

**Minutes of the August 2-3, 2010
Meeting of the Ohio State Board of Pharmacy**

Monday, August 2, 2010

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

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.; and Lori L. Woodson, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; 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*.

Mr. Winsley announced that the following settlement agreements have been signed and are now in effect.

R-2011-025

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100423-095

in the matter of:

JENNIFER NICOLE BYRD, R.Ph.

18651 St. Rt. 274

P.O. Box 534

Jackson Center, Ohio 45334

R.Ph. Number 03-3-25641

This Settlement Agreement is entered into by and between Jennifer Nicole Byrd 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.

Jennifer Nicole Byrd 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. Jennifer Nicole Byrd 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, Jennifer Nicole Byrd is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 23, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Jennifer Nicole Byrd 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. Jennifer Nicole Byrd accepted this offer for settlement rather than a hearing. The April 23, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Jennifer Nicole Byrd was originally licensed in the State of Ohio on July 16, 2003, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Jennifer Nicole Byrd did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Jennifer Nicole Byrd did not complete 0.8 Continuing Education Units (C.E.U.s) of Board approved continuing education until after Jennifer Nicole Byrd signed her Continuing Pharmacy Education Reporting Form on May 5, 2009. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Jennifer Nicole Byrd neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 23, 2010; 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, Jennifer Nicole Byrd knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Jennifer Nicole Byrd 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. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Jennifer Nicole Byrd will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Jennifer Nicole Byrd'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, Jennifer Nicole Byrd 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.

Jennifer Nicole Byrd 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.

Jennifer Nicole Byrd 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. Jennifer Nicole Byrd 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/ Jennifer Nicole Byrd, R.Ph. Date Signed: 07/13/10
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 08/02/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 08/02/10
Ohio Assistant Attorney General

R-2011-026

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100208-051

in the matter of:

FAITH SOHYUN HONG, R.Ph.

3440 Indian Road
Ottawa Hills, Ohio 43606

R.Ph. Number 03-3-25328

This Settlement Agreement is entered into by and between Faith Sohyun Hong 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.

Faith Sohyun Hong 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. Faith Sohyun Hong 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, Faith Sohyun Hong is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 8, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Faith Sohyun Hong 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. Faith Sohyun Hong accepted this offer for settlement rather than a hearing. The February 8, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Faith Sohyun Hong was originally licensed in the State of Ohio on September 24, 2002, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Faith Sohyun Hong did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Faith Sohyun Hong was short on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Faith Sohyun Hong neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 8, 2010; 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, Faith Sohyun Hong knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Faith Sohyun Hong herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).
- (B) Faith Sohyun Hong will submit additional documentation to show compliance with continuing education requirements within 45 days from the date of this Agreement else Faith Sohyun Hong'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, Faith Sohyun Hong 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.

Faith Sohyun Hong 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.

Faith Sohyun Hong 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. Faith Sohyun Hong 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/ Faith Sohyun Hong, R.Ph. Date Signed: 07/26/10
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 08/02/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 08/02/10
Ohio Assistant Attorney General

R-2011-027

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100212-064

in the matter of:

GINA MARIE SAUNDERS, R.Ph.

5312 Nashua Drive
Youngstown, OH 44515

R.Ph. Number 03-3-19852

This Settlement Agreement is entered into by and between Gina Marie Saunders 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.

Gina Marie Saunders 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. Gina Marie Saunders 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, Gina Marie Saunders is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 12, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Gina Marie Saunders 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. Gina Marie Saunders accepted this offer for settlement rather than a hearing. The February 12, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Gina Marie Saunders was originally licensed in the State of Ohio on October 27, 1993, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Gina Marie Saunders did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Gina Marie Saunders was short two continuing education hours (0.2 CEUs) on board approved

Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

Gina Marie Saunders neither admits or denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 12, 2010; 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, Gina Marie Saunders knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Gina Marie Saunders 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. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Gina Marie Saunders will submit additional documentation to show compliance with continuing education requirements within 45 days from the effective date of this Agreement, else Gina Marie Saunders' 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, Gina Marie Saunders 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.

Gina Marie Saunders 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.

Gina Marie Saunders 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. Gina Marie Saunders 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/ Gina Marie Saunders, R.Ph. Date Signed: 07/13/10
Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 08/02/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 08/02/10
Ohio Assistant Attorney General

R-2011-028**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**

Docket Number 100312-103

*in the matter of:***Ringer Professional Pharmacy**

c/o Keith Allen Kuba, R.Ph.

