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Minutes of the August 3-5, 2009 **Meeting of the Ohio State Board of Pharmacy**

Monday, August 3, 2009

10:08 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

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

10:09 a.m.

R-2010-015 President Gregg administered the oath for a new Board member to Brian Michael Joyce, R.Ph.

OATH OF NEW MEMBER

I, Brian Michael Joyce, as a Member of the Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the State of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

Kyle Wesley Parker, R.Ph., was introduced as the new Licensing Administrator for the Board.

Mr. Winsley announced that the following Settlement Agreements had been signed by all parties, making them effective.

R-2010-016

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

Docket Number D-090219-095

in the matter of:

YAMROTE LAKEW, R.Ph.

2833 Bryn Mawr Drive
Lewis Center, Ohio 43035

R.Ph. Number 03-2-25040

This Settlement Agreement is entered into by and between Yamrote Lakew 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.

Yamrote Lakew 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. Yamrote Lakew 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, Yamrote Lakew 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, Yamrote Lakew 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. Yamrote Lakew 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 Yamrote Lakew was originally licensed in the State of Ohio on March 18, 2002, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Yamrote Lakew 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 Yamrote Lakew submitted 0.3 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) Yamrote Lakew did, on or about May 7, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Yamrote Lakew 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 Yamrote Lakew only submitted 5.7 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.

Yamrote Lakew 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.

This Settlement Agreement is entered into by and between Kim M. Blaser-Gilhuly 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.

Kim M. Blaser-Gilhuly 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. Kim M. Blaser-Gilhuly 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, Kim M. Blaser-Gilhuly is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 3, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Kim M. Blaser-Gilhuly 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. Kim M. Blaser-Gilhuly accepted this offer for settlement rather than a hearing. The April 3, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Kim M. Blaser-Gilhuly was originally licensed in the State of Ohio on June 26, 1990, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Kim M. Blaser-Gilhuly 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 Kim M. Blaser-Gilhuly submitted 0.05 Continuing Education Units (C.E.U.s) of Board approved 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.
- (3) Kim M. Blaser-Gilhuly did, on or about May 15, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Kim M. Blaser-Gilhuly 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 Kim M. Blaser-Gilhuly only submitted 5.95 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.

Kim M. Blaser-Gilhuly neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 3, 2009; she avers that it was simply oversight. The Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-049

in the matter of:

KAREN LYNN NEWBERG, R.PH.

230 N. Ridge Drive
Perrysburg, Ohio, 43551

R.Ph. Number 03-2-17851

This Settlement Agreement is entered into by and between Karen Lynn Newberg 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.

Karen Lynn Newberg 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. Karen Lynn Newberg 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, Karen Lynn Newberg is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about December 18, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Karen Lynn Newberg 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. Karen Lynn Newberg accepted this offer for settlement rather than a hearing. The December 18, 2008, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Karen Lynn Newberg was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Karen Lynn Newberg 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 Karen Lynn Newberg 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.

Karen Lynn Newberg admits the allegations stated in the Notice of Opportunity for Hearing letter dated December 18, 2008; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-090114-059

in the matter of:

SARAH LYNN START, R.PH.

3174 Hayes Road
Granville, Ohio 43023

R.Ph. Number 03-2-19448

This Settlement Agreement is entered into by and between Sarah Lynn Start 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.

Sarah Lynn Start 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. Sarah Lynn Start 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, Sarah Lynn Start is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 14, 2009, pursuant to Chapter 119. of the Ohio Revised Code, Sarah Lynn Start 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. Sarah Lynn Start accepted this offer for settlement rather than a hearing. The January 14, 2009, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Sarah Lynn Start was originally licensed in the State of Ohio on March 1, 1984, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Sarah Lynn Start 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 Sarah Lynn Start was short 0.25 Continuing Education Units (C.E.U.s) of Board approved continuing education. 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.

Sarah Lynn Start admits the allegations stated in the Notice of Opportunity for Hearing letter dated January 14, 2009; further, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-080709-003

in the matter of:

SCOTT WAYNE SAVAGE, R.Ph.

4200 Oakthorne Way
Raleigh, North Carolina 27610

R.Ph. Number 03-2-25203

This Settlement Agreement is entered into by and between Scott Wayne Savage 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.

Scott Wayne Savage 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. Scott Wayne Savage 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.

Records of the State Board of Pharmacy indicate that Scott Wayne Savage was originally licensed in the State of Ohio on July 5, 2002, pursuant to examination, and his license to practice pharmacy in Ohio was summarily suspended effective July 9, 2008.

