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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 April 6-8, 2009** **Meeting of the Ohio State Board of Pharmacy**

### **Monday, April 6, 2009**

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*; Donald M. Casar, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, 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 Tracy Marie Greuel, *Assistant Attorney General*.

**R-2009-226** Mr. Winsley announced that the following Settlement Agreements had been signed by all parties, making them effective.

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

Docket Number D-081017-025

*in the matter of:*

**Cincinnati Children's Hospital**  
3333 Burnet Avenue, OSB-1201  
Cincinnati, Ohio 45229

TDDD Number 02-0040400

This Settlement Agreement is entered into by and between Cincinnati Children's Hospital 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.

Cincinnati Children's Hospital 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. Cincinnati Children's Hospital 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 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to grant or renew a license or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Cincinnati Children's Hospital is licensed as a Terminal Distributor of Dangerous Drugs in the State of Ohio.

Whereas, on or about October 17, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Cincinnati Children's Hospital 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. Cincinnati Children's Hospital requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto and are incorporated herein.

Cincinnati Children's Hospital 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, Cincinnati Children's Hospital knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Cincinnati Children's Hospital agrees to the imposition of a monetary penalty of Four Thousand Dollars (\$4,000.00) 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) Cincinnati Children's Hospital has implemented new policies and procedures as reflected in a document entitled "General Policy Involving Compounded Products" and "Dispensing Procedure – Inpatients." Cincinnati Children's Hospital has provided said policies to the Board in consideration of the execution of this Agreement and hereby agrees to continue its operations in accordance with said policies (amendable from time to time if done in accordance with law and regulation and in the best interests of patient care).

Cincinnati Children's Hospital 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.

Cincinnati Children's Hospital 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. Cincinnati Children's Hospital 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/ Cincinnati Children's Hospital; Respondent      Date Signed: 03/11/09  
By David C. Mayhaus, Responsible Pharmacist

/s/ Eric J. Plinke      Date Signed: 03/12/09  
Attorney for Respondent

/s/ Nathan S. Lipsyc      Date Signed: 04/06/09  
President, Ohio State Board of Pharmacy

/s/ By Tracy Marie Greuel      Date Signed: 04/06/09  
Sally Ann Steuk Ohio Assistant Attorney

**R-2009-227**

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

Docket Number D-081017-024

*in the matter of:*

**Jack Paul Horn, R.Ph.**  
149 Glenlake Road  
Loveland, Ohio 45140

R.Ph. Number 03-3-13427

This Settlement Agreement is entered into by and between Jack Paul Horn 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.

Jack Paul Horn 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. Jack Paul Horn 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, Jack Paul Horn is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about October 17, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Jack Paul Horn 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. Jack Paul Horn requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto and are incorporated herein.

Jack Paul Horn 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, Jack Paul Horn knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

Jack Paul Horn agrees to the imposition of a monetary penalty of One Thousand Dollars (\$1,000.00) 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

Jack Paul Horn 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.

Jack Paul Horn 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. Jack Paul Horn 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/ Jack Paul Horn Date Signed: 03/09/09  
*Respondent*

/s/ Eric J. Plinke Date Signed: 03/12/09  
*Attorney for Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk Ohio Assistant Attorney*

**R-2009-228**

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

Docket Number D-081017-023

*in the matter of:*

**Barbara Kaminsky, R.Ph.**  
3557 Royal Stewart Court  
Cincinnati, Ohio 45245

R.Ph. Number 03-2-26395

This Settlement Agreement is entered into by and between Barbara Kaminsky 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.

Barbara Kaminsky voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Barbara Kaminsky

acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

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

Whereas, Barbara Kaminsky is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about October 17, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Barbara Kaminsky was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Barbara Kaminsky requested a hearing; it was scheduled. The Notice of Opportunity for Hearing contains allegations attached hereto and are incorporated herein.

Barbara Kaminsky 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, Barbara Kaminsky knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Barbara Kaminsky 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) Barbara Kaminsky must obtain, within six (6) months time from the effective date of this Agreement, 5 hours of continuing pharmacy education (0.5 CEUs) on preventing medication errors, which may not also be used for license renewal.

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

Barbara Kaminsky 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. Barbara Kaminsky 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/ Barbara Kaminsky Date Signed: 03/03/09  
*Respondent*

/s/ Eric J. Plinke Date Signed: 03/10/09  
*Attorney for Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk Ohio Assistant Attorney*

**R-2009-229**

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

Docket Number D-090213-099

*in the matter of:*

**DANIEL CHRISTOPHER LANE, R.Ph.**

2895 Bynan Drive, Apt. 108  
Ypsilanti, Michigan 48197-1246

R.Ph. Number 03-2-26564

This Settlement Agreement is entered into by and between Daniel Christopher Lane 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.

Daniel Christopher Lane 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. Daniel Christopher Lane 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, Daniel Christopher Lane is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 13, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Daniel Christopher Lane 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. Daniel Christopher Lane accepted this offer for settlement rather than a hearing. The February 13, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Daniel Christopher Lane was originally licensed in the State of Ohio on October 5, 2004, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) Daniel Christopher Lane did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Daniel Christopher Lane submitted 0.2 Continuing Education Units (C.E.U.s) of Jurisprudence that were not Board approved. In addition, Daniel Christopher Lane was short 0.1 C.E.U. of Board approved Jurisprudence. You also submitted 2.25 C.E.U.s of continuing education that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Daniel Christopher Lane did, on or about March 14, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Daniel Christopher Lane indicated on his pharmacist continuing education submission form that he had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Daniel Christopher Lane only submitted 3.45 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Daniel Christopher Lane admits the allegations stated in the Notice of Opportunity for Hearing letter dated February 13, 2009; further, 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, Daniel Christopher Lane knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Daniel Christopher Lane herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Daniel Christopher Lane will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Daniel Christopher Lane's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

Daniel Christopher Lane 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.