442 West High Street

Bryan, Ohio 43506

Terminal Distributor Number 02-0125600

This Settlement Agreement is entered into by and between Ringer Professional Pharmacy 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.

Ringer Professional Pharmacy 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, the right to appeal. Ringer Professional Pharmacy acknowledges that by entering into this agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

WHEREAS, Ringer Professional Pharmacy is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about March 12, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Ringer Professional Pharmacy 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. [Further, a hearing was scheduled/continued by the Board.] The March 12, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the Board of Pharmacy indicate that Ringer Professional Pharmacy is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs and Keith Allen Kuba is the Responsible Pharmacist pursuant to Rule [4729-5-11 or 4729-17-02] of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

- (2) Ringer Professional Pharmacy ceased to satisfy the qualifications of a terminal distributor of dangerous drugs, to wit: pharmacists failed to provide supervision and control of dangerous drugs and adequate safeguards to ensure proper distribution of dangerous drugs. Pharmacists allowed non-pharmacists to have access to the dangerous drug stock when pharmacists did not provide personal supervision and adequate safeguards to prevent diversion. The pharmacy had a shortage of 36,744 tablets of Schedule II and III Controlled Substances during this time period. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code.
- (3) Ringer Professional Pharmacy did, from April 30, 2007, through August 8, 2009, fail to provide effective and approved controls and procedures to deter and detect theft and diversion of dangerous drugs, to wit: the pharmacy allowed non-pharmacists to have access to the dangerous drug stock of Ringer Professional Pharmacy when pharmacists did not provide personal supervision and adequate safeguards to prevent diversion. The pharmacy had a shortage of 36,744 tablets of Schedule II and III Controlled Substances during this time period. A technician has admitted to Board agents that she stole controlled substances. No procedures were in place to detect the diversion. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.

Ringer Professional Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 12, 2010; 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, Ringer Professional Pharmacy knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) After consideration of the record as a whole, the State Board of Pharmacy hereby admonishes Ringer Professional Pharmacy for the lack of controls in this pharmacy, and directs Keith Allen Kuba and Ringer Professional Pharmacy to continue with the program the pharmacy has initiated.
- (B) Ringer Professional Pharmacy agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Ringer Professional Pharmacy 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.

Ringer Professional Pharmacy 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. Ringer Professional Pharmacy waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

scheduled and continued. The March 12, 2010, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Keith Allen Kuba was originally licensed in the State of Ohio on September 27, 1983, pursuant to examination and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect during the relevant time periods stated herein, Keith Allen Kuba was the Responsible Pharmacist at Ringer Professional Pharmacy, 442 W. High Street, Bryan, Ohio 43506, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule 4729-5-11 of the Ohio Administrative Code.
- (2) Keith Allen Kuba as the responsible pharmacist did, from April 30, 2007, through August 8, 2009, fail to provide supervision and control of dangerous drugs and adequate safeguards to ensure proper distribution of dangerous drugs, to wit: Keith Allen Kuba and pharmacists under his control allowed non-pharmacists to have access to the dangerous drug stock of Ringer Professional Pharmacy when pharmacists did not provide personal supervision and adequate safeguards to prevent diversion. The pharmacy had a shortage of 36,744 tablets of Schedule II and III Controlled Substances during this time period. Such conduct is in violation of Rule 4729-9-11 of the Ohio Administrative Code.
- (3) Keith Allen Kuba as the responsible pharmacist did, from April 30, 2007, through August 8, 2009, fail to provide effective and approved controls and procedures to deter and detect theft and diversion of dangerous drugs, to wit: Keith Allen Kuba and pharmacists under his control allowed non-pharmacists to have access to the dangerous drug stock of Ringer Professional Pharmacy when pharmacists did not provide personal supervision and adequate safeguards to prevent diversion. The pharmacy had a shortage of 36,744 tablets of Schedule II and III Controlled Substances during this time period. A technician has admitted to Board agents that she stole controlled substances. No procedures were in place to detect the diversion. Such conduct is in violation of Rule 4729-9-05 of the Ohio Administrative Code.

Keith Allen Kuba neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 12, 2010; 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, Keith Allen Kuba knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) After consideration of the record as a whole, the State Board of Pharmacy hereby admonishes Keith Allen Kuba for the lack of controls in this pharmacy, and directs Keith Allen Kuba and Ringer Professional Pharmacy to continue with the program the pharmacy has initiated.
- (B) Keith Allen Kuba 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. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Keith Allen Kuba 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.