Whereas, on or about July 9, 2008, pursuant to Chapter 119. of the Ohio Revised Code, Scott Wayne Savage 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. Scott Wayne Savage requested a hearing; it was scheduled and continued. The July 9, 2008, Summary Suspension/Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Scott Wayne Savage was originally licensed in the State of Ohio on July 5, 2002, pursuant to examination, and his license to practice pharmacy in Ohio was Summarily Suspended effective July 9, 2008.
- (2) Scott Wayne Savage did, on or about January 18, 2008, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of WakeMed Raleigh Campus Hospital, by deception, to wit: Scott Wayne Savage stole 20 unit doses of methylphenidate 20 mg for his personal abuse. Such conduct is in violation of Section 2913.02 and/or its North Carolina equivalent of the Ohio Revised Code.
- (3) Scott Wayne Savage 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: Scott Wayne Savage has admitted to abusing methylphenidate dating back to 1997 "to assist with [his] studies," continuing to abuse the drug for recreational use when "partying with friends." Scott

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

Docket Number 090617-139

in the matter of:

CHARLES E. KELLY, R.Ph.

498 N. Galloway Street

Xenia, Ohio 45385

R.Ph. Number 03-1-05746

This Settlement Agreement is entered into by and between Charles E. Kelly 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.

Charles E. Kelly 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 and the right to a formal adjudication hearing on the issues contained herein.

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

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Charles E. Kelly neither admits nor denies the allegations pending in the Board's investigation; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code.
- (C) Charles E. Kelly acknowledges that he has been made aware of the investigation and has not failed to cooperate in said investigation. Charles E. Kelly further acknowledges that he has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of the filing of formal ADMINISTRATIVE charges and/or holding a 119. hearing at this time, Charles E. Kelly knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.**

Pursuant to Rule 4729-9-01(F), Charles E. Kelly may not be employed by or work in any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Charles E. Kelly 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.

Charles E. Kelly 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. Charles E. Kelly waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

Charles E. Kelly 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 Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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/ Charles E. Kelly, R.Ph. Date Signed: 06/22/09
Respondent

/s/ John R. Butz Date Signed: 06/24/09
Attorney for Respondent

/s/ Elizabeth I. Gregg Date Signed: 08/03/09
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 08/03/09
Ohio Assistant Attorney General

10:15 a.m. Mr. Kolezynski moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Casar and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

10:39 a.m. The Executive Session ended and the meeting was opened to the public.

R-2010-022 Mr. Kolezynski moved that the Board deny the continuance request received in the matter of **Gary A. Evankovich**, R.Ph. (03-2-13226) Youngstown, Ohio, and that the hearing proceed as scheduled. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 6; *Nay* – 0; *Abstain* – Joyce.

R-2010-023 Mr. Casar moved that the Board summarily suspend the license to practice pharmacy belonging to **John Robert Stone**, R.Ph. (03-2-17547) Galion, Ohio, pursuant to Ohio Revised Code 3719.121(A). Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7.

R-2010-024 Mr. Wiesenhahn moved that the 2009 new rules, changed rules and no-change rules be approved for original filing. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 7.

Mr. Keeley presented the Legislative Report and the budget update.

Mr. Casar said the Nursing Board Committee on Prescriptive Governance Report did not meet this month.

Ms. Lange said the Medical Board Physician Assistant Policy Committee did not meet this month.

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

R-2010-025 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:

Diamondback Drugs, Scottsdale, Arizona (02-1703650)
MedVet Columbus, Columbus, Ohio (02-0768650)

After discussion, Mr. Gahm moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Lange and approved by the Board: *Aye – 7*.

R-2010-026 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:

Central Admixture Pharmacy Services, Valley View, Ohio (02-1312700)
OSU Medical Center Main Campus Pharmacy, Columbus, Ohio (02-0036750)

After discussion, Mr. Casar moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 7*.

11:45 a.m. The Board recessed for lunch.

1:00 p.m. The Board reconvened with the following members present: Elizabeth Gregg, *President*; Heather Pasquale, *Vice-President*; Donald Casar, Troy Gahm, Brian Joyce, Richard Kolezynski, Deborah Lange, and Jerome Wiesenbahn.

R-2010-027 A request from **Megan Vaughn**, R.Ph. (03-2-15720) and **Dunlap Community Hospital**, Orrville, Ohio to be registered as a Continuing Pharmacy Education provider was received. After discussion, Mr. Gahm moved that the request be approved. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye – 7*.

R-2010-028 After discussion, Mr. Casar moved that the Board minutes of July 13-14, 2009, be approved as amended. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye – 7*.

2:08 p.m. Mr. Kolezynski 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. Joyce and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

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

2:51 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Thomas Frank Stark**, R.Ph. (03-1-09097) Loveland, Ohio.

3:23 p.m. The hearing ended and the record was closed.

