**, R.Ph., (03-2-26140), Logan, Ohio.

11:37 a.m. The hearing ended and the Board recessed for lunch.

1:10 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 **Daniel J. Huffman**, R.Ph., (03-2-23577), Warren, Ohio.

2:45 p.m. The hearing was stopped because of recording equipment difficulties.

2:50 p.m. Mr. Winsley continued the discussion of the Legislative Report.

3:06 p.m. The meeting recessed for the day.

TUESDAY, APRIL 10, 2007

9:36 a.m. The Ohio State Board of Pharmacy convened in Room South B and C, 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., *President*; Gregory Braylock, R.Ph., *Vice-President*; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Information about the **InstyMed** electronic dispensing system was presented by Matt Sneller and Brad Bigers, representatives of Mendota HealthCare, Mendota, Illinois. **InstyMed** was seeking Board approval for its electronic dispensing system.

Board member Kevin Mitchell volunteered to represent the Board at the White Coat ceremony at Ohio Northern University on May 5, and Dorothy Teater volunteered to represent the Board at the Ohio State University ceremony on May 19.

Mr. Mitchell left the Board meeting to attend the Physician Assistant Policy Committee.

10:40 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Daniel R. Behrens**, R.Ph., 03-2-19310, Oxford, Ohio.

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

The Board recessed briefly.

11:18 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 and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Pasquale – yes; and Teater – yes.

12:22 p.m. The Executive Session ended and the Board recessed for lunch.

1:30 p.m.

R-2007-159

The Board reconvened and met with the following 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. The following candidates introduced themselves and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Joseph Carlton Biery, Jr.	03-1-27735	Nevada
Jeffrey Paul Bolotte	03-1-27720	Louisiana
Ellen Vanderford Byrd	03-1-27761	Tennessee
Christine Cassella	03-1-27794	Pennsylvania
Irene Hong-Ting Chiu	03-1-27795	Indiana
Kari Leigh Coleman	03-1-27685	Arizona
Aimee Nicole Cross	03-1-27781	West Virginia
Constance Davliakos	03-1-27762	Pennsylvania
Justin Daniel Fought	03-1-27768	West Virginia
Mary Dan Haney	03-1-27793	Kentucky
Zaffar Syed Hashimi	03-1-27789	Illinois
Melissa W. Hutchinson	03-1-27772	Kentucky
Alex Thien Lam	03-1-27764	Colorado
Young Ju Lee	03-1-27752	Texas
Eric Arthur Lester	03-1-27746	Illinois
Brian Thomas Miller	03-1-27750	Texas
Shane Morrow	03-1-27790	Pennsylvania
Carol Lynn Piper	03-1-27755	Missouri
Apichaya Raktabutr	03-1-27802	Illinois

Cynthia Ann Ruiz	03-1-27791	Mississippi
David Barrett Steenbarger	03-1-27766	Indiana
Gloria T. Stewart	03-1-27724	Arkansas
Patrick Lowell Stinson	03-1-27783	Arkansas
Nancy Carolyn Tabor-Cook	03-1-27734	Kentucky

2:00 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 **John Brungart**, R.Ph., (03-1-11035), Granville, Ohio.

3:34 p.m. The hearing ended and the record was closed.

3:35 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Lipsyc and a roll-call vote was conducted by President Turner as follows: Braylock – yes; Eastman – yes, Giacalone – yes; Gregg – yes; Lipsyc – yes; Pasquale – yes; and Teater – yes.

3:45 p.m. Mr. Mitchell returned and joined the Executive Session in progress.

3:59 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-160 Mr. Giacalone moved that the Board adopt the following order in the matter of **John Brungart**, R.Ph., 03-1-11035, Granville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060511-073

in the matter of:

JOHN C. BRUNGART, R.Ph.

230 East College Street
Granville, Ohio 43023

R.Ph. Number 03-1-11035

INTRODUCTION

The matter of John C. Brungart came for hearing on April 10, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

John C. Brungart was represented by Richard A. Cline. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: John C. Brungart, R.Ph., Respondent
Marshall White, DMD
Keith Wire, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Richard A. Cline [05-03-06]
1A-1C. Procedurals
2. State Board of Pharmacy Order in re John C. Brungart, R.Ph. [04-07-06]

Respondent's Exhibits:

- A1. Letter from Richard N. Whitney, M.D. [02-07-06]
- A2. Shepherd Hill Recovery Contract for J.C. Brungart [08-03-05]
- A3. PRO Pharmacist's Recovery Contract for John C. Brungart [10-18-05]
- A4. Support Group Attendance Records [07-22-05 to 02-28-06]; Drug Screen Reports [11-15-05 to 02-03-06]
- A5-A8. Four Letters of Support [02-03-06 to 02-08-06]
- A9. Letter from Richard N. Whitney, M.D. [03-14-07]
- A10. Letter from Steven Gifford [03-06-07]
- A11. PRO Pharmacist's Recovery Contract for John C. Brungart [04-16-06]
- A12. Support Group Attendance Records [03-01-06 to 04-08-07]
- A13. Drug Screen Reports [11-15-05 to 03-08-07]
- A14-A16. Four Letters of Support [02-06-06 to 02-28-07]
- B1-B7. Seven Letters of Support [01-26-06 to 02-28-06]
- C1-C5. Five Letters of Support [02-02-06 to 02-16-06]
- D1. Defendant's Motion to Stay Criminal Proceedings and For Leave to Request Treatment in Lieu of Conviction, State of Ohio vs John C. Burngart (sic), Case No. 2005 CR 8613, Franklin County Common Pleas Court, [02-27-06]; Authorization to Release Information [02-18-06]; Letter from Richard N. Whitney, M.D. [02-07-06]
- D2. Copy by Westlaw of Ohio Revised Code (ORC) 2951.041 (Drug treatment in lieu of conviction)
- D3. Letter of Restitution Payment [04-18-06]; copy of check no. 611987204 made payable to Children's Hospital Pharmacy [04-14-06]
- D4. Judgment Entry [05-17-06]
- D5. Early Termination of Probation [03-26-07]
- E1. Resume of John C. Brungart
- E2-E3. Continuing Pharmaceutical Education Credits and Certificates [09-23-04 to 04-30-06]
- E4. Updated Resume of John C. Brungart
- E5-E6. Two letters from Tim Sawyer [02-19-07 and 03-12-07]

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 John C. Brungart has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-050810-015, effective April 7, 2006.