Daniel Christopher Lane waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees,





reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) Rebecca Morris did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Rebecca Morris was short 0.1 Continuing Education Unit (C.E.U.) of Board approved Jurisprudence. In addition, Rebecca Morris was short 0.15 Continuing Education Units (C.E.U.s) of Board approved continuing education. Also, Rebecca Morris submitted 2.2 C.E.U.s of Board approved continuing education after Rebecca Morris signed her Continuing Pharmacy Education Reporting Form on April 20, 2008. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Rebecca Morris did, on or about April 20, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Rebecca Morris indicated on her pharmacist continuing education submission form that she had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Rebecca Morris only submitted 3.55 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Rebecca Morris admits the allegations stated in the Notice of Opportunity for Hearing letter dated February 13, 2009; further, 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, Rebecca Morris knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Rebecca Morris herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Rebecca Morris will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Rebecca Morris' license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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

Rebecca Morris 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. Rebecca Morris 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/ Rebecca Morris, R.Ph. Date Signed: 03/05/09  
*Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk, Ohio Assistant Attorney*

**R-2009-231**

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

Docket Number D-090123-068

*in the matter of:*

**AARON LEE TOLLE, R.Ph.**

807 East Walnut Street  
West Union, Ohio 45693

R.Ph. Number 03-2-26280

This Settlement Agreement is entered into by and between Aaron Lee Tolle 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.

Aaron Lee Tolle 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. Aaron Lee Tolle 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, Aaron Lee Tolle is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 23, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Aaron Lee Tolle 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. Aaron Lee Tolle accepted this offer for settlement rather than a hearing. The January 23, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Aaron Lee Tolle was originally licensed in the State of Ohio on July 13, 2004, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Aaron Lee Tolle did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Aaron Lee Tolle was short 0.2 Continuing Education Units (C.E.U.s) of Board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Aaron Lee Tolle did, on or about March 20, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Aaron Lee Tolle indicated on his pharmacist continuing education submission form that he had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved Jurisprudence, when in fact Aaron Lee Tolle only submitted 5.8 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Aaron Lee Tolle admits the allegations stated in the Notice of Opportunity for Hearing letter dated January 23, 2009; further, 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, Aaron Lee Tolle knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Aaron Lee Tolle herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Aaron Lee Tolle will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Aaron Lee Tolle's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

Aaron Lee Tolle 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.

Aaron Lee Tolle 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. Aaron Lee Tolle 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/ Aaron Lee Tolle, R.Ph. Date Signed: 03/28/09  
*Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk, Ohio Assistant Attorney*

**R-2009-232**

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

Docket Number D-090219-080

*in the matter of:*

**GREGORY ROBERT HOWSKI, R.Ph.**

524 Trace Drive  
Delaware, Ohio 43015

R.Ph. Number 03-2-21520

This Settlement Agreement is entered into by and between Gregory Robert Howski 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.

Gregory Robert Howski 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. Gregory Robert Howski 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, Gregory Robert Howski is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 19, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Gregory Robert Howski 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. Gregory Robert Howski accepted this offer for settlement rather than a hearing. The February 19, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Gregory Robert Howski was originally licensed in the State of Ohio on February 26, 1996,

pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

- (2) Gregory Robert Howski did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Gregory Robert Howski did not complete 0.7 Continuing Education Units (C.E.U.s) of Board approved continuing education until after he signed his Continuing Pharmacy Education reporting Form on May 5, 2008. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Gregory Robert Howski did, on or about May 5, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Gregory Robert Howski indicated on his pharmacist continuing education submission form that he had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Gregory Robert Howski only submitted 5.3 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Gregory Robert Howski neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 19, 2009; he avers that it was simply oversight. 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, Gregory Robert Howski knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Gregory Robert Howski herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Gregory Robert Howski will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Gregory Robert Howski's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

Gregory Robert Howski 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.

Gregory Robert Howski 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. Gregory Robert Howski 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/ Gregory Robert Howski, R.Ph. Date Signed: 03/17/09  
*Respondent*

/s/ Robert A. Cline Date Signed: 03/17/09  
*Attorney for Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk Ohio Assistant Attorney*

**R-2009-233**

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

Docket Number D-090219-105

*in the matter of:*

**FRANCINE TUROSE-WIESE, R.Ph.**

895 Busdecker Lane  
Gibsonburg, Ohio 43431

R.Ph. Number 03-2-17744

This Settlement Agreement is entered into by and between Francine Turose-Wiese 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.

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

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

Whereas, Francine Turose-Wiese is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 19, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Francine Turose-Wiese was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to

submit contentions in writing. Francine Turose-Wiese accepted this offer for settlement rather than a hearing. The February 19, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Francine Turose-Wiese was originally licensed in the State of Ohio on July 27, 1989, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Francine Turose-Wiese did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Francine Turose-Wiese submitted 0.2 Continuing Education Units (C.E.U.s) of Jurisprudence that were not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.
- (3) Francine Turose-Wiese did, on or about April 16, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Francine Turose-Wiese indicated on her pharmacist continuing education submission form that she had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Francine Turose-Wiese only submitted 5.8 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Francine Turose-Wiese admits the allegations stated in the Notice of Opportunity for Hearing letter dated February 19, 2009; further, 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, Francine Turose-Wiese knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Francine Turose-Wiese herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Francine Turose-Wiese will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Francine Turose-Wiese's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Francine Turose-Wiese appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Francine Turose-Wiese acknowledges that she has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked

have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Francine Turose-Wiese 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. Francine Turose-Wiese 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/ Francine Turose-Wiese, R.Ph. Date Signed: 03/09/09  
*Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/06/09  
*Sally Ann Steuk, Ohio Assistant Attorney*

**R-2009-234**

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

Docket Number D-090123-066

*in the matter of:*

**CHRISTINA CAPRICE BROWN, R.Ph.**

4363 Clayton Road  
Brookville, Ohio 45309  
R.Ph. Number 03-2-17989

This Settlement Agreement is entered into by and between Chrystina Caprice Brown 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.