3:24 p.m. Mr. Kolezynski 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

3:33 p.m. The Executive Session ended and the meeting was opened to the public.

R-2010-029 After votes were taken in public session, the Board adopted the following order in the matter of **Thomas Frank Stark**, R.Ph. (03-1-09097) Loveland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090421-132

in the matter of:

THOMAS FRANK STARK, R.Ph.

950 Paxton Lake Drive
Loveland, Ohio 45140

R.Ph. Number 03-1-09097

INTRODUCTION

The matter of Thomas Frank Stark came for consideration on August 3, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Barton G. Kaderly, Public Member, absent.

Thomas Frank Stark was not present nor was he represented by counsel. The State of Ohio was represented by Elizabeth G. Hartnett, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Rick Haun, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [04-21-09]
- 1A. Procedural
2. Indictment, United States of America v. Timothy Wayne Hall, Randy Weiss, D.O., Lloyd Stanley Naramore, D.O., Thomas F. Stark, R.Ph., William Marsillet, Kenny Darryl Hamilton, and Kimberly Hall, Case No. 07-34-SS-GFVT, Eastern District of Kentucky, Southern Division, Pikeville, United States District Court [07-23-08]
3. Plea Agreement, United States of America v. Thomas F. Stark, R.Ph., Case No. 07-CR-34-SS-GFVT, Eastern District of Kentucky, Southern Division, Pikeville, United States District Court [02-25-09]
4. Seven pages of documentation from L. Stan Naramore, D.O. [05-14-06 to 07-28-06]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) In accordance with Section 2929.42 of the Ohio Revised Code, the office of the United States Attorney of London, Kentucky, has submitted to this Board information which indicates that on February 25, 2009, Thomas Frank Stark pled guilty in the United States District Court of London, Kentucky, to a felony drug abuse offense as defined in Section 2925.01 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (1) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (1) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (1) 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 Thomas Frank Stark on April 21, 2009.

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

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09097, held by Thomas Frank Stark effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09097, held by Thomas Frank Stark effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-09097, held by Thomas Frank Stark effective as of the date of the mailing of this Order.

Thomas Frank Stark, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (wall certificate) to the office of the State Board of Pharmacy within ten days after

receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

Jerome Wiesenhahn moved for Conclusions of Law; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

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

3:41 p.m. The Board recessed for the day.

Tuesday, August 4, 2009

9:00 a.m. The Board reconvened with the following members present: Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

9:02 a.m. The Board was joined by Assistant Attorney General Elizabeth G. Hartnett to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Lucille Mary Leone-Walker**, R.Ph. (03-1-27612) Hudson, Ohio. Mr. Kolezynski recused himself from this hearing.

10:12 a.m. The hearing ended and the record was closed.

10:13 a.m. Mr. Casar moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

10:29 a.m. The Executive Session ended and the meeting was opened to the public.

10:30 a.m.

R-2010-030

After votes were taken in public session, the Board adopted the following order in the matter of **Lucille Mary Leone-Walker**, R.Ph. (03-1-27612) Hudson, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090107-040

in the matter of:

LUCILLE MARY LEONE-WALKER, R.Ph.

6774 St. Ives Boulevard

Hudson, Ohio 44236

R.Ph. Number 03-1-27612

INTRODUCTION

The matter of Lucille Mary Leone-Walker came for hearing on August 4, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Richard F. Kolezynski, R.Ph., recused.

Barton G. Kaderly, Public Member, absent.

Lucille Mary Leone-Walker was represented by Robert J. Garrity. The State of Ohio was represented by Elizabeth G. Hartnett, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: Lucille Mary Leone-Walker, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-07-09]
- 1A-1E. Procedurals
2. Notarized statement of Lucille M. Leone-Walker, R.Ph. [12-10-08]
3. CVS Pharmacy #4309 Patient Prescription Record for "Susan Santone" [12-05-08]
- 3A. CVS/Pharmacy Schedule II Inventory Log for oxycodone/APAP 5/325 mg [11-07-08]
- 3B. Notarized statement of Kenneth D. Warren [12-05-08]
4. CVS Pharmacy #4393 Patient Prescription Record for "Jan Myers" [12-08-08]
- 4A. CVS/Pharmacy Schedule II Inventory Log for oxycodone/APAP 5/325 mg [11-18-08 to 11-22-08]
- 4B. Notarized statement of Terrance J. Hale [12-16-08]
5. CVS Pharmacy #4333 Patient Prescription Record for "Renee Hardy" [12-05-08]
- 5A. CVS/Pharmacy Schedule II Inventory Log for oxycodone/APAP 5/325 mg [11-20-08 to 11-24-08]
6. CVS Pharmacy #3090 Patient Prescription Record for "Marietta Wilson" [12-05-08]
- 6A. CVS/Pharmacy Schedule II Inventory Log for oxycodone/APAP 5/325 mg [11-24-08 to 12-03-08]
- 6B. Notarized statement of Glenn R. Rech [12-05-08]
- 6C. Notarized statement of Guang Yang, M.D. [12-05-08]

