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Ohio State Board of Pharmacy 77 South High Street, Room 1702 Columbus, Ohio 43215-6126  
telephone: 614-466-4143 fax: 614-752-4836 email: exec@bop.state.oh.us

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## **Minutes of the November 3-4, 2008** **Meeting of the Ohio State Board of Pharmacy**

### **Monday, November 3, 2008**

10:00 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

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

**R-2009-106** Mr. Winsley announced that the following Settlement Agreement with **DIT Healthcare Distribution**, Wholesale Distributor of Dangerous Drugs (01-1532500) and Controlled Substance Wholesaler (W-2243) West Chester, Ohio had been signed by all parties making it effective.

### **SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-080709-007

*in the matter of:*

**DIT Healthcare Distribution, Inc.**

4884 Duff Drive

West Chester, Ohio 45246

W.D.D.D. Number 01-1532500; W.C.S. Number W-2243

This Settlement Agreement is entered into by and between DIT Healthcare Distribution, Inc., 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.

DIT Healthcare Distribution, Inc., voluntarily enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. DIT Healthcare Distribution, Inc., acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.56 of the Ohio Revised Code to suspend, revoke, refuse to grant or renew any registration certificate or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, DIT Healthcare Distribution, Inc., is licensed as a Wholesale Distributor of Dangerous Drugs and a Wholesaler of Controlled Substances in the State of Ohio.

Whereas, on or about July 9, 2008, pursuant to Chapter 119. of the Ohio Revised Code, DIT Healthcare Distribution, Inc., was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. DIT Healthcare Distribution, Inc., requested a hearing; it was scheduled and continued. The Notice of Opportunity for Hearing is attached hereto and incorporated herein.

DIT Healthcare Distribution, Inc., neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; 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, DIT Healthcare Distribution, Inc., knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) DIT Healthcare Distribution, Inc., will pay a monetary penalty of Two Thousand Five Hundred Dollars (\$2,500.00). A fine submission sheet is attached hereto.
- (B) DIT Healthcare Distribution, Inc., has implemented a Corrective Action Plan and has submitted the plan to the Board. DIT Healthcare Distribution, Inc., will continue its operations according to said plan.

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

DIT Healthcare Distribution, Inc., waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. DIT Healthcare Distribution, Inc., 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/ DIT Healthcare Distribution, Inc., R.Ph.                      Date Signed: 10/27/08  
*Respondent*

/s/ Martin S. Pinales    Date Signed: 10/28/08  
*Attorney for Respondent*

/s/ Nathan S. Lipsyc Date Signed: 11/03/08  
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 11/03/08  
Ohio Assistant Attorney General

**R-2009-107**

Mr. Winsley announced that the following Settlement Agreement with **Sidney Fox**, R.Ph. (03-1-05912) Solon, Ohio, had been signed by all parties making it effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number D-080807-012

*in the matter of:*

**Sidney Fox, R.Ph.**  
7063 Navajo Trail  
Solon, Ohio 44139

R.Ph. Number 03-1-05912

This Settlement Agreement is entered into by and between Sidney Fox 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.

Sidney Fox 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. Sidney Fox 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, Sidney Fox is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 7, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Sidney Fox 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. Sidney Fox requested a hearing; it was scheduled. The Notice of Opportunity for Hearing is attached hereto and incorporated herein.

Sidney Fox neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter; 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, Sidney Fox knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Sidney Fox agrees to the imposition of a monetary penalty of Two Hundred Fifty Dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. 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.

- (B) Sidney Fox must obtain, with six (6) months time from the effective date of this Agreement, ten hours of continuing pharmacy education (1.0 CEUs) on preventing medication errors, which may not also be used for license renewal.

Sidney Fox 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.

Sidney Fox 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. Sidney Fox 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/ Sidney Fox, R.Ph. Date Signed: 10/22/08  
*Respondent*

/s/ Nathan Lipsyc Date Signed: 11/03/08  
*President, Ohio State Board of Pharmacy*

/s/ Sally Ann Steuk Date Signed: 11/03/08  
*Ohio Assistant Attorney General*

10:03 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. Casar and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

10:56 a.m. The Executive Session ended and the meeting was opened to the public.