Keith Allen Kuba 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. Keith Allen Kuba 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/ Keith Allen Kuba, R.Ph. Date Signed: 07/21/10
Respondent

/s/ Daniel D. Connor Date Signed: 07/26/10
Attorney for Respondent

/s/ Richard F. Kolezynski, R.Ph. Date Signed: 08/02/10
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 08/02/10
Ohio Assistant Attorney General

10:11 a.m. Mr. Joyce 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

11:10 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

11:19 a.m.

R-2011-030 After discussion, Mr. Gahm moved that the settlement offer in the matter of **Edward Raymond Bolen**, R.Ph. (03-1-06846) Brecksville, Ohio and **Marc's Pharmacy #46** (02-1057950) be accepted. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye – 7; Nay – 1.*

R-2011-031 Following discussion, Mr. Casar moved that the settlement offer in the matter of **Mark R. Fantauzzi**, D.O., O.D., be denied. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 8.*

R-2011-032 After discussion, Mr. Gahm moved that the Board accept a settlement offer in the matter of **Richard Alan Mader**, R.Ph. (03-3-10260) Tiffin, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mr. Joyce and approved by the Board: *Aye – 8.*

R-2011-033 After discussion, Mr. Gahm moved that the Board accept a settlement offer in the matter of **Jeffrey Allen Osborne**, R.Ph. (03-2-17738) Fremont, Ohio, as amended by the Board. The Board's

acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 8.

R-2011-034 Mr. Joyce moved that the Board accept a settlement offer in the matter of **Saba Atnafe-Eskender, Pharm.D.**, R.Ph. (03-3-22630) Loveland, Ohio, as amended by the Board. The Board's acceptance of a settlement would be contingent on the respondent's agreeing to the changes made by the Board. The motion was seconded by Mr. Wiesenbahn and approved by the Board: *Aye* – 8.

R-2011-035 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Kirk F. Betteridge**, R.Ph. (03-1-19028) Hilliard, Ohio be permitted to be the responsible person for the following sites:

Crosby's Drugs , Columbus, Ohio	(02-0173000)
CDI Long Term Care Pharmacy , Columbus, Ohio	(pending)

After discussion, Mr. Casar moved that the Board approve the request for one year. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 8.

R-2011-036 Mr. Parker presented a request for approvable status for the electronic prescribing system **gMed**. Ms. Lange moved that the system be found approvable pending final inspection. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-037 Mr. Parker presented a request for approvable status for the electronic prescribing system **Allscripts Enterprise HER**. Mr. Gahm moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 8.

Mrs. Droz presented the Ohio Automated Prescription Reporting System update.

Ms. Lange discussed the Technician Exam Status Report with the Board.

Ms. Lange reported on the July meeting of the Medical Board's Physician-Assistant Policy Committee.

Mr. Casar said the Nursing Board Committee of Prescriptive Governance did not meet in July.

Mr. Benedict presented the Medical Board Prescribing Committee for July.

Mr. Winsley presented the Legislative Report.

12:20 p.m. The Board recessed for lunch.

1:35 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 **Kyle Francis Higgins**, R.Ph. (03-1-17530) Amherst, Ohio.

4:20 p.m. The hearing ended and the record was closed.

4:22 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

4:34 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-038 After votes were taken in public session, the Board adopted the following order in the matter of **Kyle Francis Higgins, R.Ph. (03-1-17530)** Amherst, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-091207-030

in the matter of:

KYLE FRANCIS HIGGINS, R.Ph.

890 Chestnut Lane
Amherst, Ohio 44001

R.Ph. Number 03-1-17530

INTRODUCTION

The matter of Kyle Francis Higgins came for hearing on August 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Kyle Francis Higgins was represented by Michael Stepanik. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Kyle Francis Higgins, R.Ph., Respondent
Detective Gregg Mehling
Paul Kover, R.Ph., Ohio State Board of Pharmacy
James Reye, Ohio State Board of Pharmacy