7. CVS Pharmacy #4393 Patient Prescription Record for "Annie Johnson" [12-08-08]
- 7A. CVS/Pharmacy Schedule II Inventory Log for oxycodone/APAP 5/325 mg [12-05-08 to 12-07-08]
8. Indictment, State of Ohio v. Lucille M. Leone-Walker, Case No. 09CR0069, Wayne County Ohio Grand Jury [01-30-09]
- 8A. Judgment Entry - Change of Plea [04-22-09]
- 8B. Judgment Entry - Sentencing [05-28-09]
9. Journal Entry, State of Ohio v. Lucille M. Leone-Walker, Case No. CR 09 03 0778, Summit County Court of Common Pleas [06-02-09]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Lucille M. Leone-Walker [01-28-09]; Continuing Pharmacy Education Certificate [05-03-09]
- B. Glenbeigh Treatment Documentation [01-06-09 to 01-30-09]; Letter from Mary Pickton, LPCC to Michael Quigley, PRO [07-20-09]; Community Health Center Therapeutic Progress Report for Lucille Leone-Walker [07-29-09]
- C. Support Group Attendance Records [01-02-09 to 07-28-09]
- D. First Lab OHPRO Test History Reports [04-29-09 to 06-03-09]
- E. Judgment Entry Sentencing: Community Control Sanctions, State of Ohio vs. Lucille M Leone-Walker, Case No. 09-CR-0069, Wayne County ,Ohio Court of Common Pleas [05-28-09]
- F. Journal Entry, The State of Ohio vs. Lucille M. Leone, Case No. CR 09 03 0778, Summit County Ohio Court of Common Pleas [06-02-09]
- G. Resume of Lucille M. Leone-Walker [not dated]
- H. Seven Letters of Support [02-28-09 to 08-03-09]

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 Lucille Mary Leone-Walker was originally licensed in the State of Ohio on August 8, 2006, pursuant to reciprocity, and her license to practice pharmacy in Ohio was summarily suspended effective January 7, 2009.
- (2) Lucille Mary Leone-Walker is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Lucille Mary Leone-Walker has admitted to Board agents that she is addicted to oxycodone with APAP, that she has been stealing the drug from her employer pharmacies, and that she attempted to cover her thefts by creating false prescriptions using false names of patients and prescribers. Lucille Mary Leone-Walker indicated that her addiction has spanned the past four years. Lucille Mary Leone-Walker has also admitted that she drinks approximately six beers per day to relieve stress. Such conduct indicates that Lucille Mary Leone-Walker is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Lucille Mary Leone-Walker did, on or about November 7, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lucille Mary Leone-Walker created RX #894430, and stored it in the CVS Pharmacy #4309 computerized recordkeeping system. Lucille Mary Leone-Walker admittedly used false patient and physician names and created the record so as to cover her theft of 200 doses of oxycodone 5 mg with APAP 325 mg for

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

- (4) Lucille Mary Leone-Walker did, on or about November 18, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lucille Mary Leone-Walker created RX #530268, and stored it in the CVS Pharmacy #4393 computerized recordkeeping system. Lucille Mary Leone-Walker admittedly used false patient and physician names and created the record so as to cover her theft of 100 doses of oxycodone 5 mg with APAP 325 mg for her personal abuse. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (5) Lucille Mary Leone-Walker did, on or about November 22, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lucille Mary Leone-Walker created RX #169971, and stored it in the CVS Pharmacy #4333 computerized recordkeeping system. Lucille Mary Leone-Walker admittedly used false patient and physician names and created the record so as to cover her theft of 200 doses of oxycodone 5 mg with APAP 325 mg for her personal abuse. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (6) Lucille Mary Leone-Walker did, on or about December 3, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lucille Mary Leone-Walker created RX #506505, and stored it in the CVS Pharmacy #3090 computerized recordkeeping system. Lucille Mary Leone-Walker admittedly used false patient and physician names and created the record so as to cover her theft of 120 doses of oxycodone 5 mg with APAP 325 mg for her personal abuse. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (7) Lucille Mary Leone-Walker did, on or about December 7, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Lucille Mary Leone-Walker created RX #531896, and stored it in the CVS Pharmacy #4393 computerized recordkeeping system. Lucille Mary Leone-Walker admittedly used false patient and physician names and created the record so as to cover her theft of 100 doses of oxycodone 5 mg with APAP 325 mg for her personal abuse. Such conduct is in violation of Section 2925.23(B)(1) of the Ohio Revised Code.
- (8) Lucille Mary Leone-Walker did, on or about December 10, 2008, knowingly possess a controlled substance when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Lucille Mary Leone-Walker possessed outside the confines of a pharmacy 81 doses of oxycodone 5 mg with APAP 325 mg for her personal abuse, drugs that she had stolen from her employer by creating false computer prescriptions. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute being guilty of dishonesty and unprofessional