**R-2009-108** The Board considered a request from **Joseph Lee Baumgartner**, R.Ph. (03-2-12607) Oak Harbor, Ohio, and on behalf of **The Medicine Shoppe #1712**, Terminal Distributor of Dangerous Drugs (02-0979550) Pemberville, Ohio to extend by 30 days the final \$2,000 payment of his monetary penalties, which were due on November 4, 2008 as set out in the Settlement Agreement effective October 6, 2008. Mr. Wiesenhahn moved that the extension be granted. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 8.

**R-2009-109** Mrs. Gregg moved that the Board allow the continuance request received in the matter of **Gary A. Evankovich**, R.Ph. (03-2-13226) Youngstown, Ohio. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 8.

The Board recessed briefly.

11:06 a.m.

**R-2009-110**

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

**Affinity Medical Center Pharmacy**, Massillon, Ohio (02-0986950)  
**Central Admixture Pharmacy Services**, Valley View, Ohio (02-1312700)

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-2009-111**

The Board considered a request for a permanent exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **William W. Carroll**, R.Ph. (03-3-11842) Amelia, Ohio, be permitted to be the responsible person for the following sites:

**Mercy Hospital Anderson**, Cincinnati, Ohio (02-0384850)  
**Mercy Hospital Clermont**, Batavia, Ohio (02-0034050)

After discussion, Mr. Braylock moved that the Board deny the request for a permanent exemption, but approve the request for 90 days. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7; *Nay* – 1.

**R-2009-112**

The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Richard G. Adams**, R.Ph. (03-1-17765) Steubenville, Ohio, be permitted to be the responsible person for the following sites:

**Harrison Community Hospital**, Cadiz, Ohio (02-0034450)  
**Health Connection Pharmacy**, Cadiz, Ohio (02-0560300)

After discussion, Mrs. Gregg moved that the Board approve the request for one year. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 7; *Abstain* – 1 (Kaderly)

**R-2009-113**

Mr. McMillen presented a request from the **Greater Cincinnati Society of Health Systems Pharmacy/Shawn P. Keegan, Pharm. D.** (03-1-27482) to be registered as a continuing pharmacy education provider. After discussion, Mr. Braylock moved that the request be approved. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 8.

Mr. Winsley discussed with the Board the Federal Food and Drug Administration's requirement of a toll-free telephone number on prescription labels. The information was posted on the Board's website. No action was required by the Board.

Mr. Braylock discussed the Nursing Board's Committee on Prescriptive Governance report.

Mrs. Droz presented the Ohio Automated Prescription Reporting System (OARRS) report. Mr. Benedict said there was no report about the Medical Board Prescribing Committee this month.

Mr. Keeley presented the Legislative report.

12:32 p.m. The Board recessed for lunch.

1:30 p.m. The Ohio State Board of Pharmacy convened in room South A, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with all members present, for a public hearing to consider adopting proposed new and amended rules.

1:42 p.m. The public hearing ended.

1:46 p.m. The Board recessed briefly and then reconvened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center.

**R-2009-114** After discussion, Mrs. Gregg moved that the Board minutes of October 6-7, 2008, be approved as amended. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 8.

**R-2009-115** After discussion, Mrs. Gregg moved that the Board conference call minutes of October 30, 2008, be approved as amended. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 8.

2:02 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 **Megan E. Rees**, R.Ph. (03-2-26547) Canal Winchester, Ohio

3:01 p.m. The hearing ended and the record was closed.

3:02 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

3:09 p.m. The Executive Session ended and the meeting was opened to the public.

**R-2009-116** After votes were taken in public session, the Board adopted the following order in the matter of **Megan E. Rees**, R.Ph. (03-2-26547) Canal Winchester, Ohio.

#### **ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-080716-009

*in the matter of:*

**MEGAN E. REES, R.Ph.**

3915 Liriope Street  
Canal Winchester, Ohio 43110

R.Ph. Number 03-2-26547

#### **INTRODUCTION**

The matter of Megan E. Rees came for hearing on November 3, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Megan E. Rees was represented by R. William Meeks. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

#### **SUMMARY OF EVIDENCE**

State's Witnesses: None

Respondent's Witnesses: Megan E. Rees, R.Ph., Respondent  
Andrea Holstein, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter from Megan E. Rees [07-16-08]  
1A-1D. Procedurals
2. State Board of Pharmacy Order In Re Megan E. Rees [11-08-06]