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. 03-1-11035, held by John C. Brungart to practice pharmacy in Ohio and places John C. Brungart on probation for ten years beginning on the effective date of this Order, with the following conditions:

- (A) John C. Brungart 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 ten years and, upon signing, submit a copy of the signed contract to the Board office. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining nine 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) John C. Brungart 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 John C. Brungart's progress towards recovery and what John C. Brungart 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 John C. Brungart'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) John C. Brungart may not serve as a responsible pharmacist.
 - (3) John C. Brungart may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) John C. Brungart must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) John C. Brungart must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) John C. Brungart must abide by the rules of the State Board of Pharmacy.
 - (7) John C. Brungart must comply with the terms of this Order.

- (8) John C. Brungart's license is deemed not in good standing until successful completion of the probationary period.
- (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.

John C. Brungart 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-2007-161

Mr. Braylock moved that the Board adopt the following order in the matter of **Daniel R. Behrens**, R.Ph., (03-2-19310) Oxford, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-060607-081

in the matter of:

DANIEL RAYMOND BEHRENS, R.Ph.

P.O. Box 794
Oxford, Ohio 45056

R.Ph. Number 03-2-19310

INTRODUCTION

The matter of Daniel Raymond Behrens came for consideration on April 10, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Daniel Raymond Behrens 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: Kevin J. Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [06-07-06]
- 1A-1F. Procedurals
2. Prescription Profile at Fitzgerald's Mt. Orab Pharmacy [01-01-05 to 04-01-06]
3. Excel Spreadsheet of False Prescriptions [02-02-05 to 01-20-06]
4. Statement of Daniel Behrens [05-23-06]
5. Eight Accountability Statements for OxyContin 10 mg, OxyContin 20 mg, Oxycodone ER 10 mg, Oxycodone ER 20 mg, OxyContin 40 mg, Oxycodone ER 40 mg, OxyContin 80 mg, Oxycodone ER 80 mg [04-17-06]

6. Statement of LaVerne Sheppard [05-16-06]
7. Statement of Forrest E. Pack, Jr., R.Ph. [not dated]

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) On June 7, 2006, Daniel Raymond Behrens, R.Ph. was issued a Summary Suspension/Notice of Opportunity for Hearing letter, by Certified Mail, notifying him of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by the returned envelope dated August 24, 2006, September 5, 2006, and September 15, 2006, Daniel Raymond Behrens did not claim the certified letter.
- (3) The Summary Suspension/Notice of Opportunity for Hearing letter was served by publication in the Oxford Press on February 16, 2007, February 23, 2007, and March 2, 2007. Daniel Raymond Behrens has not responded in any manner to the letter of June 7, 2006, nor to the publication service. He has not requested a hearing, therefore the matter was referred to the Board for consideration.
- (4) Records of the Board of Pharmacy indicate that Daniel Raymond Behrens was originally licensed by the State of Ohio as a pharmacist on July 30, 1992, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective June 7, 2006.
- (5) Daniel Raymond Behrens is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Daniel Raymond Behrens has admitted to a Board agent that he is addicted to the use of OxyContin; Daniel Raymond Behrens has admitted stealing controlled substances to support his addiction; and, he has admitted to creating false prescriptions and billing Medicaid insurance pursuant to false prescriptions to cover for the thefts. Such conduct indicates that Daniel Raymond Behrens is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (6) Daniel Raymond Behrens did, from July 7, 2004, through January 27, 2006, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of F & F Pharmacies, beyond the express or implied consent of the owner, to wit: Daniel Raymond Behrens stole the following Schedule II controlled substances for his personal abuse:

<u>drug</u>	<u>shortage</u>
OxyContin 20 mg	410
OxyContin 40 mg	502
OxyContin 80 mg	436
oxycodone ER 20 mg	240
oxycodone ER 40 mg	100
oxycodone ER 80 mg	180

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

- (7) Daniel Raymond Behrens did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit:

Daniel Raymond Behrens created the following prescriptions to cover for his drug thefts:

Date	Rx No.	Medicaid No.	Billed Amt	Drug	Amt
02/02/05	1131203	102-811-517-699	\$580.00	OxyContin 80 mg	60
02/09/05	1131595	103-245-413-299	\$583.00	OxyContin 40 mg	120
02/17/05	1131935	105-834-846-599	\$583.00	OxyContin 40 mg	120
02/23/05	1132217	Cash	\$950.00	OxyContin 40 mg	200
03/09/05	1132965	103-245-413-299	\$911.70	OxyContin 80 mg	100
03/16/05	1133339	105-834-846-599	\$583.00	OxyContin 40 mg	120
03/23/05	1133700	102-811-517-699	\$950.00	OxyContin 80 mg	100
03/25/05	1133833	104-460-065-699	\$583.06	OxyContin 40 mg	120
04/01/05	1134104	Cash	\$950.00	OxyContin 80 mg	100
04/05/05	1134303	084-004-137-005	\$911.70	OxyContin 80 mg	100
04/12/05	1134652	103-245-413-299	\$911.70	OxyContin 80 mg	100
04/14/05	1134769	105-834-846-599	\$911.70	OxyContin 80 mg	100
04/21/05	1135107	104-460-065-699	\$911.70	OxyContin 80 mg	100
04/27/05	1135387	102-811-517-699	\$950.00	OxyContin 40 mg	200
05/04/05	1135754	102-791-669-999	\$911.70	OxyContin 80 mg	100
05/12/05	1136184	103-245-413-299	\$911.70	OxyContin 80 mg	100
05/17/05	1136394	105-834-846-599	\$911.70	OxyContin 80 mg	100
05/19/05	1136531	104-460-065-699	\$911.70	OxyContin 80 mg	100
05/20/05	1136575	134-015-701-303	\$486.50	OxyContin 40 mg	100
05/31/05	1137046	102-791-669-999	\$911.70	OxyContin 80 mg	100
06/08/05	1137507	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
06/14/05	1137784	105-834-846-599	\$911.70	OxyContin 80 mg	100
06/15/05	1137833	102-811-517-699	\$475.00	OxyContin 40 mg	100
06/15/05	1137832	104-460-065-699	\$911.70	OxyContin 80 mg	100
06/21/05	1138096	134-015-701-303	\$486.50	OxyContin 40 mg	100
06/28/05	1138393	102-791-669-999	\$911.70	OxyContin 80 mg	100
07/05/05	1138730	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
07/05/05	1138729	102-811-517-699	\$950.00	OxyContin 40 mg	200
07/19/05	1139387	105-834-846-599	\$911.70	OxyContin 80 mg	100
07/20/05	1139447	104-460-065-699	\$583.06	OxyContin 40 mg	120
07/22/05	1139561	134-015-701-303	\$583.06	OxyContin 40 mg	120
07/27/05	1139797	102-791-669-999	\$911.70	OxyContin 80 mg	100
07/31/05	1140290	103-134-490-499	\$486.50	OxyContin 40 mg	100
08/02/05	1140096	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
08/12/05	1140631	104-460-065-699	\$774.00	OxyContin 40 mg	120
08/12/05	1140633	Private Insurance	\$887.16	OxyContin 80 mg	100
08/12/05	1140629	105-834-846-599	\$185.30	OxyContin 80 mg	20
08/12/05	1140630	102-791-669-999	\$100.26	OxyContin 40 mg	20
08/17/05	1140874	104-460-065-699	\$583.06	OxyContin 40 mg	120
08/18/05	1140939	134-015-701-303	\$911.70	OxyContin 80 mg	100
08/24/05	1141203	105-834-846-599	\$911.70	OxyContin 80 mg	100
08/25/05	1141245	102-791-669-999	\$486.50	OxyContin 40 mg	100
09/01/05	1141636	103-245-413-299	\$911.70	OxyContin 80 mg	100
09/01/05	1141637	103-134-490-499	\$486.50	OxyContin 40 mg	100
09/07/05	1141895	102-811-517-699	\$950.00	OxyContin 40 mg	200
09/08/05	1141980	Cash	\$850.00	OxyContin 80 mg	90
09/15/05	1142367	104-460-065-699	\$184.54	OxyContin 40 mg	30
09/15/05	1142368	104-460-065-699	\$820.90	OxyContin 80 mg	90
09/21/05	1142659	105-834-846-599	\$911.70	OxyContin 80 mg	100
09/21/05	1142658	102-791-669-999	\$583.06	OxyContin 40 mg	120
09/22/05	1142715	102-811-517-699	\$43.24	Adderall 10 mg	20
09/22/05	1142714	102-811-517-699	\$36.19	Adderall XR 30 mg	10
09/28/05	1143030	103-245-413-299	\$820.90	OxyContin 80 mg	90
09/28/05	1143029	103-134-490-499	\$486.50	OxyContin 40 mg	100
10/04/05	1143358	Cash	\$950.00	OxyContin 80 mg	100
10/13/05	1143950	104-460-065-699	\$895.10	OxyContin 80 mg	100
10/14/05	1144019	102-811-517-699	\$450.00	OxyContin 40 mg	100
10/20/05	1144186	103-016-531-899	\$538.54	OxyContin 80 mg	60
10/20/05	1144187	103-016-531-899	\$288.10	OxyContin 40 mg	60
10/25/05	1144458	103-245-413-299	\$477.70	OxyContin 40 mg	100
10/25/05	1144457	105-834-846-599	\$895.10	OxyContin 80 mg	100
11/04/05	1145266	104-460-065-699	\$16.30	methadone 10 mg	100