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

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

Whereas, Chrystina Caprice Brown is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 23, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Chrystina Caprice Brown was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her



right to submit contentions in writing. Chrystina Caprice Brown accepted this offer for settlement rather than a hearing. The January 23, 2009, Notice of Opportunity for Hearing contains the following allegations or charges, as amended:

- (1) Records of the State Board of Pharmacy indicate that Chrystina Caprice Brown was originally licensed in the State of Ohio on July 27, 1989, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Chrystina Caprice Brown did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Chrystina Caprice Brown submitted 0.1 Continuing Education Unit (C.E.U.) of Jurisprudence that was not Board approved. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

Chrystina Caprice Brown neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 23, 2009; she avers that it was simply oversight. 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, Chrystina Caprice Brown knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Chrystina Caprice Brown herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Chrystina Caprice Brown will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Chrystina Caprice Brown's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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

Chrystina Caprice Brown 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. Chrystina Caprice Brown waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

/s/ Chrystina Caprice Brown, R.Ph. Date Signed: 04/07/09  
*Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/07/09  
*President, Ohio State Board of Pharmacy*

/s/ Sally Ann Steuk Date Signed: 04/07/09  
*Ohio Assistant Attorney General*

**R-2009-235**

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

Docket Number D-090219-094

*in the matter of:*

**ROBERT JOHN KOCH, JR., R.Ph.**  
4259 Cheval Circle  
Stow, Ohio 44224

R.Ph. Number 03-2-13826

This Settlement Agreement is entered into by and between Robert John Koch, Jr. and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Robert John Koch, Jr voluntarily enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Robert John Koch, Jr acknowledges that by entering into this agreement he has waived his rights under Chapter 119. of the Revised Code.

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

Whereas, Robert John Koch, Jr. is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 19, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Robert John Koch, Jr. was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Robert John Koch, Jr. accepted this offer for settlement rather than a hearing. The February 19, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Robert John Koch, Jr. was originally licensed in the State of Ohio on August 1, 1980, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Robert John Koch, Jr. did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Robert John Koch, Jr. completed 3.4 Continuing Education Units (C.E.U.s) of Board approved continuing

education after Robert John Koch, Jr. signed his Continuing Pharmacy Education Reporting Form on March 15, 2008. In addition, Robert John Koch, Jr. completed 0.3 Continuing Education Unit (C.E.U.) of Board approved Jurisprudence after the March 15, 2008 date. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

- (3) Robert John Koch, Jr. did, on or about March 15, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Robert John Koch, Jr. indicated on his pharmacist continuing education submission form that Robert John Koch, Jr. had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Robert John Koch, Jr. only submitted 2.3 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Robert John Koch, Jr. admits the allegations stated in the Notice of Opportunity for Hearing letter dated February 19, 2009; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

- (A) Robert John Koch, Jr. herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Robert John Koch, Jr. will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Robert John Koch, Jr.'s license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Robert John Koch, Jr. appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

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

Robert John Koch, Jr. waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Robert John Koch, Jr. waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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

/s/ Robert John Koch, Jr., R.Ph. Date Signed: 03/31/09  
*Respondent*

/s/ Michael E. Edminister Date Signed: 03/31/09  
*Attorney for Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/06/09  
*President, Ohio State Board of Pharmacy*

/s/ Sally Ann Steuk Date Signed: 04/06/09  
*Ohio Assistant Attorney General*

10:02 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. Wiesenhahn and a roll-call vote was conducted by President Lipsyc as follows: Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; and Wiesenhahn – *yes*.

10:19 a.m. Mr. Braylock arrived and joined the meeting in progress.

10:47 a.m. The Executive Session ended and the meeting was opened to the public.

**R-2009-236** Mrs. Gregg moved that the Board accept a settlement offer in the matter of **James Koehl**, R.Ph. (03-3-13386) Tiffin, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent agreeing to the changes made by the Board. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 6; *Abstained*, Braylock.

Mark Keeley discussed the proposed new rules pursuant to SB203 with the Board.

12:16 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened 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.; and Jerome J. Wiesenhahn, R.Ph.

The discussion of the proposed rules continued.

**R-2009-237** Mrs. Gregg moved that the pharmacy technician rules 4729-4-01 through 4729-4-04 be approved for filing as amended. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 4; *Nay* – 3.

**R-2009-238** Mr. Braylock moved that rules 4729-5-36, 4729-5-37, 4729-5-38, & 4729-37-07 be approved for filing. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7.

Mr. Keeley presented the Legislative Report.

Mrs. Droz presented the OARRS Report.

2:46 p.m. The Board recessed briefly.

- 2:59 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Paul Daniel Ciavarella**, R.Ph. (03-3-17226) Poland, Ohio.
- 5:10 p.m. The hearing ended and the record was closed.
- 5:11 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. Wiesenhahn and a roll-call vote was conducted by President Lipsyc as follows: Casar – *yes*; Gregg – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; and Wiesenhahn – *yes*. Mr. Braylock recused himself from the session.
- 5:36 p.m. The Executive Session ended and the meeting was opened to the public.

After votes were taken in public session, the Board adopted the following order in the matter of **Paul Daniel Ciavarella**, R.Ph. (03-3-17226) Poland, Ohio.

**R-2009-239**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-081008-022

*in the matter of:*

**PAUL DANIEL CIAVARELLA, R.Ph.**

7631 Mulberry Walk  
Poland, Ohio 44514

R.Ph. Number 03-3-17226

**INTRODUCTION**

The matter of Paul Daniel Ciavarella came for hearing on April 6, 2009, before the following members of the Board: Nathan S. Lipsyc, R.Ph. (*presiding*); 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.; and Jerome J. Wiesenhahn, R.Ph.

Heather L. Pasquale, R.Ph., Board Member, absent

Gregory Braylock, R.Ph., Board Member, recused

Paul Daniel Ciavarella was represented by Peter T. Cahoon. The State of Ohio was represented by Tracy Marie Greuel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

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

Respondent's Witnesses: Paul Daniel Ciavarella, R.Ph., Respondent  
Kimberly McAbee, M.D.  
Thomas Oswald, R.Ph.