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

- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraphs (3) through (8) of the Findings of Fact constitute 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 Lucille Mary Leone-Walker on January 7, 2009.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, Number 03-1-27612, held by Lucille Mary Leone-Walker and such suspension is effective as of the date of the mailing of this Order.

- (A) Lucille Mary Leone-Walker, 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) Lucille Mary Leone-Walker, 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 two years from the effective date of this Order, the Board will consider any petition filed by Lucille Mary Leone-Walker 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) Lucille Mary Leone-Walker must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, 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 calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (3) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Lucille Mary Leone-Walker must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Lucille Mary Leone-Walker must provide, at the reinstatement petition hearing, documentation of the following:
- (1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - (2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - (3) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Lucille Mary Leone-Walker must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Deborah Lange moved for Findings of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-6/Nay-0/Recused-1).

Donald Casar moved for Conclusions of Law; Troy Gahm seconded the motion. Motion passed (Aye-6/Nay-0/Recused-1).

Deborah Lange moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-6/Nay-0/Recused-1).

10:35 a.m. The Board recessed briefly.

10:57 a.m. The meeting reconvened.

David Rowland continued the review session for the Board concerning the hearing process

12:09 p.m. The Board recessed for lunch.

1:30 p.m.

R-2010-031

The candidates for licensure by reciprocity met with the following members of the Board in Room South A, 31st Floor of the Vern Riffe Center. Elizabeth Gregg, *President*; Heather Pasquale, *Vice-President*; Donald Casar; Troy Gahm; Brian Joyce; Richard Kolezynski; Deborah Lange; and Jerome Wiesenhahn.

The candidates introduced themselves and then participated in a discussion of pharmacy laws and rules with Joann Predina, Compliance Specialist, and Kyle Parker, Licensing Administrator.

Neysa Ann Angelos	<i>West Virginia</i>
Emily Ann Bellebaum	<i>South Carolina</i>
Andrea Rene Chamberlain	<i>Kentucky</i>
Jennifer Jean Dewees	<i>Indiana</i>
Jonathan Charles Feaver	<i>West Virginia</i>
Kristen Kelly Fout	<i>Illinois</i>
Tracy Renee Frame	<i>Indiana</i>
Richard Lewis Green	<i>Arizona</i>
Shobhna Sedani Hasnanadka	<i>Texas</i>
Mande Rae Hasting	<i>Texas</i>
Sara D. Jones	<i>West Virginia</i>
Christian Klem	<i>Florida</i>
Randie Arthur Nulph	<i>Pennsylvania</i>
Janna Nicole Repine	<i>Indiana</i>
Richard Rosado	<i>Florida</i>
Kacy Schulman	<i>South Carolina</i>
Erin C. Steinwedel	<i>Tennessee</i>
Derrick Sturgill	<i>Kentucky</i>
Amanda Sutphin	<i>Wyoming</i>
Abby Lynn Thomas	<i>North Carolina</i>
Joseph Celeste Vescera	<i>Virginia</i>
John Huddie Voorhies	<i>Louisiana</i>
Victoria E. Zippi	<i>Nebraska</i>

2:00 p.m. The Board meeting resumed in Room East B.

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 **Gary A. Holschuh**, R.Ph. (03-1-22847) Willow Wood, Ohio.

3:33 p.m. The hearing ended and the record was closed.

3:34 p.m. Mr. Kolezynski 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenhahn – *yes*.

4:03 p.m. The Executive Session ended and the meeting was opened to the public.

R-2010-032

After votes were taken in public session, the Board adopted the following order in the matter of **Gary A. Holschuh**, R.Ph. (03-1-22847) Willow Wood, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090123-082

in the matter of:

GARY A. HOLSCHUH, R.Ph.

5538 St. Rt. 217

Willow Wood, Ohio 45696

R.Ph. Number 03-1-22847

INTRODUCTION

The matter of Gary A. Holschuh came for hearing on June 9, 2009. The matter was continued by the Board to August 4, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Barton G. Kaderly, Public Member, absent.