Date	Rx No.	Medicaid No.	Billed Amt	Drug	Amt
11/04/05	1145265	369-009-293-101	\$895.10	OxyContin 80 mg	100
11/04/05	1143358	Cash	\$950.00	OxyContin 80 mg	100
11/11/05	1145662	103-134-490-499	\$895.10	OxyContin 80 mg	100
11/23/05	1140632	Private Insurance	\$887.16	OxyContin 80 mg	100
11/23/05	1146348	105-834-846-599	\$911.70	OxyContin 80 mg	100
11/30/05	1146659	104-460-065-699	\$895.10	OxyContin 80 mg	100
12/10/05	1147208	103-245-413-299	\$1,073.38	OxyContin 80 mg	120
12/16/05	1147624	Cash	\$1,000.00	OxyContin 80 mg	100
12/22/05	1147954	105-834-846-599	\$1,073.38	OxyContin 80 mg	120
12/30/05	1148401	102-811-517-699	\$ 895.10	OxyContin 80 mg	100
01/06/06	1148834	Private Insurance	\$1,064.19	OxyContin 80 mg	120
01/11/06	1149123	103-245-413-299	\$1,073.38	OxyContin 80 mg	120
01/20/06	1149718	105-834-846-599	\$1,073.38	OxyContin 80 mg	120
No fill date	1133555	314-007-487-702	not billed	OxyContin 40 mg	100

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

- (8) Daniel Raymond Behrens did, on or about the following dates, knowingly make or cause to be made false or misleading statements or representations for use in obtaining reimbursement from the medical assistance program, to wit: Daniel Raymond Behrens created and submitted the following false billings for Medicaid and obtained remuneration for drugs actually stolen rather than dispensed to legitimate patients:

Date	Rx No.	Medicaid No.	Billed Amt	Drug	Amt
02/02/05	1131203	102-811-517-699	\$580.00	OxyContin 80 mg	60
02/09/05	1131595	103-245-413-299	\$583.00	OxyContin 40 mg	120
02/17/05	1131935	105-834-846-599	\$583.00	OxyContin 40 mg	120
03/09/05	1132965	103-245-413-299	\$911.70	OxyContin 80 mg	100
03/16/05	1133339	105-834-846-599	\$583.00	OxyContin 40 mg	120
03/23/05	1133700	102-811-517-699	\$950.00	OxyContin 80 mg	100
03/25/05	1133833	104-460-065-699	\$583.06	OxyContin 40 mg	120
04/05/05	1134303	084-004-137-005	\$911.70	OxyContin 80 mg	100
04/12/05	1134652	103-245-413-299	\$911.70	OxyContin 80 mg	100
04/14/05	1134769	105-834-846-599	\$911.70	OxyContin 80 mg	100
04/21/05	1135107	104-460-065-699	\$911.70	OxyContin 80 mg	100
04/27/05	1135387	102-811-517-699	\$950.00	OxyContin 40 mg	200
05/04/05	1135754	102-791-669-999	\$911.70	OxyContin 80 mg	100
05/12/05	1136184	103-245-413-299	\$911.70	OxyContin 80 mg	100
05/17/05	1136394	105-834-846-599	\$911.70	OxyContin 80 mg	100
05/19/05	1136531	104-460-065-699	\$911.70	OxyContin 80 mg	100
05/20/05	1136575	134-015-701-303	\$486.50	OxyContin 40 mg	100
05/31/05	1137046	102-791-669-999	\$911.70	OxyContin 80 mg	100
06/08/05	1137507	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
06/14/05	1137784	105-834-846-599	\$911.70	OxyContin 80 mg	100
06/15/05	1137833	102-811-517-699	\$475.00	OxyContin 40 mg	100
06/15/05	1137832	104-460-065-699	\$911.70	OxyContin 80 mg	100
06/21/05	1138096	134-015-701-303	\$486.50	OxyContin 40 mg	100
06/28/05	1138393	102-791-669-999	\$911.70	OxyContin 80 mg	100
07/05/05	1138730	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
07/05/05	1138729	102-811-517-699	\$950.00	OxyContin 40 mg	200
07/19/05	1139387	105-834-846-599	\$911.70	OxyContin 80 mg	100
07/20/05	1139447	104-460-065-699	\$583.06	OxyContin 40 mg	120
07/22/05	1139561	134-015-701-303	\$583.06	OxyContin 40 mg	120
07/27/05	1139797	102-791-669-999	\$911.70	OxyContin 80 mg	100
07/31/05	1140290	103-134-490-499	\$486.50	OxyContin 40 mg	100
08/02/05	1140096	103-245-413-299	\$1,093.30	OxyContin 80 mg	120
08/12/05	1140631	104-460-065-699	\$774.00	OxyContin 40 mg	120
08/12/05	1140629	105-834-846-599	\$185.30	OxyContin 80 mg	20
08/12/05	1140630	102-791-669-999	\$100.26	OxyContin 40 mg	20
08/17/05	1140874	104-460-065-699	\$583.06	OxyContin 40 mg	120
08/18/05	1140939	134-015-701-303	\$911.70	OxyContin 80 mg	100
08/24/05	1141203	105-834-846-599	\$911.70	OxyContin 80 mg	100