State's Exhibits:

1. Copy of Summary Suspension/Notice of Opportunity For Hearing letter [10-08-08]  
1A-1E. Procedurals

2. Pharmacist Renewal Application Submitted by Paul Daniel Ciavarella with Attachment [09-01-08]
3. Notarized Statement of Paul Ciavarella, R.Ph. [09-10-08]
4. Notarized Statement of Paul Ciavarella, R.Ph. [09-10-08]
5. Docket Entry Listing, State of Ohio vs. Paul D. Ciavarella, Case No. CRB 0700366, Campbell Municipal Court [11-27-07]; Campbell Police Department Narrative Supplement [11-24-07]
6. Complaint, State of Ohio vs. Paul D. Ciavarella, Case No. CRA 0800214, Campbell Municipal Court [07-17-08]; Journal Entry [08-29-08]; Campbell Police Narrative Supplement [07-16-08]
7. Report of Theft or Loss of Controlled Substances for Walgreens #06675; List of Controlled Substances Lost [09-11-08]
8. Bill of Information, State of Ohio vs. Paul Ciavarella, Case No. 08 CR 1340, Mahoning County Common Pleas Court, Theft of Drugs (felony 4th degree) [12-17-08]; Judgement Entry [12-18-08]

Respondent's Exhibits:

- A. Discharge Summary from Glenbeigh [12-10-08]
- B. Glenbeigh Outpatient Progress Report for Paul Ciavarella [03-18-09]
- C. Mahoning County Drug Court Orientation Letter for Paul Ciavarella [11-14-08]
- D. Mahoning County Drug Court Participation Letter for Paul Ciavarella [03-20-09]
- E. Support Group Attendance Records [10-02-08 to 03-27-09]
- F. A.A. Telephone Contact Log [not dated]
- G. FirstLab Urine Test History Report 12-09-08 to 03-15-09
- H. Toxicology Enterprises, Inc. Toxicology Analysis Report [01-02-09 to 03-10-09]
- I. Glenbeigh Drug and Alcohol Screen Reports [10-10-08 to 12-09-08]
- J. Letter from Arthur W. Duran, D.O. Re: Paul Ciavarella [12-29-08]
- K. PRO Pharmacist's Recovery Contract for Paul D. Ciavarella [11-23-08]
- L. Continuing Pharmacy Education Certificate [03-12-08]
- M-P. Four Letters of Support [03-19-09 to 03-25-09]
- Q. Continuing Pharmacy Education Credits and Certificates [03-30-09 to 04-02-09]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Paul Daniel Ciavarella was originally licensed in the State of Ohio on February 26, 1988, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective October 10, 2008.
- (2) Paul Daniel Ciavarella 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: Paul Daniel Ciavarella has admitted to a Board agent that he is addicted to gambling, marijuana, opiates, and crack cocaine. Paul Daniel Ciavarella has also admitted that he has stolen drugs from his parents and from his employers. Paul Daniel Ciavarella has been arrested twice for committing criminal activity while attempting to purchase crack cocaine. Such conduct indicates that Paul Daniel Ciavarella is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

- (3) Paul Daniel Ciavarella was, on or about November 27, 2007, convicted in the Campbell Municipal Court of Disorderly Conduct, a minor misdemeanor. The charge had been reduced from Possessing Drug Paraphernalia, a misdemeanor of the fourth degree. Paul Daniel Ciavarella had been arrested while attempting to purchase crack cocaine, and Paul Daniel Ciavarella admittedly possessed a crack pipe at the time of the arrest. Such conduct, constitutes being guilty of gross immorality within the meaning of Section 4729.16 of the Ohio Revised Code.
- (4) Paul Daniel Ciavarella was, on or about August 29, 2008, convicted in the Campbell Municipal Court of Disorderly Conduct, a minor misdemeanor. The charge had been reduced from Tampering with Evidence, a felony of the third degree. Paul Daniel Ciavarella was also convicted of a traffic violation and littering. Paul Daniel Ciavarella had been arrested while attempting to purchase crack cocaine, and Paul Daniel Ciavarella admittedly threw a \$40 rock of crack cocaine out the window of his car when he was being stopped. The crack cocaine was not recovered. Such conduct constitutes being guilty of gross immorality within the meaning of Section 4729.16 of the Ohio Revised Code.
- (5) Paul Daniel Ciavarella did, on various dates prior to July, 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, by deception, to wit: Paul Daniel Ciavarella has admittedly stolen OxyContin 20 mg from his father's medication supply, and Vicodin 5/500 mg from his mother's medication supply. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Paul Daniel Ciavarella did, on various dates from the spring of 2005 through the spring of 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, by deception, to wit: Paul Daniel Ciavarella has admittedly stolen dangerous drugs from his employer, MVI Pharmacy, including 100 to 200 Vicodin 5/500 mg tablets from various patient returns. Paul Daniel Ciavarella has also admitted to stealing a full 120 ml bottle of morphine sulfate 20 mg/ml as well as a partial bottle of the same, and approximately 60 tablets of Oxy IR 5 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Paul Daniel Ciavarella did, on various dates from April 28, 2008 through July of 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of another, by deception, to wit: Paul Daniel Ciavarella has admittedly stolen dangerous drugs from his employer, Walgreen's Pharmacy and its various patients. Paul Daniel Ciavarella has admitted to stealing Adderal that had been returned to the pharmacy, and Paul Daniel Ciavarella has admitted to occasionally shorting patients' hydrocodone/APAP 5/500 mg. Paul Daniel Ciavarella has also admitted to stealing 2 stock bottles of Suboxone 8 mg from the pharmacy stock. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (7) 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 (5) through (7) of the Findings of Fact constitute being guilty of dishonesty and unprofessional

conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

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

#### DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Paul Daniel Ciavarella on October 8, 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 suspends indefinitely the pharmacist identification card, No. 03-3-17226, held by Paul Daniel Ciavarella and such suspension is effective as of the date of the mailing of this Order.

- (A) Paul Daniel Ciavarella, 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) Paul Daniel Ciavarella, 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.

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Paul Daniel Ciavarella a monetary penalty of two thousand dollars (\$2,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Paul Daniel Ciavarella for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Paul Daniel Ciavarella must attempt to make restitution to Walgreen's in the amount of \$380.00
- (B) Paul Daniel Ciavarella must enter into a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:



- (1) Random, **observed** urine drug screens shall be conducted at least once each month.
    - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
    - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
  - (2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
  - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (C) Paul Daniel Ciavarella must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (D) Paul Daniel Ciavarella must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Documentation of attempt at restitution to Walgreen's in the amount of \$380.00
  - (2) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
  - (3) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
  - (4) Compliance with the terms of this Order.
- (E) If reinstatement is not accomplished within three years of the effective date of this Order, Paul Daniel Ciavarella must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

Elizabeth I. Gregg moved for Findings of Fact; Donald Casar seconded the motion. Motion passed (Aye-6/Nay-0).