Gary A. Holschuh was represented by Daniel D. Connor. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Gary A. Holschuh, R.Ph., Respondent

Respondent's Witnesses: Gary A. Holschuh, R.Ph., Respondent
Mike Quigley, R.Ph., PRO

State's Exhibits:

1. Reinstatement Hearing Request letter [01-22-09]
1A-1D. Procedurals
2. State Board of Pharmacy Order in re Gary A. Holschuh, R.Ph. [06-05-08]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Gary A. Holschuh [04-27-08]
- B. Pretera Center for Mental Health Services, Inc. (P.A.R.C.) Treatment Records [04-01-01 to 07-30-01]
- C. Certificates of Treatment Programs [04-08-08 to 08-30-08]
- D. First Lab OHPRO Test History Reports [05-30-08 to 05-12-09]; Drug Screen Panel [10-11-06]
- E. Support Group Attendance Records [05-14-08 to 05-30-09]
- F. Four Letters of Support [05-04-09 to 06-01-09]
- G. Shredded Support Group Attendance Record Sheet [unable to read dates]
- H. Support Group Attendance Records [06-02-09 to 07-29-09]
- I. Letter with attachments from Daniel D. Connor to Members of the Board [08-04-29]

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 that Gary A. Holschuh has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-070921-012, effective June 5, 2008.

DECISION OF THE BOARD

On the basis of the Findings of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-22847, held by Gary A. Holschuh to practice pharmacy in Ohio and places Gary A. Holschuh on probation for ten (10) years beginning on the effective date of this Order, with the following conditions:

- (A) Gary A. Holschuh must enter into a **new** contract, signed within ninety days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:
- (1) **Random, observed** urine drug screens shall be conducted at least once each month for the first two years and then at least once every three months for the remaining eight years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a 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) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Gary A. Holschuh must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and

- (2) A written description of Gary A. Holschuh's progress towards recovery and what Gary A. Holschuh has been doing during the previous three months.

(C) Other terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that Gary A. Holschuh's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) Gary A. Holschuh may not serve as a responsible pharmacist.
- (3) Gary A. Holschuh may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Gary A. Holschuh must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
- (5) Gary A. Holschuh must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (6) Gary A. Holschuh must abide by the rules of the State Board of Pharmacy.
- (7) Gary A. Holschuh must comply with the terms of this Order.
- (8) Gary A. Holschuh's license is deemed not in good standing until successful completion of the probationary period.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

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

Deborah A. Lange moved for Findings of Fact and the Decision of the Board; Jerome J. Wiesenhahn seconded the motion. Motion passed (Aye-5/Nay-2).

4:04 p.m.

The Board recessed for the day.

Wednesday, August 5, 2009

8:45 a.m. The Board reconvened with the following members present: Elizabeth I. Gregg, R.Ph., *President*; Heather L. Pasquale, R.Ph., *Vice-President*; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

R-2010-033 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:

RC Compounding Services , Poland, Ohio	(02-1678950)
Center For Advanced Eye Surgery , Poland, Ohio	(02-1096900)
Novus Clinic , Tallmadge, Ohio	(02-1693300)
Belmont Eye Clinic , Youngstown, Ohio	(02-0248650)

After discussion, Mr. Casar moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye – 7.*

9:00 a.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 **David Enoch Milhous**, R.Ph. (03-3-27029) Uniontown, Ohio.

11:50 a.m. The hearing ended and the record was closed.

11:52 a.m. The Board recessed briefly.

11:56 a.m. Mr. Casar 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. Gahm and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

12:11 p.m. The Executive Session ended and the meeting was opened to the public.

12:12 p.m.

R-2010-034 After votes were taken in public session, the Board adopted the following order in the matter of **David Enoch Milhous**, R.Ph. (03-3-27029) Uniontown, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090313-021

in the matter of:

DAVID ENOCH MILHOUS, R.Ph.

3161 Stockdale Circle, N.W.
Uniontown, Ohio 44685

R.Ph. Number 03-3-27029

INTRODUCTION

The matter of David Enoch Milhous came for hearing on August 5, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Barton G. Kaderly, Public Member, absent.

David Enoch Milhous was represented by Douglas E. Graff. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: David Gallagher, Ohio State Board of Pharmacy
David Enoch Milhous, R.Ph., Respondent

Respondent's Witness: David Enoch Milhous, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [03-13-09]
- 1A-1D. Procedurals
2. Canton Municipal Court Docket, Case #2008 CRB 02077 [04-23-08 to 05-15-08]
3. Judgment Entry Criminal/Traffic, State of Ohio vs. Milhous, David E., Case #2008 CRB 02077, Canton Municipal Court, Canton, Ohio [05-15-08]
- 4.
5. Letter from David E. Milhous, Pharm.D. with attachments [11-17-08]
6. Copy of Respondent's electronic 2008/2009 OSBP pharmacist renewal application filed on [08-27-08]