Date	Rx No.	Medicaid No.	Billed Amt	Drug	Amt
08/25/05	1141245	102-791-669-999	\$486.50	OxyContin 40 mg	100
09/01/05	1141636	103-245-413-299	\$911.70	OxyContin 80 mg	100
09/01/05	1141637	103-134-490-499	\$486.50	OxyContin 40 mg	100
09/07/05	1141895	102-811-517-699	\$950.00	OxyContin 40 mg	200
09/15/05	1142367	104-460-065-699	\$184.54	OxyContin 40 mg	30
09/15/05	1142368	104-460-065-699	\$820.90	OxyContin 80 mg	90
09/21/05	1142659	105-834-846-599	\$911.70	OxyContin 80 mg	100
09/21/05	1142658	102-791-669-999	\$583.06	OxyContin 40 mg	120
09/22/05	1142715	102-811-517-699	\$43.24	Adderall 10 mg	20
09/22/05	1142714	102-811-517-699	\$36.19	Adderall XR 30 mg	10
09/28/05	1143030	103-245-413-299	\$820.90	OxyContin 80 mg	90
09/28/05	1143029	103-134-490-499	\$486.50	OxyContin 40 mg	100
10/13/05	1143950	104-460-065-699	\$895.10	OxyContin 80 mg	100
10/14/05	1144019	102-811-517-699	\$450.00	OxyContin 40 mg	100
10/20/05	1144186	103-016-531-899	\$538.54	OxyContin 80 mg	60
10/20/05	1144187	103-016-531-899	\$288.10	OxyContin 40 mg	60
10/25/05	1144458	103-245-413-299	\$477.70	OxyContin 40 mg	100
10/25/05	1144457	105-834-846-599	\$895.10	OxyContin 80 mg	100
11/04/05	1145266	104-460-065-699	\$16.30	methadone 10 mg	100
11/04/05	1145265	369-009-293-101	\$895.10	OxyContin 80 mg	100
11/11/05	1145662	103-134-490-499	\$895.10	OxyContin 80 mg	100
11/23/05	1146348	105-834-846-599	\$911.70	OxyContin 80 mg	100
11/30/05	1146659	104-460-065-699	\$895.10	OxyContin 80 mg	100
12/10/05	1147208	103-245-413-299	\$1,073.38	OxyContin 80 mg	120
12/22/05	1147954	105-834-846-599	\$1,073.38	OxyContin 80 mg	120
12/30/05	1148401	102-811-517-699	\$895.10	OxyContin 80 mg	100
01/11/06	1149123	103-245-413-299	\$1,073.38	OxyContin 80 mg	120
01/20/06	1149718	105-834-846-599	\$1,073.38	OxyContin 80 mg	120
No fill date	1133555	314-007-487-702	not billed	OxyContin 40 mg	100

Such conduct is in violation of Section 2913.40 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (6) through (8) 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 (6) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (7) 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 Daniel Raymond Behrens on June 7, 2006.

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

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-19310, held by Daniel Raymond Behrens effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-19310, held by Daniel Raymond Behrens effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-19310, held by Daniel Raymond Behrens effective as of the date of the mailing of this Order.
- (D) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-19310, held by Daniel Raymond Behrens effective as of the date of the mailing of this Order.

Daniel Raymond Behrens, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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.

Mrs. Teater seconded the motion and it was approved by the Board: *Aye* – 6/*Nay* - 1.

R-2007-162

Mr. Braylock moved that the Board adopt the following order in the matter of **Jennifer Ann Mender**, R.Ph., (03-2-26140), Logan, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070111-026

in the matter of:

JENNIFER ANN MENDER, R.Ph.

19669 St. Rt. 93 South
Logan, Ohio 43138

R.Ph. Number 03-2-26140

INTRODUCTION

The matter of Jennifer Ann Mender came for hearing on April 9, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Jennifer Ann Mender 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: Robert Amiet, Jr., R.Ph., Compliance Specialist,
Ohio State Board of Pharmacy

Respondent's Witnesses: Jennifer Ann Mender, R.Ph., Respondent
Michael Schneider, R.Ph.

State's Exhibits:

1. Notice of Opportunity For Hearing letter [01-11-07]
- 1A-1C. Procedurals
2. Rx #309993 [11-18-05]
3. CVS Pharmacy #3454 Patient Prescription Record [11-18-05 to 08-22-06]
4. DUR History Report [02-16-06]
5. Notarized Statement of Jennifer Enderle Mender, R.Ph. [08-22-06]
6. Rx #411326 [07-30-04]
7. Rx #634454 [08-08-05]
8. CVS Pharmacy #6195 Prescription Register [09-08-05 to 09-10-05]
9. CVS Pharmacy #6195 Patient Prescription Record [01-01-05 to 02-01-05]

Respondent's Exhibits:

A-B. Two Letters of Support [03-20-07 and 03-29-07]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Jennifer Ann Mender was originally licensed by the State of Ohio as a pharmacist on July 29, 2004, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Jennifer Ann Mender did, on or about November 18, 2005, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing Rx #309993, Jennifer Ann Mender did not indicate the directions for use of the drug as was prescribed by the physician. Zantac liquid had been prescribed for a two-month old child, to be taken 0.7 ml twice daily. Jennifer Ann Mender affixed a label directing 7 ml to be taken twice daily. Further, Jennifer Ann Mender's action caused this prescription to be refilled incorrectly on or about December 2, 2005, December 12, 2005 and December 23, 2005. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (3) Jennifer Ann Mender did, on or about November 18, 2005, prior to dispensing Rx #309993, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Jennifer Ann Mender failed to adequately review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. On November 18, 2005, when dispensing 7 ml, twice daily, for a two-month old child, Jennifer Ann Mender over-rode the DUR profile screen warning of problems for this drug, amount, and age of the patient. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