Elizabeth I. Gregg moved for Conclusions of Law; Donald Casar seconded the motion. Motion passed (Aye-6/Nay-0).

Donald Casar moved for Action of the Board; Elizabeth I. Gregg seconded the motion. Motion passed (Aye-6/Nay-0).

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5:40 p.m.

The Board recessed for the day

Tuesday, April 7, 2009

9:30 a.m. The Board reconvened 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.; and Jerome J. Wiesenhahn, R.Ph.

R-2009-240 After discussion, Mr. Braylock moved that the electronic prescribing system **Cyber Access**, be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 7.*

R-2009-241 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:  
**Mahoning Valley Hospital-Trumbull Campus Pharmacy**, Warren, Ohio (02-1925850)  
**Central Admixture Pharmacy Services**, Valley View, Ohio (02-1312700)

After discussion, Mr. Kolezynski 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. Gregg and approved by the Board: *Aye – 7.*

R-2009-242 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:

**Mahoning Valley Hospital-Boardman Campus Pharmacy**, Boardman, Ohio (02-1925900)  
**Central Admixture Pharmacy Services**, Valley View, Ohio (02-1312700)

After discussion, Mr. Kolezynski 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. Gregg and approved by the Board: *Aye – 7.*

R-2009-243 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Thomas P. Mullaney**, R.Ph. (03-3-18477) Cincinnati, Ohio be permitted to be the responsible person for the following sites:

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

After discussion, Mr. Braylock moved that the Board approve the request for 1 year. The motion was seconded by Mr. Casar and approved by the Board: *Aye – 7.*

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

Ms. Lange said there was no Medical Board Physician Assistant Policy Committee meeting this month.

Mr. Winsley discussed his meeting with the Medical Board Prescribing Committee Report this month.

Mr. Winsley reported on the current status of the FY 2010-2011 budget.

R-2009-244 After discussion, Mr. Casar moved that the Conference Call minutes of March 24, 2009, be approved as written. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye – 7.*

**R-2009-245** After discussion, Mrs. Gregg moved that the Board minutes of March 2-4, be approved as amended. Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye – 7.*

10:32 a.m. The Board recessed briefly.

10:51 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of discussing personnel matters pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. 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*; and Wiesenhahn – *yes*.

12:15 p.m. The Executive Session ended and the Board recessed for lunch.

1:30 p.m.

**R-2009-246** 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.

Latarshia Yvette Boone	North Carolina	Desiree Michelle Denson Kowash	Oregon
Scott Alan Borsenik	Michigan	Jessica T. Lee	Illinois
Justin Matthew Brock	Arizona	Cassie Jo Mounts	West Virginia
Susan Marie Butler	Pennsylvania	Mohsin A. Naeem	New Jersey
Lynn Marie Chwojdak	New York	Gregory Eugene Pierce	Indiana
Kerry C. Conway	Arizona	Jessica Piper	Indiana
Seth Herbert Depasquale	New York	Joelle Kettering Potts	West Virginia
Christopher John Forst	Texas	Rasha S. Salem	Pennsylvania
James C. Gillespie	Pennsylvania	Richard Alan Sarcone	Florida
Michael Joseph Grom	Pennsylvania	Crystal Schnur	Pennsylvania
Tahha N. Harp	Michigan	John C. Stephanie	Michigan
Carrie Donna Hatch	Iowa	Arum Govindram Tahiliani	South Carolina
Cherie Harris Howard	Georgia	Toqueer UI Hassan	Michigan
Brandi Nicole Johnson	Tennessee	Mehulkumar R. Patel	Michigan
Shannon Kahrs	South Carolina	Puneet Sharma	New Jersey
		Adnan Qadir Chowdry	Michigan

2:00 p.m. The Board reconvened in Room South B and was joined by Assistant Attorney General Tracy Marie Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio.

3:48 p.m. The hearing ended and the record was closed.

3:49 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. 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*; and Wiesenhahn – *yes*.

4:08 p.m. The Executive Session ended and the meeting was opened to the public.

4:09 p.m.

**R-2009-247** After votes were taken in public session, the Board adopted the following order in the matter of **Leigh Ann Yates**, R.Ph. (03-1-20616) Greenfield, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-03-1-20616

*in the matter of:*

**LEIGH ANN YATES, R.Ph.**

12917 Lakeside Drive  
Greenfield, Ohio 45123

R.Ph. Number 03-1-20616

INTRODUCTION

The matter of Leigh Ann Yates came for hearing on April 7, 2009, 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.; and Jerome J. Wiesenbahn, R.Ph.

Heather L. Pasquale, R.Ph.; Board member, absent.

Leigh Ann Yates was represented by Daniel D. Connor. The State of Ohio was represented by Tracy Marie Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Kevin J. Kinneer, Ohio State Board of Pharmacy

Respondent's Witnesses: Leigh Ann Yates, R.Ph., Respondent  
Donald Yates

State's Exhibits:

1. Copy of Summary Suspension/Notice of Opportunity For Hearing letter [11-05-08]
- 1A-1E. Procedurals
2. Notarized Statement of Leigh Ann Yates [10-31-08]
3. Notarized Statement of Erik T. Bernhoffer, M.D. [12-10-08]
4. Table of All Forged Prescriptions [05-17-07 to 09-25-08]

Respondent's Exhibits:

- A. PRO Pharmacists Recovery Contract for Leigh Yates [11-18-08]
- B. Cornerstone Treatment and Outpatient Documentation [11-06-08 to 01-19-09]
- C. Cornerstone Drug Test Series [11-14-08 to 01-08-09]
- D. FirstLab Test History Report [12-17-08 to 03-11-09]; Drug Testing Panels [Updated 10-11-06]
- E. Support Group Attendance [11-12-08 to 04-06-09]
- F. Letters from Treatment Counselors [03-04-09 to 03-26-09]
- G. Three Letters of Support [03-07-09 to 03-24-09]
- H. Six Letters of Support [03-05-09 to 03-28-09]
- I. Continuing Education Credits and Certificates [11-08-07 to 03-26-09]
- J. Letter from Michael D. Quigley, R.Ph. [04-03-09]