Respondent's Witness: Kyle Francis Higgins, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [12-07-09]
- 1A. Copy of Addendum Notice [05-10-10]
- 1B-1E. Procedurals
2. Notarized statement of Harold B. Cooper, R.Ph. [03-05-10]
3. Notarized statement of Glenda Thorn [03-05-10]
4. South Amherst Police Department Ohio Uniform Incident Report in re Kyle Francis Higgins [10-31-09]
5. Rite Aid Pharmacy Patient History Report for Edward Snow [01-01-08 to 02-18-10]
6. Edward Snow prescriptions [01-25-08 to 08-22-09]
7. Edward C. Higgins obituary [09-29-08]
8. Lorain County Drug Task Force Physician Statement of Dr. Tos. Korinek [02-19-10]
9. Notarized statement of Carmen R. Tibayan [03-05-10]
10. Spreadsheet re: Thefts of Valium/Diazepam 10 mg tablets [12-07-08 to 09-25-09]
11. Spreadsheet re: Thefts of Acetaminophen/Codeine 325/60 mg [12-07-08 to 09-25-09]
12. Drug Accountability Statement at Rite Aid #2590 for Acetaminophen with Codeine 60 mg [02-22-10]

13. Drug Accountability Statement at Rite Aid #2590 for diazepam 10 mg [02-22-10]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract in re Kyle Higgins [12-09-09]
- B. Glenbeigh Intensive Outpatient Program Certificate for Kyle Higgins [12-29-09]
- C. Ohio State Board of Pharmacy Summary Suspension Order in re Kyle Francis Higgins, R.Ph. [12-07-09]; Ohio State Board of Pharmacy hearing schedule letter in re Kyle Francis Higgins, R.Ph. [12-22-09]; Ohio State Board of Pharmacy hearing reschedule letter [03-04-10]; Ohio State Board of Pharmacy Addendum Notice [05-10-10]
- D. Support group meeting calendars [November 2009 through July 2010]; Certificate of Participation in Continuing Pharmacy Education for Kyle Higgins [04-25-10]; Support group attendance records [11-20-09 to 08-01-10]
- E. FirstLab OHPRO Test History Report [01-09-10 to 07-10-10]; Glenbeigh drug screen test results [11-18-09 to 12-28-09]; Copies of prescriptions from George Bescak, D.O. for Kyle Higgins [12-09-09]
- F. Oberlin Ohio Municipal Court documentation [02-10-10]
- G. Motion for Intervention in Lieu of Conviction, State of Ohio v. Kyle Higgins, Case No. 10-CR-080257, Lorain County Court of Common Pleas, [05-05-10]
- H. Twenty letters of support [02-15-09 through 07-29-10]
- I. List of Continuing pharmacy education certificates of credit [03-15-07 through 11-11-09]

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 Kyle Francis Higgins was originally licensed in the State of Ohio on October 31, 1988, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective December 7, 2009.
- (2) Kyle Francis Higgins 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: Kyle Francis Higgins has admitted to Board agents that he is addicted to the use of diazepam and Tylenol with codeine. Such conduct indicates that Kyle Francis Higgins is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Kyle Francis Higgins did, on or about October 31, 2009, 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: Kyle Francis Higgins possessed 23 doses of Valium 10 mg, 8 doses of diazepam 10 mg, and 12 doses of Tylenol with codeine #4 outside the confines of a pharmacy and not for a legitimate medical purpose. Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.
- (4) Kyle Francis Higgins did, on or about December 7, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX

#0238429) for 120 Valium 10 mg tablets, a Schedule IV controlled substance, with five (5) refills. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

- (5) Kyle Francis Higgins did, on or about December 7, 2008, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0238428) for acetaminophen/codeine 300/60 mg, 120 tablets, a Schedule III controlled substance, with five (5) refills. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (6) Kyle Francis Higgins did, on or about January 25, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0242320) for acetaminophen/codeine 300/60 mg, 120 tablets, a Schedule III controlled substance, with five (5) refills. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (7) Kyle Francis Higgins did, on or about May 8, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0251087) for acetaminophen/codeine 300/60 mg, 120 tablets, a Schedule III controlled substance. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (8) Kyle Francis Higgins did, on or about July 21, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0257023) for 120 Valium 10 mg tablets, a Schedule IV controlled substance, with five (5) refills. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (9) Kyle Francis Higgins did, on or about August 22, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0259383) for 120 Valium 10 mg tablets, a Schedule IV controlled substance, with five (5) refills. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (10) Kyle Francis Higgins did, on or about September 25, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious telephone prescription (RX #0262117) for 50 diazepam 10 mg tablets, a Schedule IV controlled substance. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (11) Kyle Francis Higgins did, on or about September 25, 2009, intentionally create and/or knowingly possess a false or forged prescription, to wit: Kyle Francis Higgins created and dispensed a fictitious prescription (RX #0262116) for acetaminophen/codeine 300/60 mg, 88 tablets, a Schedule III controlled substance. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (12) Kyle Francis Higgins did, from May 1, 2008 to November 4, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous

drugs, the property of Rite Aid Pharmacy #2590, beyond the express or implied consent of the owner, to wit: Kyle Francis Higgins stole acetaminophen/codeine 300/60 mg tablets without the consent of the person authorized to give consent. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (13) Kyle Francis Higgins did, from May 1, 2008 to November 4, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Rite Aid Pharmacy #2590, beyond the express or implied consent of the owner, to wit: Kyle Francis Higgins stole diazepam 10 mg tablets without the consent of the person authorized to give consent. 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 paragraph (3) as amended and paragraphs (4) through (13) 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 paragraph (3) as amended and paragraphs (4) through (13) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that 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.
- (4) The State Board of Pharmacy concludes that paragraph (3) as amended and paragraphs (4) through (11) 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 Kyle Francis Higgins on December 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, No. 03-1-17530, held by Kyle Francis Higgins and such suspension is effective as of the date of the mailing of this Order.

- (A) Kyle Francis Higgins, 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) Kyle Francis Higgins, 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) Kyle Francis Higgins must obtain and submit, within six months from the effective date of this Order, ten hours (0.1 CEU) of approved continuing pharmacy education, which may not also be used for license renewal.

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Kyle Francis Higgins 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) Kyle Francis Higgins 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) Kyle Francis Higgins must demonstrate satisfactory proof to the Board that he 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) Kyle Francis Higgins 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, Kyle Francis Higgins must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

(E) Upon such time as the Board may consider reinstatement, Kyle Francis Higgins 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.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-8/Nay-0).

Donald Casar moved for Action of the Board; Brian Joyce seconded the motion. Motion passed (Aye-7/Nay-1).

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- 4:37 p.m. The Board recessed briefly and Mr. Gahm left for personal reasons.
- 4:46 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 **Nicole Marie DiSabato**, R.Ph. (03-1-29878) Westerville, Ohio.
- 7:22 p.m. The hearing ended and the record was closed.
- 7:23 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 Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.
- 7:42 p.m. The Executive Session ended and the meeting was opened to the public.
- 7:43 p.m.
R-2011-039 After votes were taken in public session, the Board adopted the following order in the matter of **Nicole Marie DiSabato**, R.Ph. (03-1-29878) Westerville, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-091210-035

*in the matter of:***NICOLE MARIE DISABATO, R.Ph.**679 Old Dover Road
Westerville, Ohio 43082

R.Ph. Number 03-1-29878

INTRODUCTION

The matter of Nicole Marie DiSabato came for hearing on August 2, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R.Ph.

Troy A. Gahm, R.Ph., not present

Nicole Marie DiSabato was represented by Anthony M. Heald. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Eric Griffin, Ohio State Board of Pharmacy
Nicole Marie DiSabato, R.Ph., Respondent

Respondent's Witnesses: Nicole Marie DiSabato, R.Ph., Respondent
Thelma Rotonda, R.Ph.

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing Letter [12-10-09]
- 1A-1G. Procedurals
2. Written Notarized Statement of Nicole M. DiSabato [11-18-09]
3. Written Notarized Statement of Nicole DiSabato [11-19-09]
4. Written Notarized Statement of Nicole DiSabato [11-24-09]
5. Written Notarized Statement of Christine DiSabato [11-19-09]
6. Written Notarized Statement of Christine DiSabato [12-08-09]
7. Written Notarized Statement of Patty DiSabato [12-10-09]
8. Written Notarized Statement of Charles B. May, D.O. [12-07-09]
9. Written Notarized Statement of Brant Holtzmeier [01-26-10]
10. Written Notarized Statement of Stephen Altic, D.O. [12-07-09]
11. Dangerous Drug Distributor Inspection Report [11-24-09]
12. Diverted Drug Reports for Nicole DiSabato, Christine DiSabato and Meryl Kremer [12-28-09]
13. Patient Prescription Records for Nicole DiSabato [01-01-08 to 12-02-09]
14. Twenty two Forged Prescriptions for Nicole DiSabato [06-16-08 to 07-02-09]
15. Patient Prescription Records for Christine DiSabato [01-01-08 to 12-02-09]
16. Twenty five Forged Prescriptions for Christine DiSabato [06-08-08 to 09-04-09]
17. Patient Prescription Records for Meryl Kremer [01-01-08 to 13-03-09]
18. Eight Forged Prescriptions for Meryl Kremer [08-04-08 to 01-07-09]
19. Patient Prescription Records for Patty DiSabato [01-01-08 to 12-02-09]