Respondent's Exhibits:

- A. Resume and Curriculum Vita of David Milhous, R.Ph. [not dated]
- B. MGI Performance Evaluation [05-23-09]
- C. Letter to Ohio State Board of Pharmacy [11-17-08]
- D. Dangerous Drug Distributor Inspection Report for Marc's [10-21-08]
- E. Treatment letter from Vincent Didato, LPCC, WellSpring Counseling Center [07-03-09]
- F1. Judgment Entry Criminal/Traffic, State of Ohio vs. Milhous, David E., Case #2008 CRB 02077, Canton Municipal Court, Canton, Ohio [05-15-08]
- F2. Docket, Case Number 2008 CRB 02077, Canton Municipal Court [04-23-08 to 05-15-08]
- F3. Receipt for Canton, Ohio Municipal Court Costs and Fines [05-15-08]
- F4. Copy of Cashier's Check for Restitution [05-09-08]
- G. Wal-Mart Associate History Profile for David Milhous [11-26-01 to 04-18-08]
- H. Exit Interview from Wal-Mart #5410 [04-17-08]
- I. Gain Personnel Action from Wal-Mart [09-01-07 and 11-24-07]
- J. Wal-Mart Pharmacy District Manager/Regional Performance Evaluation for Dave Milhous [04-09-07]
- K. Wal-Mart Pharmacy District Manager/Regional Performance Evaluation for Dave Milhous [04-17-06]
- L. Pharmacy Division Performance Appraisal for David Milhous [09-04-02]
- M1-M8. Letters of Support [06-26-09 to 07-24-09]

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 David Enoch Milhous was originally licensed in the State of Ohio on October 12, 2005,

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

- (2) David Enoch Milhous did, on various dates immediately preceding April 7, 2008, with purpose to deprive, knowingly obtain or exert control over cash, the property of Wal-Mart Pharmacy #5285, by deception, to wit: David Enoch Milhous admittedly stole approximately \$10,000.00 from his employer by changing prices on records of prescriptions that David Enoch Milhous had dispensed and stealing the difference of what the customer had actually paid. David Enoch Milhous admitted to a Pharmacy Board agent that he did this because he believed Wal-Mart should have been paying him more money. On May 15, 2008, David Enoch Milhous was convicted of Theft, a misdemeanor of the first degree. State of Ohio vs. David E. Milhous, 2008 CRB 02077, Canton Municipal Court. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) David Enoch Milhous did, on various dates immediately preceding April 7, 2008, knowing that David Enoch Milhous had no privilege to do so, and with purpose to defraud, falsify and/or alter a writing or record, to wit: David Enoch Milhous admittedly falsified and altered records of prescriptions that he had dispensed so as to indicate a price less than that which had been actually charged. David Enoch Milhous did this so as to steal money from his employer. Such conduct is in violation of Section 2913.42(A)(1) of the Ohio Revised Code.
- (4) David Enoch Milhous did, on or about August 27, 2008, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: David Enoch Milhous indicated on his pharmacist electronic license renewal application that he had not been charged with a crime when in fact on May 15, 2008, David Enoch Milhous had been convicted of theft. State of Ohio vs. David E. Milhous, Case No. 2008 CRB 02077, Canton Municipal Court. Such conduct is in violation of Section 2921.13 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 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 having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.
- (4) The State Board of Pharmacy concludes that paragraph (4) of the Findings of Fact constitute having committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code within the meaning of Division (A)(10) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on David Enoch Milhous a monetary penalty of seven thousand dollars (\$7,000.00) 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.

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 on probation for three years the pharmacist identification card, No. 03-3-27029, held by David Enoch Milhous effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (A) The State Board of Pharmacy hereby declares that David Enoch Milhous' pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (B) David Enoch Milhous may not serve as a responsible pharmacist.
- (C) David Enoch Milhous must obtain, within six months from the effective date of this Order, five hours of approved continuing pharmacy education (0.5 CEUs) in Jurisprudence or Ethics, which may not also be used for license renewal. If proof of successful completion is not submitted to the Board office before the end of the probation period, David Enoch Milhous will remain on probation until this condition is achieved.
- (D) David Enoch Milhous must not violate the drug laws of Ohio, any other state, or the federal government.
- (E) David Enoch Milhous must abide by the rules of the State Board of Pharmacy.
- (F) David Enoch Milhous must comply with the terms of this Order.
- (G) David Enoch Milhous' license is deemed to be not in good standing until successful completion of the probationary period.
- (H) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

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

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

Heather Pasquale moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Donald Casar moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-0).