- (4) Jennifer Ann Mender did, on or about July 30, 2004, misbrand a drug, to wit: when Jennifer Ann Mender received a prescription for Zantac liquid for a five-week old infant, Rx #411326, she dispensed Zyrtec liquid, which had not been specifically prescribed by the physician. The patient subsequently became "very sick and vomited frequently." Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code, and constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) Jennifer Ann Mender did, on or about September 8, 2005, misbrand a drug, to wit: when Jennifer Ann Mender received a prescription for triamterene 37.5 mg with hydrochlorothiazide 25 mg, Rx #634454, she dispensed Nexium 40 mg, which had not been specifically prescribed by the physician. The patient subsequently experienced harm. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (5) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 3715. 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 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Jennifer Ann Mender as follows:

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Jennifer Ann Mender a monetary penalty of seven hundred and fifty dollars (\$750.00) due and owing within thirty days of the mailing 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.

Further, the State Board of Pharmacy stipulates that:

Jennifer Ann Mender must obtain, within six months from the effective date of this Order, ten hours of continuing pharmacy education (0.3 CEUs) on Pediatric Dosing and (0.7 CEUs) on Medication Errors, which may not also be used for license renewal.

Mrs. Teater seconded the motion and it was approved by the Board: Aye – 8.

R-2007-163

Mrs. Gregg moved that the Conference Call minutes of April 3, 2007 be approved as amended. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 8.

R-2007-164

Mrs. Gregg moved that the minutes of the March 5-7, 2007 Board meeting be approved as amended. Mr. Lipsyc seconded the motion and it was approved: Aye – 8.

Mr. Mitchell discussed the Physician Assistant Policy Committee meetings for March 13 and April 10 with the Board.

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

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

5:01 p.m. The Board recessed for the day.

WEDNESDAY, APRIL 11, 2007

8:33 a.m. The Ohio State Board of Pharmacy convened in Room South B and C, 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., *President*; Gregory Braylock, R.Ph., *Vice-President*; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

R-2007-165 The Board considered a request for an exemption from Rule 4729-5-10 (Prescription Pick-up Stations) received from:

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

R-2007-166 The Board considered a request for an exemption from Rule 4729-5-10 (Prescription Pick-up Stations) received from:

Summa Home Infusion, (02-1222300), Akron, Ohio.
Central Admixture Pharmacy Services, (02-1312700) Valley View, Ohio.

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 Ms. Pasquale and approved by the Board: *Aye – 8.*

R-2007-167 The Board considered a request for an exemption from Rule 4729-5-10 (Prescription Pick-up Stations) received from:

Firelands Regional Medical Center Pharmacy, (02-0034900), Akron, Ohio.
Central Admixture Pharmacy Services, (02-1312700) Valley View, Ohio.

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 Ms. Pasquale and approved by the Board: *Aye – 8.*

R-2007-168 The Board considered a request for an exemption from Rule 4729-5-10 (Prescription Pick-up Stations) received from:

Ritzman Natural Health Pharmacy, (02-0600250), Akron, Ohio.
Summa Home Infusion, (02-1222300), Akron, Ohio.

After discussion, Mr. Giacalone 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. Lipsyc and approved by the Board: Aye – 8.

R-2007-169

The Board considered a request for an exemption from Rule 4729-5-10 (Prescription Pick-up Stations) received from:

Leiter's Pharmacy, (02-1620150), San Jose, California.
Cincinnati Eye Institute, (02-0461300), Cincinnati, Ohio.
University Ophthalmologists, (02-0954450), Cleveland, Ohio.

After discussion, Mrs. Teater moved that the Board table the request pending clarification from Leiter's Pharmacy. The motion was seconded by Mr. Braylock and approved by the Board: Aye – 8.

The Board considered a proposed automated medication cassette checking process from **Alliance Community Hospital**, (02-0035150), Alliance, Ohio.

After discussion, the Board asked that the process be seen by a Board of Pharmacy agent and brought back to the Board when the system is ready for review.

The Board considered the **InstyMed** electronic dispensing system and tabled a decision until later.

R-2007-170

Mr. Winsley announced that the following Settlement Agreement with **John Brossart, Sr.**, R.Ph., (03-3-16002), Ross, Ohio has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-061207-017

in the matter of:

JOHN J. BROSSART, Sr., R.Ph.
3954 Cincinnati-Brookville Road
P. O. Box 248
Ross, Ohio 45061

R.Ph. Number 03-1-07380

This Settlement Agreement is entered into by and between John J. Brossart 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.

John J. Brossart 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. John J. Brossart 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, John J. Brossart is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 7, 2006, pursuant to Chapter 119. of the Ohio Revised Code, John J. Brossart 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. John J. Brossart requested a hearing; it was scheduled. The December 7, 2006, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that John J. Brossart was originally licensed by the State of Ohio as a pharmacist on February 15, 1961, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) John J. Brossart did, on or about June 23, 2006, dispense a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when John J. Brossart dispensed Rx #6877878, he indicated the directions for use of the drug different than was prescribed by the physician. The drug prescribed was digoxin 0.25 mg, with directions for use as "#30 1 QD 1 Ref;," however, the label John J. Brossart affixed to the vial indicated the patient should "take one and one-half tablets twice daily." The patient was subsequently hospitalized for digoxin toxicity. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (3) John J. Brossart did, on or about June 23, 2006, prior to dispensing Rx #6877878, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: John J. Brossart failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. The drug prescribed was digoxin 0.25 mg, with directions for use as "#30 1 QD 1 Ref;," however, the label John J. Brossart affixed to the vial indicated the patient should "take one and one-half tablets twice daily." The patient was subsequently hospitalized for digoxin toxicity. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

John J. Brossart neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated December 7, 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, John J. Brossart knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) John J. Brossart agrees to the imposition of a monetary penalty of seven hundred fifty dollars (\$750.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) John J. Brossart must obtain, within six months from the effective date of this Agreement, six hours of continuing pharmacy education (0.6 CEUs) on preventing medication errors, which may not also be used for license renewal.

John J. Brossart 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.

John J. Brossart 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. John J. Brossart 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> John J. Brossart, R.Ph., Respondent	<u>/d/</u> 03/24/07 Date Signed
<u>/s/</u> James E. Turner, President, Ohio State Board of Pharmacy	<u>/d/</u> 04/11/07 Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/</u> 04/11/07 Date Signed

9:15 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 **Susan M. Bruggeman**, R.Ph., (03-3-24146), Vandalia, Ohio.