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Leigh Ann Yates was originally licensed in the State of Ohio on July 28, 1994, pursuant to examination, and that her license to practice pharmacy in the State of Ohio was summarily suspended effective November 5, 2008.
- (2) Leigh Ann Yates is addicted to and/or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Leigh Ann Yates admitted to a Board agent that she is addicted to the use of phentermine, a Schedule IV Controlled Substance. Leigh Ann Yates also admitted to stealing drugs from her employer and forging prescriptions to conceal her thefts. Such conduct indicates that Leigh Ann Yates is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Leigh Ann Yates did, on or about October 29, 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger's Pharmacy, beyond the express or implied consent of the owner, to wit: Leigh Ann Yates admittedly stole 2 tablets of phentermine 37.5 mg., a Schedule IV Controlled Substance, from her employer for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Leigh Ann Yates did, from July 14, 2008, through September 25, 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger's Pharmacy, beyond the express or implied consent of the owner, to wit: Leigh Ann Yates admittedly forged prescriptions so as to steal 150 tablets of phentermine 37.5 mg., a Schedule IV Controlled Substance, from her employer for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Leigh Ann Yates did, on or about the following dates, intentionally create and/or knowingly possess false or forged prescriptions, to wit: Leigh Ann Yates created the following prescriptions, not issued by an authorized prescriber, to conceal her thefts of the drugs.

Date	Rx. #	Drug	Qty
07-14-08	4470435	phentermine 37.5 mg	30
07-24-08	4470607	phentermine 37.5 mg	30
08-10-08	4470907	phentermine 37.5 mg	30
08-30-08	4471290	phentermine 37.5 mg	30
09-25-08	4471791	phentermine 37.5 mg	30

Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code, and constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 2925. of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of a gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) through (5) of the Findings of Fact constitute being guilty of dishonesty and unprofessional

conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (5) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Leigh Ann Yates on November 5, 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 suspends indefinitely the pharmacist identification card, No. 03-1-20616, held by Leigh Ann Yates and such suspension is effective as of the date of the mailing of this Order.

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

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Leigh Ann Yates for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement, providing Leigh Ann Yates appears and testifies before the Board at the reinstatement petition hearing. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Leigh Ann Yates must attempt to make restitution to Kroger Pharmacy.
- (B) Leigh Ann Yates must enter into a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
  - (1) Random, observed urine drug screens shall be conducted at least once each month.

- (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
  - (b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
- (2) Attendance is required a minimum of three times per week at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
- (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (C) Leigh Ann Yates must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (D) Leigh Ann Yates must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Documentation of attempt at restitution to Kroger Pharmacy:
  - (2) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug screen reports, meeting attendance records, treatment program reports, etc.);
  - (3) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
  - (4) Compliance with the terms of this Order.
- (E) If reinstatement is not accomplished within three years of the effective date of this Order, Leigh Ann Yates must also show successful completion of the NAPLEX and MPJE examinations or equivalent examinations approved by the Board.

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

Elizabeth I. Gregg moved for Conclusions of Law; Gregory Braylock seconded the motion. Motion passed (Aye-7/Nay-0).

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

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4:26 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*; and Wiesenbahn – *yes*.

4:51 p.m. The Executive Session ended and the meeting was opened to the public.

4:55 p.m. The Board recessed for the day.

**Wednesday, April 8, 2009**

8:45 p.m. The Board reconvened 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.; and Jerome J. Wiesenbahn, R.Ph.

**R-2009-248**

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

Docket Number D-090213-102

*in the matter of:*

**CAROLYN JO PESHEK, R.Ph.**

9696 Thwing Road  
Chardon, Ohio 44024

R.Ph. Number 03-2-12758

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

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

Whereas, Carolyn Jo Peshek is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 13, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Carolyn Jo Peshek was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Carolyn Jo Peshek accepted this offer for settlement rather than a hearing. The February 13, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Carolyn Jo Peshek was originally licensed in the State of Ohio on February 23, 1979, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Carolyn Jo Peshek did, on or about or prior to May 15, 2008, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Carolyn Jo Peshek did not



complete 0.6 Continuing Education Units (C.E.U.s) of Board approved continuing education until after she signed her Continuing Pharmacy Education Reporting Form on June 1, 2008. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code, and if proven constitutes being guilty of unprofessional conduct and/or willfully violating a rule of the Board within the meaning of Section 4729.16 of the Ohio Revised Code.

- (3) Carolyn Jo Peshek did, on or about June 1, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Carolyn Jo Peshek indicated on her pharmacist continuing education submission form that she had completed 6.0 Continuing Education Units (C.E.U.s), at least 0.3 C.E.U.s of which were in Board-approved jurisprudence, when in fact Carolyn Jo Peshek only submitted 5.4 documented C.E.U.s as shown by the audit. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Carolyn Jo Peshek neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 13, 2009; she avers that it was simply oversight. 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, Carolyn Jo Peshek knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Carolyn Jo Peshek herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Carolyn Jo Peshek will submit additional documentation to show compliance with continuing education requirements prior to September 15, 2009, else Carolyn Jo Peshek's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

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

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

Carolyn Jo Peshek 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. Carolyn Jo Peshek 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/ Carolyn Jo Peshek, R.Ph. Date Signed: 04/04/09  
*Respondent*

/s/ Nathan S. Lipsyc Date Signed: 04/08/09  
*President, Ohio State Board of Pharmacy*

/s/ By Tracy Marie Greuel Date Signed: 04/08/09  
*Sally Ann Steuk, Ohio Assistant Attorney*

**R-2009-249** Mr. Keeley presented a request from **Yooseok L. Ha** to be granted an extension of the time in which she is eligible to take the NAPLEX exam. Mrs. Gregg moved that her eligibility period be extended to December 31, 2009. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 7.*

9:00 a.m. The Board was joined by Assistant Attorney General Tracy Marie Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Joe Anthony Murphy**, Intern (lapsed) Toledo, Ohio.

11:00 a.m. The hearing ended and the record was closed.

11:04 a.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. 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*; and Wiesenbahn.

11:48 a.m. The Executive Session ended and the meeting was opened to the public.

11:50 a.m.

**R-2009-250** After votes were taken in public session, the Board adopted the following order in the matter of **Joe Anthony Murphy**, Intern (lapsed) Toledo, Ohio.