Respondent's Exhibits:

- A. Shepherd Hill Treatment Attendance Confirmation Letter [08-31-07]
- B. The Woods at Parkside Completion of Aftercare Confirmation Letter [12-19-07]
- C. PRO Pharmacist's Recovery Contract for Megan Rees [06-15-06]
- D. PRO Pharmacist's Recovery Contract for Megan Rees [11-21-06]
- E. Drug Screen Collection Sheets [10-19-06 to 10-16-08]
- F. FirstLab OHPRO Test History Report [01-01-06 to 10-25-08]
- G. Support Group Attendance Records [10-02-06 to 10-31-08]
- H. Entry Granting Defendant Intervention In Lieu of Conviction, State of Ohio vs. Megan Rees, Case No. 06-CR-0324 [10-19-06]
- I. Letter from Fairfield County Probation Officer, Jordan Barnard [07-30-08]
- J. Restitution Documentation [12-26-05 to 07-19-07]
- K. Letter from Monte R. Black to R. William Meeks [07-22-08]
- L. Ohio Department of Taxation Certificate of Registration for Kilo's K-9 Kitchen [01-01-08]
- M. Continuing Pharmaceutical Education Credits and Certificates [04-30-06 to 10-20-08]
- N. Letter from Michael D. Quigley, R.Ph. [10-28-08]; Drug Screen Results [02-26-08 and 03-13-08]
- O. FirstLab Drug Test Explanation [10-29-08]
- P. Memorandum in Support of Reinstatement from R. William Meeks [not dated]

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 Megan E. Rees has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-051118-047, effective November 8, 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. 03-2-26547, held by Megan E. Rees to practice pharmacy in Ohio and places Megan E. Rees on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Megan E. Rees must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before her 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) Megan E. Rees 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 Megan E. Rees' progress towards recovery and what Megan E. Rees 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 Megan E. Rees' 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) Megan E. Rees may not serve as a responsible pharmacist.
  - (3) Megan E. Rees may not destroy, assist in, or witness the destruction of controlled substances.
  - (4) Megan E. Rees must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
  - (5) Megan E. Rees must not violate the drug laws of Ohio, any other state, or the federal government.
  - (6) Megan E. Rees must abide by the rules of the State Board of Pharmacy.
  - (7) Megan E. Rees must comply with the terms of this Order.



- (8) Megan E. Rees' license is deemed not in good standing until successful completion of the probationary period.

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.

Megan E. Rees 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.

Gregory Braylock moved for the Findings of Fact and the Decision of the Board; Deborah Lange seconded the motion. Motion passed (Aye-7/Nay-1).

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**R-2009-117** After discussion, Mr. Casar moved that the conference call Board minutes of October 21, 2008, be approved as submitted. Mrs. Gregg seconded the motion and it was approved by the Board: Aye – 8.

The Board discussed the written and oral comments submitted during the public hearing on two proposed amended rules: 4729-9-16 and 4729-5-30. The Board decided to leave the rules as submitted.

The Board discussed the issue of returning to stock prescription medication not picked up by the patient, but no action was taken.

4:47 p.m. The Board recessed for the day.

### **Tuesday, November 4, 2008**

9:02 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31<sup>st</sup> Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Nathan S. Lipsyc, R.Ph., *President*; Elizabeth I. Gregg, R.Ph., *Vice-President*; Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

The Board discussed a presentation to be made by Board members and staff at the National Association of Boards of Pharmacy/American Association of Colleges Pharmacy (NABP/AACP) District IV meeting on November 13.

10:02 a.m. The Board recessed.

10:30 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 **Philip J. Danford**, R.Ph. (03-1-12324) Akron, Ohio.

11:40 a.m. The hearing ended and the record was closed.

11:41 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 Ms. Pasquale and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

11:57 a.m. The Executive Session ended and the meeting was opened to the public.