10:13 a.m. The hearing ended and the record was closed.

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

10:32 a.m. The Executive Session ended and the meeting was opened to the public.

R-2007-171 Mr. Braylock moved that the Board adopt the following order in the matter of **Susan M. Bruggeman**, R.Ph., 03-3-24146, Vandalia, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
Docket Number D-061212-019 & D-070126-030

in the matter of:

SUSAN M. BRUGGEMAN, R.Ph.
1214 Bailey Avenue
Vandalia, Ohio 45377

R.Ph. Number 03-3-24146

INTRODUCTION

The matter of Susan M. Bruggeman came for hearing on April 11, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member. Susan M. Bruggeman was represented by James Lindon. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Todd Knauss, Ohio State Board of Pharmacy

Respondent's Witness: Susan M. Bruggeman, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [12-12-06]
- 1A-1B. Procedurals
- 1C. Summary Suspension/Notice of Opportunity For Hearing [01-26-07]
- 1D. Procedural
2. Statement of Susan Bruggeman [03-02-06]; Notice of Civil Demand [03-02-06]; Promissory Note [03-02-06]
3. Statement of Susan Bruggeman [03-14-06]
4. Rx #841607 [01-04-04]; Rx #847458 [02-19-04]
- 4A. CVS Pharmacy #3476 Patient Prescription Record [01-01-04 to 03-08-06]
5. Rx #841833 [01-05-04]
- 5A. CVS Pharmacy #3476 Patient Prescription Record [01-01-04 to 03-08-06]
6. Rx #869592 [08-29-04]
- 6A. CVS Pharmacy #3476 Patient Prescription Record [01-01-04 to 06-07-06]
- 6B. Notarized Statement of Billie J. Bramlette [07-11-06]
7. Rx #889705 [02-11-05]; Rx #889706 [02-11-05] Rx #889707 [02-11-05]
- 7A. CVS Pharmacy #3476 Patient Prescription Record for Susan Bruggeman [01-01-04 to 03-08-06]
8. Rx #894051 [03-11-05]
- 8A. CVS Pharmacy #3476 Patient Prescription Record [01-01-04 to 06-07-06]
- 8B. Notarized Statement of Emily Johnson [07-11-06]
9. Indictment, State of Ohio vs. Susan Bruggeman, Case No. 06CR412, Miami County Common Pleas Court [08-22-06]; Entry Granting Intervention in Lieu of Conviction [01-19-07]
10. Notarized Statement of Stephanie L. Clack [03-29-06]
11. CVS Pharmacy #3476 Patient Prescription Record [01-01-04 to 03-08-06]
12. Complaint, State of Ohio v: Susan Bruggeman, Case No. 06CR14293, Franklin County Municipal Court [06-08-06]

Respondent's Exhibits:

- A. Letter from Dr. Anne Miller, D.O. [03-15-07]; Thirteen Letters of Support [04-02-06 to 04-07-07]

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Susan M. Bruggeman was originally licensed by the State of Ohio as a pharmacist on June 13, 2000, pursuant to reciprocity, and that her license to practice pharmacy in Ohio was summarily suspended effective January 26, 2007 for Intervention In Lieu of Conviction.
- (2) Susan M. Bruggeman did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: Susan M. Bruggeman created the following documents without authorization from an authorized prescriber:

<u>Rx No.</u>	<u>Date Filled</u>	<u>Drug</u>	<u>Qty</u>
841607	01/04/04	sulfamethoxazole w/TMP	479
847458	02/19/04	amoxicillin 500 mg	30
841833	08/02/04	Differin 0.1 cream	45
869592	08/29/04	Tri-Spintec	28
889705	02/11/05	Nasonex 50 mcg	17
889706	02/11/05	Zithromax Tri-Pak 500 mg	3
889707	02/11/05	Guaifenex PSE 600/120 mg	60
894051	03/11/05	Ortho Tri-Cyclen	28

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

- (3) Susan M. Bruggeman did, on or about June 8, 2006, plead guilty to one count of Medicaid Fraud in violation of Section 2913.40(B) of the Ohio Revised Code, a misdemeanor of the first degree. State of Ohio vs. Susan Bruggeman, Case No. 2006 CR B 014293, Franklin County Municipal Court. Susan M. Bruggeman was sentenced to 180 days incarceration, suspended (two years probation), and 80 hours of community service and a \$250.00 fine.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) 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 Susan M. Bruggeman on January 26, 2007.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Susan M. Bruggeman 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 until May 26, 2007, the pharmacist identification card, No. 03-3-24146, held by Susan M. Bruggeman. Susan M. Bruggeman, 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) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Susan M. Bruggeman's practice of pharmacy in that she may not dispense prescriptions for herself or for any member of her family.
- (C) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby places Susan M. Bruggeman on probation for one year effective upon reinstatement of her identification card. The terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Susan M. Bruggeman'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) Susan M. Bruggeman may not serve as a responsible pharmacist.
 - (3) Susan M. Bruggeman may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Susan M. Bruggeman must not violate the drug laws of Ohio, any other state, or the federal government.
 - (5) Susan M. Bruggeman must abide by the rules of the State Board of Pharmacy.
 - (6) Susan M. Bruggeman must comply with the terms of this Order.
 - (7) Susan M. Bruggeman's license is deemed not in good standing until successful completion of the probationary period.
- (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.

Susan M. Bruggeman 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.

Ms. Eastman seconded the motion and it was approved by the Board: *Aye* – 8.

The Board recessed briefly.

- 10:42 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 **Eric Jean Cropp**, R.Ph., (03-3-19886), Bay Village, Ohio.
- 12:46 p.m. The hearing was recessed for lunch.
- 1:46 p.m. The adjudication hearing in the matter of **Eric Jean Cropp**, R.Ph., (03-3-19886), Bay Village, Ohio was resumed.
- 5:30 p.m. The hearing ended and the record was closed. The Board recessed briefly.
- 5:39 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted

by President Turner as follows: Braylock – yes; Eastman – yes; Giacalone – yes; Gregg – yes; Lipsyc – yes; Mitchell – yes; Pasquale – yes; and Teater – yes.

6:17 p.m. The Executive Session ended and the meeting was opened to the public.

R-2007-172 Mrs. Teater moved that the Board adopt the following order in the matter of **Eric Jean Cropp**, R.Ph., (03-3-19886), Bay Village, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-061108-012

in the matter of:

ERIC JEAN CROPP, R.Ph.