20. Two Forged Prescriptions for Patty DiSabato [07-07-08 to 02-24-09]
21. Patient Prescription Records for William DiSabato [01-01-08 to 02-08-10]
22. Seven Forged Prescriptions for William DiSabato [07-07-08 to 03-09-09]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Nicole DiSabato [04-25-10]
- B. Cornerstone of Recovery Inpatient Ledger Details in re Nicole DiSabato [05-05-10]
- C. Letter from Todd B. Feasel, PCC-S of Cornerstone of Recovery in re Nicole DiSabato [07-28-10]; Cornerstone of Recovery Aftercare Treatment Plan in re Nicole M. DiSabato [04-01-10]
- D. Treatment report letter from Terry Southwick, LPCC, LICDC in re Nicole DiSabato [05-03-10]
- E. Continuing Pharmacy Education Certificate for Nicole DiSabato [04-25-10]
- F. Support group attendance records [04-09-10 to 07-28-10]
- G. FirstLab OHPRO Test History Report [05-04-10 to 07-26-10]
- H. Three letters of support [04-28-10 to 07-29-10]
- I. Cornerstone of Recovery inpatient medical records [12-28-09 to 04-08-10]

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 Nicole Marie DiSabato was originally licensed in the State of Ohio on October 30, 2009, pursuant to examination, and that her license to practice pharmacy in Ohio was summarily suspended effective December 10, 2009.
- (2) Nicole Marie DiSabato 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: Nicole Marie DiSabato has admitted to a board agent that she is addicted to the use of controlled substances. Nicole Marie DiSabato has admitted to stealing prescription blanks, to writing forged prescriptions, and to passing forged prescriptions to obtain controlled substances. Such conduct indicates that Nicole Marie DiSabato is within the ambit of Sections 3719.121 and/or 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 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 paragraph (2) 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 (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.

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 Nicole Marie DiSabato on December 10, 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, No. 03-1-29878, held by Nicole Marie DiSabato and such suspension is effective as of the date of the mailing of this Order.

- (A) Nicole Marie DiSabato, 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) Nicole Marie DiSabato, 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 three years from the effective date of this Order, the Board will consider any petition filed by Nicole Marie DiSabato 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) Nicole Marie DiSabato must take and pass both the Multistate Pharmacy Jurisprudence Examination (MPJE), or an equivalent examination acceptable to the Board and the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board during the six months immediately preceding her appearance at the reinstatement petition hearing.
- (B) Nicole Marie DiSabato must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office. 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) The intervener/sponsor shall submit reports to the Board, 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, meaning 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.
- (C) Nicole Marie DiSabato 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) Nicole Marie DiSabato 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 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.
- (E) Upon such time as the Board may consider reinstatement, Nicole Marie DiSabato 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.

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

Michael Moné moved for Conclusions of Law; Lori Woodson seconded the motion. Motion passed (Aye-7/Nay-0).

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

7:45 p.m.

The Board recessed for the day.

Tuesday, August 3, 2010

9:09 a.m. The Ohio State Board of Pharmacy convened in Room South B & C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Richard F. Kolezynski, R.Ph., *President*; Donald M. Casar, R.Ph.; *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenahn, R.Ph.; and Lori L. Woodson, R.Ph.

Mr. Winsley gave the Board copies of the proposed new and amended rules for their review.

Mr. Winsley discussed the District IV National Association of Boards of Pharmacy and the American Association of the Colleges of Pharmacy meeting scheduled for November 10-12, 2010.

After discussion, the Board chose to hold the July 2011 meeting at an Ohio State Park.

The Board set the meeting calendar for FY 2012.

Brian Joyce was designated as the Board representative to the National Association of Boards of Pharmacy Interactive Forum.