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

Docket Number D-090211-087

*in the matter of:*

**JOE ANTHONY MURPHY**  
2663 Algonquin Parkway  
Toledo, Ohio 43606

Intern Number 06-0-07027

### **INTRODUCTION**

The matter of Joe Anthony Murphy came for hearing on April 8, 2009, 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.; and Jerome J. Wiesenbahn, R.Ph.

Heather L. Pasquale, R.Ph., Board Member, absent

Joe Anthony Murphy was represented by Elizabeth Y. Collis. The State of Ohio was represented by Tracy Marie Greuel, Assistant Attorney General.

### SUMMARY OF EVIDENCE

State's Witness: Homer Chapa, Ohio State Board of Pharmacy

Respondent's Witness: Joe Anthony Murphy, Respondent

#### State's Exhibits:

1. Copy of Notice of Opportunity For Hearing letter [02-11-09]  
1A-1D. Procedurals
2. Certified Journal Entry, State of Ohio vs. Joseph A. Murphy, Case No. CRB-03-15074-0101, Toledo Municipal Court, Beer or Liquor Underage Person [09-05-03]
- 2a. Copy of Statement of Joseph Anthony Murphy [08-29-03]
3. Case Summary, Parma Heights Mayor's Court vs. Joseph A. Murphy, Case No. 05CRB01222, Underage Possession/Consumption [01-06-06]
- 3a. Copy of Statement of Joseph Anthony Murphy [12-18-05]
4. Case Summary, Parma Heights Mayor's Court, Case No. 07CRB01105, Furnishing Alcohol to Minors [08-15-07]; Case No. 07CRB01106, Obstructing Official Business [08-15-07]
- 4a. Copy of Statement of Joseph Anthony Murphy [08-14-07]
5. Uniform Traffic Ticket, State of Ohio vs. Joseph A. Murphy, Case No. TRC/D0802526; Explanation of Traffic Stop by Issuing Ohio State Trooper M. R. Abbey Ohio State Highway Patrol Impaired Driver Report [04-13-08]
- 5a. Judgment Entry, State of Ohio vs. Joseph A. Murphy, Case TRC0802526, Municipal Court of Perrysburg, Wood County, Ohio [06-30-08]; Copy of Motion of State/City to Conditionally Amend or Dismiss Charge(s) and Attached Order, State of Ohio vs. Joseph Murphy, Case No. TRC0802526, Municipal Court of Perrysburg, Wood County, Ohio [07-02-08]
- 5b. Statement Respondent [not dated]
6. Pharmacy Intern Registration Applications for Joe Anthony Murphy [01-12-07]; [09-12-07]; [07-30-08]; Pharmacy Intern Renewal Form for Joe Anthony Murphy [09-05-08]
7. Fax from Joseph Murphy to Ohio State Board of Pharmacy Agent Homer Chapa with Attachments [09-16-08]

#### Respondent's Exhibits:

- A. Adult Assessment from Rescue Mental Health Services [03-20-09]
- B.-D. Three Letters of Support [9-16-08 to 03-30-09]
- E.-F. Two Letters of Support from Employers [03-10-09 and 03-20-09]
- G. Letter of Support [04-02-09]
- H. Letter of Recommendation from James J. Buldas, ED.D., Counseling Psychologist [05-17-08]
- I. Letter from Janice Edwards of New Concepts Inc. [04-01-09]
- J. Support Group Attendance Records [04-21-08 to 06-20-08]

### FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Joe Anthony Murphy was originally licensed as a Pharmacy Intern in the State of Ohio on September 26, 2007.

- (2) Joe Anthony Murphy is impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Joe Anthony Murphy has had several convictions for alcohol-related offenses, as follows. These convictions indicate a lack of concern for the law concerning mind/physical-altering substances.
- (a) Joe Anthony Murphy was on or about September 5, 2003, convicted in the Toledo Municipal Court of Underage Possession in violation of Section 4301.69E)(1) of the Ohio Revised Code. State of Ohio vs. Joseph A. Murphy, CRB-03-15074-0101.
  - (b) Joe Anthony Murphy was, on or about January 6, 2006, convicted in the Parma Heights Municipal Court of Underage Possession/Consumption in violation of Section 612.020(E) of the Codified Ordinances of Parma Heights. Parma Heights vs. Joseph A. Murphy, 05 CRB 01222.
  - (c) Joe Anthony Murphy was, on or about August 15, 2007, convicted in the Parma Heights Municipal Court of Furnishing Alcohol to Minors in violation of Section 612.020(B) of the Codified Ordinances of Parma Heights and of Obstructing Official Business in violation of Section 606.140 of the Codified Ordinances of Parma Heights. Parma Heights vs. Joseph A. Murphy, 07 CRB 01105 and 07 CRB 01106.
  - (d) Joe Anthony Murphy was, on or about June 30, 2008, convicted in the Perrysburg Municipal Court of Reckless Operation in violation of Section 4511.20 of the Ohio Revised Code. Joe Anthony Murphy was sentenced to 30 days incarceration with 27 days suspended, required to complete a DUI intervention program, Joe Anthony Murphy's license was suspended for 1 year, and Joe Anthony Murphy was granted occupational driving privileges if he had an ignition interlock device installed on his automobile. State of Ohio vs. Joseph A. Murphy, TRC 0802526

Such conduct indicates that Joe Anthony Murphy is within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes not being of good moral character and habits as provided in Section 4929-5-04 (C) of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being impaired physically or mentally at the time of the offenses to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby places Joe Anthony Murphy on probation until such time as he is licensed as a pharmacist, effective as of the date of the mailing of this Order with the following conditions:

(A) Joe Anthony Murphy must personally appear before the State Board of Pharmacy at the time of making application as a pharmacist to show fitness to practice pharmacy.

(B) Joe Anthony Murphy must abide by the rules of the State Board of Pharmacy.

(C) Joe Anthony Murphy must comply with the terms of this Order.

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

Elizabeth I. Gregg moved for Conclusions of Law; Barton Kaderly seconded the motion. Motion passed (Aye-4/Nay-3).

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

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11:52 a.m. The Board recessed for lunch. Mr. Lipsyc left for personal reasons.

1:02 p.m. The Board was joined by Assistant Attorney General Tracy Marie Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Raymond P. Denuit**, R.Ph. (03-1-10793) Oak Hill, Ohio.

4:03 p.m. The hearing ended and the record was closed.