30677 Cambridge Court West

Bay Village, Ohio 44140

R.Ph. Number 03-3-19886

INTRODUCTION

The matter of Eric Jean Cropp came for hearing on April 11, 2007, before the following members of the Board: James E. Turner, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Suzanne R. Eastman, R.Ph.; Robert P. Giacalone, R.Ph.; Elizabeth I. Gregg, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; and Dorothy S. Teater, Public Member.

Eric Jean Cropp was represented by John R. Irwin. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Joann Perdina, R.Ph., Ohio State Board of Pharmacy
Peter Ratycz, R.Ph.
Lawrence Solak, R.Ph.
Kelly Jerry
Christopher Jerry

Respondent's Witnesses: Lila Sohnley
Todd Evans
Jerry Lischak, R.Ph.
Anita Subramaniam, R.Ph.
Eric Cropp, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing letter [11-08-06]
1A-1C. Procedurals
1D. Addendum Notice [03-27-07]
2. Prescription Orders for Etoposide chemotherapy [02-21-06]
- 3-3A. University Hospitals of Cleveland Chemotherapy/Drug Preparation Worksheet for Cisplatin [02-24-06 to 02-26-06]; Photograph of Cisplatin Base Ingredients [not dated]
4. University Hospitals of Cleveland Chemotherapy/Drug Preparation Worksheet for Etoposide [02-24-06 to 02-26-06]
5. Two Photographs of Cisplatin Exacta-Mix Bag [02-26-06]
6. Two Photographs of Etoposide Ecacta-Mix Bag [02-26-06]
7. UHHS Core Lab Print Results [02-26-06]
8. Cuyahoga County Coroner's Verdict [03-13-06]

- 9-9C. Four Photographs of Rainbow and Children's (RB&C) Pharmacy layout [not dated]
- 10-10-1. Photograph of Cisplatin Base Compounding Components [not dated]; List of Actual Components for Cisplatin Base as Shown in Photo 10 [not dated]
- 10A-10A-1. Photograph of Etoposide Base per Technician Dudash [not dated]; List of Actual Components for Etoposide Base as Shown in Photo 10A [not dated]
- 10B. Photograph of Completed Cisplatin Base and Etoposide Base per Dudash [not dated]
- 10C. Photograph of Cisplatin Base and Etoposide Base Per Compounding Worksheet [not dated]
- 10D-10D-1. Photograph of Etoposide Base Per Compounding Worksheet Directions [not dated]; List of Actual Components for Etoposide Base as Shown in Photo 10D [not dated]
- 11. Two Notarized Statements of Katie Dudash [09-11-06 and 09-15-06]
- 12. Notarized Statement of Eric J. Cropp [09-12-06]
- 13. University Hospitals Health System Corrective Action Form for Eric Cropp [03-06-06]
- 14. Notarized Statement of Evangeline Ann Ramsay [04-17-06]
- 15. Two Notarized Statements of William H. Franklin [06-30-06 and 10-11-06]
- 16. Notarized Statement of Audrey Parham [04-05-06]
- 17. Notarized Statement of Theresa Powali [10-11-06]
- 18. Photograph of Completed Cisplatin and Etoposide Bases As Found on Table by R.Ph. Cropp prior to checking [not dated]
- 18A. Photograph of Etoposide Base Compounding Scenarios [not dated]
- 18B. Photograph of Etoposide Base Scenarios-Out of Bin [not dated]
- 19. Glossary of Pharmacy Practice Definitions [not dated]
- 20. Notarized Statement of Pete Ratycz [03-21-07]
- 21. Notarized Statement of Lawrence P. Solak, R.Ph. [03-22-07]
- 22. Notarized Statement of James A. Sennhenn, III, R.Ph. [03-22-07]
- 23. Notarized Statement of Abbie A. Vinczi [03-22-07]
- 24. Discount Drug Mart Medication Error Alert [11-16-06]; Disciplinary Probation Notice [01-19-07]
- 25. Confidential Pharmacy Misfill Report [10-06-06]
- 26. Confidential Pharmacy Misfill Report [07-19-06]
- 27. Confidential Pharmacy Report [07-29-06]
- 28. Confidential Pharmacy Report [08-18-06]
- 29. Confidential Pharmacy Misfill Report [09-30-06]
- 30. Confidential Pharmacy Misfill Report [11-15-06]
- 31. Confidential Pharmacy Misfill Report [11-17-06]
- 32. Confidential Pharmacy Misfill Report [11-20-06]
- 33. Confidential Pharmacy Misfill Report [12-13-06]
- 34. Confidential Pharmacy Misfill Report [12-16-06]
- 35. Confidential Pharmacy Misfill Report [12-26-06]
- 36. Confidential Pharmacy Misfill Report [02-05-07]
- 37. Confidential Pharmacy Misfill Report [02-05-07]
- 38. Testimony of Kelly A. and Christopher S. Jerry [04-11-07]; Testimonial of Matthew S. Jennings, M.D. [04-06-07]

Respondent's Exhibits:

- A1-A4. Northern Ohio Academy of Pharmacy Installation Banquet Program [06-20-01]
- B-F. Five Letters of Support [03-17-07 to 04-04-07]
- G. The Plain Dealer article titled "Girl's death puts spotlight on regulating technicians" dated November 15, 2006

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 Eric Jean Cropp was originally licensed by the State of Ohio as a pharmacist on October 27, 1993, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Eric Jean Cropp did, on or about February 26, 2006, misbrand a drug, to wit: when Eric Jean Cropp received an order for etoposide (with a base solution of 0.9% sodium chloride), he dispensed etoposide having been compounded with a base solution of 23.4% sodium chloride, which had not been specifically prescribed by the physician. The two-year-old patient subsequently died. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (3) Eric Jean Cropp did, on or about February 26, 2006, when adding a drug to a parenteral solution, fail to properly label the admixture with the correct name and amount of the parenteral solution, to wit: when compounding the preparation, Eric Jean Cropp failed to affix a distinctive label to the preparation indicating the name of the solution that was actually used. Such conduct is in violation of Rule 4729-17-10 of the Ohio Administrative Code.
- (4) Eric Jean Cropp did, on or about April 26, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1259180 for Compazine 10 mg tablets, #60, with directions for use as: "Take one tablet by mouth every 4 hours as needed for nausea and vomiting," he dispensed prochlorperazine 10 mg tablets, with the directions "... as needed for pain." The label did not indicate the correct directions for use as prescribed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (5) Eric Jean Cropp did, on or about July 18, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1275748 for Vicoprofen, #40, he dispensed tramadol with acetaminophen, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (6) Eric Jean Cropp did, on or about July 25, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx # 1277092 for Biaxin XL 500 mg tablets, #20, he dispensed metformin ER 500 mg tablets, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (7) Eric Jean Cropp did, on or about July 25, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx # 1277091, written for Glucophage XR 500 mg (metformin), #30, he dispensed Biaxin XL 500 mg tablets, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (8) Eric Jean Cropp did, on or about August 18, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1281512, written for Phenergan 25 mg suppositories, #10, with directions for use as: "Insert one suppository rectally every 8 hours as needed for nausea and vomiting," he indicated the directions for use on the label as: to be taken by mouth. Eric Jean Cropp thus did not indicate the directions for use on the label as was

prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (9) Eric Jean Cropp did, on or about September 19, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1287443, written for Focalin XR 5 mg capsules, #30, he dispensed 30 Adderall XR 5 mg capsules, which had not been specifically prescribed by the physician. The 8 year-old patient was harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (10) Eric Jean Cropp did, on or about November 13, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1298491 for Salsalate 500 mg, he dispensed Sulfasalazine 500 mg #60, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (11) Eric Jean Cropp did, on or about November 16, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1299427 for Plendil 2.5 mg tablets, he labeled and dispensed the vial for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (12) Eric Jean Cropp did, on or about November 18, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1299787 for VoSol HC, which had been prescribed by an ear, nose, and throat specialist for use in the patient's ear, he labeled the prescription for use "in the eye." Eric Jean Cropp thus did not indicate the correct directions for use on the label as was prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (13) Eric Jean Cropp did, on or about December 12, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1304338 for Zoloft (sertraline) 100 mg #60 tablets, to be taken: "two tablets every evening, he labeled the prescription as: "Take one tablet twice daily." Eric Jean Cropp thus did not indicate the directions for use on the label as was prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (14) Eric Jean Cropp did, on or about December 15, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1305079 for Avelox 400 mg #7, take one daily, he labeled and dispensed the vial for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (15) Eric Jean Cropp did, on or about December 26, 2006, misbrand a drug, to wit: when Eric Jean Cropp received Rx #1633083 for Zoloft (sertraline) 100 mg, he dispensed sertraline 50 mg tablets, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (16) Eric Jean Cropp did, on or about February 3, 2007, misbrand a drug, to wit: when Eric Jean Cropp received Rx #663033 for E.E.S. 200 mg/5ml suspension (erythromycin ethylsuccinate), he dispensed erythromycin with sulfisoxazole suspension, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (17) Eric Jean Cropp did, on or about February 4, 2007, misbrand a drug, to wit: when Eric Jean Cropp received Rx #657210 for 2 boxes of Imitrex 6 mg/0.5 ml, he dispensed a quantity less than what was indicated on the

label. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraphs (2) through (17) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Though the Board finds credible the testimony of Respondent's witnesses Sohnley, Evans, and Lischak, their testimony is largely unpersuasive. The testimony of Subramaniam appeared flippant and does not entirely conform to prevailing practices in the preparation of pediatric chemotherapy drugs. The testimony of Respondent Cropp himself was particularly disturbing to the Board. Cropp himself admitted that he is currently unable emotionally to practice pharmacy. This comports significantly to the testimony of the state's witnesses Ratycz and Solak. Cropp's demeanor and present mental state as exhibited, considered jointly with the errors herein adjudicated, the seriousness and potential for harm to the public therewith, lead this Board to the only appropriate conclusion.

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 Eric Jean Cropp as follows:

On the basis of the Findings of Fact and the Conclusion of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-3-19886, held by Eric Jean Cropp effective as of the date of the mailing of this Order.

Eric Jean Cropp, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (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.

Ms. Eastman seconded the motion and it was approved by the Board: *Aye – 6/Nay – 2.*

R-2007-173 Mrs. Gregg moved that the Board summarily suspend the license to practice pharmacy belonging to **Jae-Sung Lee**, R.Ph., 03-3-22050, Dublin, Ohio pursuant to Ohio Revised Code 3719.121(B). The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 8.*

R-2007-174 Mrs. Gregg moved that the Board summarily suspend the license to practice pharmacy belonging to **Caringwell Pharmacy**, 02-1428000, Dublin, Ohio pursuant to Ohio Revised Code 3719.121(B). The motion was seconded by Mr. Braylock and approved by the Board: *Aye – 8.*

6:21 p.m. Mr. Giacalone excused himself from the meeting.

The issue concerning the **InstyMed** electronic dispensing system was tabled until May, 2007.

R-2007-175 Mr. Winsley announced that the following Settlement Agreement with **Janet Thomas**, R.Ph., (03-1-12220), Clyde, Ohio has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING

Docket Number D-070130-031

in the matter of:

JANET THOMAS, R.Ph.
245 West Buckeye Street
Clyde, Ohio 43410

R.Ph. Number 03-1-12220

This Settlement Agreement is entered into by and between Janet Thomas 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.

Janet Thomas 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 and the right to a formal adjudication hearing on the issues contained herein.

Janet Thomas is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that would be filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Janet Thomas' license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy 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 impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Janet Thomas neither admits nor denies the allegations pending in the Board's investigation; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code.
- (C) Janet Thomas acknowledges that she has been made aware of the investigation and has not failed to cooperate in said investigation. Janet Thomas further acknowledges that she has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of the filing of formal ADMINISTRATIVE charges and/or holding a 119. hearing at this time, Janet Thomas knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HER LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.** Pursuant to Rule 4729-9-01(F), Janet Thomas may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Janet Thomas, 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 Agreement 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.

Janet Thomas 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.

Janet Thomas 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. Janet Thomas 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> Janet Thomas, R.Ph., Respondent	<u>/d/</u> 03/13/07 Date Signed
<u>/s/</u> Mary Beth Fiser, Attorney for Respondent	<u>/d/</u> 03/13/07 Date Signed
<u>/s/</u> James E. Turner, President, Ohio State Board of Pharmacy	<u>/d/</u> 04/11/07 Date Signed
<u>/s/</u> Sally Ann Steuk, Ohio Assistant Attorney General	<u>/d/</u> 04/11/07 Date Signed

R-2007-176

Mrs. Gregg moved that the Board receive Per Diem as follows:

PER	4/9	4/10	4/11	3/13	Total
Braylock	1	1	1	-	3
Eastman	1	1	1	-	3
Giacalone	1	1	1	-	3
Gregg	1	1	1	-	3
Lipsyc	1	1	1	-	3
Mitchell	1	1	1	1	4
Pasquale	1	1	1	-	3
Teater	1	1	1	-	3
Turner	1	1	1	-	3

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

6:29 p.m. Mr. Lipsyc moved that the meeting be adjourned. Ms. Pasquale seconded the motion and it was approved by the Board: Aye – 7.

The Ohio State Board of Pharmacy
approved these Minutes May 8, 2007