**R-2009-118**

After votes were taken in public session, the Board adopted the following order in the matter of **Philip J. Danford**, R.Ph. (03-1-12324) Akron, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-080514-043

*in the matter of:*

**PHILIP J. DANFORD, R.Ph.**

381 Lake of the Woods Boulevard  
Akron, Ohio 44333

R.Ph. Number 03-1-12324

**INTRODUCTION**

The matter of Philip J. Danford came for hearing on November 4, 2008 before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Philip J. Danford was represented by Thomas C. Loepp. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

State's Witness: Thomas Miksch, Ohio State Board of Pharmacy

Respondent's Witness: Philip J. Danford, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity For Hearing letter [05-14-08]  
1A-1G. Procedurals  
1H. Amended Summary Suspension Notice [10-14-08]  
1 I. Procedural
2. Rx #410632; Two Patient Prescription Computer Screen Printouts [12-11-07]  
2A. Notarized Statement of Philip Danford [12-18-07]  
2B. Notarized Statement of Sara D. Boling [12-13-07]  
2C. Notarized Statement of Raymond P. Bermea, M.D. [12-14-07]
3. Rx #373066; Two Patient Prescription Computer Screen Printouts [03-01-07]
4. Rx #395182; Two Patient Prescription Computer Screen Printouts [08-17-07]
5. Rx #376221; Two Patient Prescription Computer Screen Printouts [03-23-07]
6. Rx #376222; Two Patient Prescription Computer Screen Printouts [03-23-07]
7. Rx #361619; Two Patient Prescription Computer Screen Printouts [12-06-06]
8. Rx #385158; Two Patient Prescription Computer Screen Printouts [05-30-07]
9. Rx #363047; Two Patient Prescription Computer Screen Printouts [12-16-06]

10. Rx #376220; Two Patient Prescription Computer Screen Printouts [03-23-07]
11. Rx #402025; Two Patient Prescription Computer Screen Printouts [10-08-07]
12. Rx#402026 [10-08-07]; Two Patient Prescription Computer Screen Printouts
13. Indictment, State of Ohio vs. Philip Danford, Case No. 2008-05-1434, Summit County Common Pleas Court [05-13-08]; Journal Entry Plea [09-22-08]

Respondent's Exhibits:

- A. Journal Entry, State of Ohio vs. Philip Danford, Case No. 08 05 1434 [10-31-08]
- B. Curriculum Vitae of Philip J. Danford [not dated]
- C-D. Two Letters of Support [10-25-08]
- E. Patient Handouts for ibuprofen 600 mg, Celebrex 100 mg and naproxen 250 mg [10-29-08]
- F. Explanation from Respondent Explaining Errors.

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 Philip J. Danford was originally licensed as a pharmacist by the State of Ohio on March 6, 1978, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Philip J. Danford did, on or about December 11, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #410632, written for 227 ml benzoyl peroxide 5% wash, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (3) Philip J. Danford did, on or about March 1, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #373066, written for Z-Pak (azithromycin 250 mg 6 tablets), without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (4) Philip J. Danford did, on or about August 17, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #395182, written for Z-Pak (azithromycin 250 mg 6 tablets), without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. This prescription is an apparent refill for Rx #373066, yet no refills had been noted on the original. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (5) Philip J. Danford did, on or about March 23, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #376221, written for 60 Celebrex 200 mg, with 2 refills, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.

- (6) Philip J. Danford did, on or about March 23, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #376222, written for Z-Pak (azithromycin 250 mg 6 tablets), without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (7) Philip J. Danford did, on or about December 6, 2006, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #361619, written for 9 Imitrex 50 mg, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. Though the prescription indicated no refills, the computer showed 5 available refills. The prescription was refilled. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (8) Philip J. Danford did, on or about May 30, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #385158, written for 30 gm Loprox 0.77% Cream, with 6 refills, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. The prescription was refilled 3 times. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (9) Philip J. Danford did, on or about December 16, 2006, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #363047, written for 120 Motrin 400 mg, with refills listed as "prn," without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. The prescription was refilled 4 times. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (10) Philip J. Danford did, on or about March 23, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #376220, written for 60 Pepcid 40 mg, with 1 refill, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. The prescription was refilled. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (11) Philip J. Danford did, on or about October 8, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #402025, written for 30 Cialis 20 mg, with 3 refills, without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. The prescription was refilled once. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (12) Philip J. Danford did, on or about October 8, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Philip J. Danford created Rx #402026, written for 30 Zyrtec 10 mg, with refills listed as "prn," without authorization from a prescriber, and Philip J. Danford maintained the prescription in the files at Walgreens. The prescription was refilled 2 times. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (13) Philip J. Danford did, from December 6, 2006, through December 11, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens, by deception, to wit: Philip J. Danford