4:04 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Braylock and a roll-call vote was conducted by Vice-President Gregg as follows: Braylock – *yes*; Casar – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; and Wiesenbahn – *yes*.

4:53 p.m. The Executive Session ended and the meeting was opened to the public.

4:54 p.m.

**R-2009-251** After votes were taken in public session, the Board adopted the following order in the matter of **Raymond P. Denuit**, R.Ph. (03-1-10793) Oak Hill, Ohio.

**Note: This Order was rescinded on June 8, 2009 and a new Order was issued. The revised Order may be found at (<http://pharmacy.ohio.gov/rphquery/pdfs/03110793.pdf>), and/or in the June 8-10, 2009 Board Minutes.**

**ORDER OF THE STATE BOARD OF PHARMACY**

Docket Number D-03-1-10793

*in the matter of:*

**RAYMOND P. DENUIT, R.Ph.**

240 North Street  
Oak Hill, Ohio 45656

R.Ph. Number 03-1-10793

## INTRODUCTION

The matter of Raymond P. Denuit came for hearing on April 8, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Gregory Braylock, R.Ph.; Donald M. Casar, R.Ph.; Barton G. Kaderly, Public Member; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Nathan S. Lipsyc, R.Ph., Board President, absent

Heather L. Pasquale, R.Ph., Board Member, absent

Raymond P. Denuit was represented by Elizabeth Y. Collis. The State of Ohio was represented by Tracy Marie Greuel, Assistant Attorney General.

## SUMMARY OF EVIDENCE

State's Witnesses: Kevin J. Kinneer, Ohio State Board of Pharmacy  
Rachel Carver, CVS  
Raymond Denuit, R.Ph., Respondent

Respondent's Witnesses: None

### State's Exhibits:

1. Copy of Notice of Opportunity For Hearing letter [02-04-09]  
1A-1D. Procedurals
2. Notarized Statement of Rachel L. Carver [02-26-08]
3. Statement of R. Denuit [not dated]
4. Notarized Statement of Ray Denuit [03-16-08]
5. Six Color Photographs [04-20-09]

### Respondent's Exhibits:

- A. Letter from Stephen E. Palmer Esq., To Elizabeth Y. Collis, Esq. [04-07-09]
- B. Letter of Support [not dated]
- C. Letter from Eric Lambert, R.Ph. to Ohio State Board of Pharmacy [04-01-09]

## 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 Raymond P. Denuit was originally licensed in the State of Ohio on July 30, 1974, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Raymond P. Denuit did, on or about April 20, 2007, have sexual contact with another, not his spouse, knowing that the sexual contact was offensive or being reckless in that regard, to wit: Raymond P. Denuit fondled the breast of a pharmacy store-front employee when the conduct was not invited and was offensive. Such conduct is in violation of Section 2907.06(A)(1) of the Ohio Revised Code.
- (3) Raymond P. Denuit did, on or about March 11, 2008, knowingly make a false statement with purpose to mislead a public official in performing the public official's official function, to wit: Raymond P. Denuit lied to Board agents who

were investigating his actions involving a pharmacy store-front employee. When confronted with verbal accounts of his actions, physical evidence documenting the same, and his own statement previously made, Raymond P. Denuit lied to the Board agents so as to exonerate himself and end their investigation. Such conduct is in violation of Section 2921.13(A)(3) of the Ohio Revised Code.

- (4) Raymond P. Denuit did, on or about March 11, 2008, fail to cooperate with a Board investigation and Raymond P. Denuit failed to divulge all relevant information when requested by Board agents. Specifically, Raymond P. Denuit tried to mislead the agents and he lied to them about the underlying facts in their investigation, thereby Raymond P. Denuit failed to cooperate in the investigation. Such conduct is in violation of Section 4729.19 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute 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) through (4) 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.
- (3) The State Board of Pharmacy concludes that paragraph (4) 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 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 Raymond P. Denuit as follows:

- (A) On the basis, of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of six thousand five hundred dollars (\$6,500.00) on Raymond P. Denuit and payment of the monetary penalty is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Further, Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-1-10793, held by Raymond P. Denuit and such suspension is effective as of the date of the mailing of this Order.
  - (1) Raymond P. Denuit, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

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

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Raymond P. Denuit for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- (A) Raymond P. Denuit must have submitted to the Board within 90 days from this date of this Order a sexual offender-specific evaluation and follow all recommendations thereof.
- (B) Raymond P. Denuit must obtain sexual harassment in the workplace sensitivity training and provide documentation to the Board of program completion.
- (C) Upon reappearance Raymond P. Denuit, must affirmatively show compliance with his Board Order and overall fitness to practice pharmacy.
- (D) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
- (E) If reinstatement is not accomplished within three years of the effective date of this Order, Raymond P. Denuit must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) examination.
- (F) Upon such time as the Board may consider reinstatement, Raymond P. Denuit will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

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

Gregory Braylock moved for Conclusions of Law; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-6/Nay-0).

Gregory Braylock moved for Action of the Board; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-6/Nay-0).

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4:57 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by Vice-President Gregg as follows: Braylock – *yes*; Casar – *yes*; Kaderly – *yes*; Kolezynski – *yes*; Lange – *yes*; and Wiesenhahn – *yes*.

6:02 p.m. The Executive Session ended and the meeting was opened to the public.



6:03 p.m.

**R-2009-252** Mr. Braylock moved that Frank Joseph Krivanek, R.Ph. (03215199), be reappointed to the Nursing Board Committee on Prescriptive Governance as the Board's clinical pharmacist appointee. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 6.

6:04 p.m.

Mr. Wiesenhahn moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>03/30/09</u>	<u>04/06/09</u>	<u>04/07/09</u>	<u>04/08/09</u>	<u>Total</u>
Braylock	1	1	1	1	4
Casar	1	1	1	1	4
Gregg	-	1	1	1	3
Kaderly	1	1	1	1	4
Kolezynski	-	1	1	1	3
Lange	-	1	1	1	3
Lipsyc	-	1	1	1	3
Pasquale	-	-	-	-	-
Wiesenhahn	-	1	1	1	3

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

6:04 p.m.

Mr. Casar moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 6.

<p>The Ohio State Board of Pharmacy approved these Minutes May 6, 2009</p>
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