- 12:14 p.m. The Board recessed for lunch.
- 1:17 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Gary Evan Ingle**, R.Ph. (03-3-21862) Cleveland, Ohio.
- 1:48 p.m. The hearing ended and the record was closed.
- 1:49 p.m. Mr. Casar 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. Joyce and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.
- 2:06 p.m. The Executive Session ended and the meeting was opened to the public.
- 2:07 p.m.
R-2010-035 After votes were taken in public session, the Board adopted the following order in the matter of **Gary Evan Ingle**, R.Ph. (03-3-21862) Cleveland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-090507-134

in the matter of:

GARY EVAN INGLE, R.Ph.

3808 Brooklyn Avenue
Cleveland, Ohio 44109

R.Ph. Number 03-3-21862

INTRODUCTION

The matter of Gary Evan Ingle came for consideration on August 5, 2009, before the following members of the Board: Elizabeth I. Gregg, R.Ph. (*presiding*); Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Heather L. Pasquale, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Barton G. Kaderly, Public Member, absent.

Gary Evan Ingle was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Greg Whitney, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [05-07-09]
 - 1A. Procedural
2. Brooklyn Police Department Incident Report [02-26-08]

3. Certified Copy of True Bill Indictment, The State of Ohio vs. Gary Ingle, Case No. CR 507518, Cuyahoga County Court of Common Pleas [02-28-09]
4. Journal Entry, Case No. 08TRC06151, Berea Municipal Court, Cuyahoga County Ohio [12-10-08]
5. Strongsville Police Uniform Incident/Offense Report [11-15-07]
6. Berea Municipal Court Defendant History Record, Case No. 08TRC06151 [12-10-08]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Gary Evan Ingle was originally licensed in the State of Ohio on October 16, 1996, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Gary Evan Ingle was, on or about August 25, 2008, convicted in the Cuyahoga County Common Pleas Court of Attempted Felonious Assault in violation of Section 2923.02 of the Ohio Revised Code as it relates to Section 2903.11 of the Ohio Revised Code, a felony of the third degree. Gary Evan Ingle was also convicted of Assault in violation of Section 2903.13 of the Ohio Revised Code, a felony of the fourth degree, and Resisting Arrest in violation of Section 2921.33 of the Ohio Revised Code, a misdemeanor of the first degree. State of Ohio vs. Gary Ingle, CR 08 507518-A.
- (3) Gary Evan Ingle was, on or about November 30, 2007, convicted in the Berea Municipal Court of Domestic Violence in violation of Section 2919.25 of the Ohio Revised Code, a misdemeanor of the first degree. State of Ohio vs. Gary Ingle, 07 CRB 01963.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute being guilty of a felony and/or gross immorality as provided in Division (A)(1) 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 suspends indefinitely the pharmacist identification card, No. 03-3-21862, held by Gary Evan Ingle and such suspension is effective as of the date of the mailing of this Order.

Further, the license of Gary Evan Ingle to practice pharmacy in Ohio will remain indefinitely suspended until Gary Evan Ingle appears before this Board, at which time the Board will make a determination based upon the facts presented.

- (A) Gary Evan Ingle, 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) Gary Evan Ingle, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.
- (C) Gary Evan Ingle must provide, at the reinstatement petition hearing, documentation of the following:
 - (1) 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;
 - (2) Compliance with the terms of this Order.
- (D) If reinstatement is not accomplished within three years of the effective date of this Order, Gary Evan Ingle must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) examination.
- (E) Upon such time as the Board may consider reinstatement, Gary Evan Ingle 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.

Troy Gahm moved for Findings of Fact; Heather Pasquale seconded the motion. Motion passed (Aye-7/Nay-0).

Brian Joyce moved for Conclusions of Law; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-0).

Troy Gahm moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-5/Nay-2).

2:12 p.m. Mr. Kolezynski 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. Joyce and a roll-call vote was conducted by President Gregg as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Pasquale – *yes*; and Wiesenbahn – *yes*.

3:32 p.m. The Executive Session ended and the meeting was opened to the public.

3:34 p.m.

Ms. Lange moved that the Board receive Per Diem as follows:

<u>PER DIEM</u>	<u>07/07/09</u>	<u>08/03/09</u>	<u>08/04/09</u>	<u>08/05/09</u>	<u>Total</u>
Casar	-	1	1	1	3
Gahm	-	1	1	1	3
Joyce	-	1	1	1	3
Gregg	-	1	1	1	3
Kaderly	-	-	-	-	0
Kolezynski	-	1	1	1	3
Lange	-	1	1	1	3
Pasquale	1	1	1	1	4
Wiesenhahn	-	1	1	1	3

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

3:34 p.m.

Mr. Gahm moved that the meeting be adjourned. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 7

<p>The Ohio State Board of Pharmacy approved these Minutes September 15, 2009</p>