obtained drugs from his employer by surreptitiously forging prescriptions and then charging the drugs to Philip J. Danford's insurance plan. The specific drugs are listed in paragraphs (2) through (12) above. Philip J. Danford admittedly did this "for convenience;" "trying to save money;" and "out of laziness." Philip J. Danford also admitted to a Board agent that he knew his actions were wrong because he once took the Responsible Pharmacist position at another pharmacy after the previous pharmacist had gotten in trouble for doing exactly the same thing as he did here. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (14) Philip J. Danford did, on or about September 19, 2008, enter a plea of guilty to a felony drug abuse offense, to wit: Philip J. Danford pled guilty to five counts of Illegal Processing of Drug Documents, felonies of the 5<sup>th</sup> degree. State of Ohio vs. Philip Danford, CR 05 1434, Summit County Common Pleas Court.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (14) of the Findings of Fact constitute 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 paragraphs (2) through (13) 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 paragraphs (2) through (13) 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 Philip J. Danford on October 14, 2008.

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 Philip J. Danford as follows:

- (A) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for three (3) months, the pharmacist identification card, No. 03-1-12324, held by Philip J. Danford. Philip J. Danford, 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) Philip J. Danford, 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.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby limits Philip J. Danford's practice of

pharmacy in that he may not dispense prescriptions for himself or for any member of his family.

- (D) Philip J. Danford must obtain, within six months from the effective date of this Order, five hours of approved continuing pharmacy education (0.5 CEUs) on Preventing Medication Errors, and three hours of approved continuing pharmacy education (0.3) in Jurisprudence, which may not also be used for license renewal.
- (E) On the basis of the Findings of Fact and the Conclusions of Law set forth above, the State Board of Pharmacy hereby places Philip J. Danford on probation for three (3) years effective upon reinstatement of his identification card. The terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Philip J. Danford'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) Philip J. Danford may not serve as a responsible pharmacist.
  - (3) Philip J. Danford may not destroy, assist in, or witness the destruction of controlled substances.
  - (4) Philip J. Danford must not violate the drug laws of Ohio, any other state, or the federal government.
  - (5) Philip J. Danford must abide by the rules of the State Board of Pharmacy.
  - (6) Philip J. Danford must comply with the terms of this Order.
  - (7) Philip J. Danford's license is deemed not in good standing until successful completion of the probationary period.
- (F) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Philip J. Danford 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.

Elizabeth Gregg moved for Findings of fact; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Deborah Lange moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-7/Nay-0).

Gregory Braylock moved for Action of the Board; Donald Casar seconded the motion. Motion passed (Aye-4/Nay-3).

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12:02 p.m. The Board recessed for lunch.

1:30 p.m.  
**R-2009-119**

The following candidates for licensure by reciprocity met with members of the Board in Room South A, 31<sup>st</sup> Floor of the Vern Riffe Center. The candidates introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. McMillen.

Teresa R. Blundell	West Virginia	Helena Hyun Kim	Maryland
James Burzynski	Illinois	Shani Ghenet King	Texas
Michael A. Chappell	Pennsylvania	Brian Campbell McHugh	Pennsylvania
William Scott Claunch	Arizona	Krima M. Patel	Illinois
Rebecca Christine Foster	Texas	Rushikesh K. Patel	Pennsylvania
Stacy L. Geisler	Georgia	Renee K. Snyder	North Carolina
Helen Ann Ishida	Iowa	Regina Marie Ventura	North Carolina

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 **Cheryl Ann Wheeler**, Intern (06-0-06748) Strongsville, Ohio.

2:26 p.m. The hearing ended and the record was closed.

2:27 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. Kolezynski and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

2:43 p.m. The Executive Session ended and the meeting was opened to the public.

2:44 p.m.  
**R-2009-120** After votes were taken in public session, the Board adopted the following order in the matter of **Cheryl Ann Wheeler**, Intern (06-0-06748) Strongsville, Ohio.

#### **ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-081028-027

*in the matter of:*

#### **CHERYL ANN WHEELER**

19496 Winding Trail  
Strongsville, Ohio 44149

Intern Number 06-0-06748

#### **INTRODUCTION**

The matter of Cheryl Ann Wheeler came for hearing on November 4, 2008, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

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

#### **SUMMARY OF EVIDENCE**

**State's Witness:** Cheryl Ann Wheeler, Respondent

**Respondent's Witnesses:** None

State's Exhibits:

1. Copy of Proposal To Deny/Notice of Opportunity For Hearing Letter [10-28-08]  
1A-1C. Procedurals
2. Application for Examination As A Pharmacist Submitted by Cheryl Ann Wheeler [07-11-08]
3. Written Statement of Respondent [09-19-08]

Respondent's Exhibits:

- Student Profile of Cheryl Wheeler [11-03-08] [not numbered]
- A. Certificate of Review of Criminal Record, Notice of Discharge State of Georgia vs. Cheryl Reyes, Case No. CR05-0736-BA, Department of Superior Court of Chatham County, Georgia; Notice of Discharge [08-10-06]
  - B. First Offender Treatment, Superior Court of Chatham County, Georgia vs. Cheryl Reyes, Case No. CR05-0736-BA [05-18-05]
  - C. General Conditions of Probation, Superior Court of Chatham County, Georgia vs. Cheryl Reeves (sic), Case No. CR05-0736-BA [05-15-05]
  - D. Letter from Sharon V. Smith to Cheryl Reyes [11-29-05]
  - E-F. Two Letters of Support [10-30-08 and 11-04-08]
  - G. Letter from Susan R. Wiersma, M.D. to Ohio State Board of Pharmacy [not dated]; one photograph [not dated]

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 Cheryl Ann Wheeler submitted an application for examination as a pharmacist on or about July 11, 2008.
- (2) Records further indicate that Cheryl Ann Wheeler was originally licensed to practice pharmacy as an intern in the state of Ohio on April 13, 2007, and her license lapsed as of September 15, 2007. Cheryl Ann Wheeler's pharmacy intern license was renewed on October 15, 2008.
- (3) Cheryl Ann Wheeler did, on or about July 11, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Cheryl Ann Wheeler indicated on her pharmacist examination application that she had not been charged with or convicted of a crime when in fact Cheryl Ann Wheeler had been charged and convicted. Specifically, Cheryl Ann Wheeler was arrested and charged on January 3, 2005, with Criminal Damage to Property, a felony under the Georgia State Offense Code 2915, and Terroristic Threats and Acts, a felony under the Georgia State Offense Code 1386, State of Georgia vs. Cheryl Ann Reyes, Case No. C010389, Chatham County Superior Court. Cheryl Ann Wheeler was subsequently convicted on April 29, 2005 of the lesser crimes of Criminal Trespass, a misdemeanor under the Georgia State Offense Code 5710, and Simple Assault, a misdemeanor under the Georgia State Offense Code 1313. Cheryl Ann Wheeler was sentenced to community service and twelve (12) months probation. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.



## CONCLUSION OF LAW

The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

## DECISION OF THE BOARD

Pursuant to Section 4729.07 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application For Licensure As A Pharmacist submitted by Cheryl Ann Wheeler.

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

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

Elizabeth I. Gregg moved for Action of the Board; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

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2:45 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 and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Lipsyc as follows: Braylock – *yes*; Casar – *yes*; Gregg – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

3:10 p.m. The Executive Session ended and the meeting was opened to the public.

**R-2009-121** Mr. Casar moved that the Board summarily suspend the license to practice pharmacy belonging to **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio, pursuant to Ohio Revised Code 3719.121 (A) and (B). Ms. Lange seconded the motion and it was approved by the Board: *Aye – 7*.

3:11 p.m. Mrs. Gregg moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>08/07/08</u>	<u>10/27/08</u>	<u>11/03/08</u>	<u>11/04/08</u>	<u>Total</u>
Braylock	-	1	1	1	3
Casar	-	-	1	1	2
Gregg	-	-	1	1	2
Kaderly	1	-	1	-	2
Kolezynski	-	-	1	1	2
Lange	-	-	1	1	2
Lipsyc	-	-	1	1	2
Pasquale	-	-	1	1	2
Wiesenhahn	-	-	1	1	2

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

3:12 p.m. Mrs. Gregg moved that the meeting be adjourned. The motion was seconded by Mr. Casar and approved by the Board: *Aye – 7*.

<p>The Ohio State Board of Pharmacy approved these Minutes December 8, 2008</p>
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