R-2011-040 After discussion, Ms. Lange moved that the Board minutes of the July 22, 2010 Conference Call be approved as amended. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-041 After discussion, Mr. Gahm moved that the Board minutes of July 7 – 8, 2010, be approved as amended. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-042 The Board considered a request from **Daryl Christopher Wilmore**, Searcy, Arkansas, to contract with a clinical psychologist to comply with the Board's directive of June 7, 2010. Mr. Gahm moved that the request be approved pending final review of the contract. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 8.

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

10:36 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 **Alan Gregory Dobritch**, Intern Applicant, Parma, Ohio.

12:04 p.m. The hearing ended and the record was closed.

12:05 p.m. Mr. Gahm 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. Woodson and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenahn – *yes*; and Woodson – *yes*.

12:29 p.m. The Executive Session ended and the meeting was opened to the public.

12:30 p.m.

R-2011-043 After votes were taken in public session, the Board adopted the following order in the matter of **Alan Gregory Dobritch**, Intern Applicant, Parma, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100506-116

*in the matter of:***ALAN GREGORY DOBRITCH**12171 Debby Drive
Parma, Ohio 44130**INTRODUCTION**

The matter of Alan Gregory Dobritch came for hearing on August 3, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Alan Gregory Dobritch was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Lynn Mudra, Ohio State Board of Pharmacy
Alan Gregory Dobritch, Respondent

Respondent's Witness: Alan Gregory Dobritch, Respondent

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing letter [05-06-10]
- 1A-1B. Procedurals
2. Pharmacy Intern Registration Application submitted by Alan Gregory Dobritch [10-20-09]
- 3A. Expungement of Docket for Case No. TR92440699 [01-19-92]
- 3B. Cuyahoga County Juvenile Court Docket Case No. TR92440699 [01-19-92]
- 4A. Parma Municipal Court Docket Case No. 93CRA01707 [08-11-93]
- 4B. Parma Municipal Court Docket Case No. 93CRB01708 [08-11-93]
5. Louisiana 3rd Judicial District Court, Lincoln Parish Docket for Case No. 38556 [05-09-94]
6. Parma Municipal Court Docket Case No. 96 TRC04095 [05-06-96]
7. Parma Municipal Court Docket Case No. 00CRB04509 [12-21-00]
- 8A. Parma Municipal Court Docket Case No. 02TRC00339 [02-05-02]
- 8B. Parma Municipal Court Docket Case No. 02CRB00344 [02-05-02]

Respondent's Exhibits:

- A1-2. S.A.R.P.H. enrollment confirmation letter in re Alan Dobritch [07-22-10]
- B1-5. Copy of S.A.R.P.H. Monitoring/Treatment Contract for Alan Dobritch [10-16-09]
- C. Letter from Jennifer Schmude, Pharm D., preceptor [06-11-07]
- D. Transcript from Lake Erie College of Osteopathic Medicine for Alan Dobritch [2009-2010]
- E. Lake Erie College of Osteopathic Medicine class rank [06-30-10]

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 Alan Gregory Dobritch applied to the Board for registration as an intern in the State of Ohio on October 20, 2009.
- (2) Alan Gregory Dobritch was, on or about May 5, 1992, adjudicated a juvenile traffic offender in the Cuyahoga County Juvenile Court for Driving Under the Influence of alcohol and/or drugs in violation of Section 4511.19 of the Ohio Revised Code. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.
- (3) Alan Gregory Dobritch was, on or about August 17, 1993, convicted in the Parma Municipal Court of Drug Abuse in violation of Section 620.03 of the Parma City Ordinances and of Possession of Drug Paraphernalia in violation of Section 620.04 of the Parma City Ordinances. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.
- (4) Alan Gregory Dobritch was, on or about August 26, 1994, convicted in the 3rd District Court, Lincoln Parrish, Louisiana, of Possession of Marijuana and of Possession of Drug Paraphernalia, violating Sections 2925.11 and 2925.14 if committed in Ohio. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.
- (5) Alan Gregory Dobritch was, on or about May 5, 1996, convicted in the Parma Municipal Court of Driving Under the Influence of alcohol and/or drugs in violation of Section 4511.19 of the Ohio Revised Code. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.
- (6) Alan Gregory Dobritch was, on or about January 10, 2001, convicted in the Parma Municipal Court of Open Container in violation of Section 612.07 of the Parma City Ordinances; Possession of Drug Paraphernalia in violation of Section 620.04 of the Parma City Ordinances; and Drug Abuse in violation of Section 620.03 of the Parma City Ordinances. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.
- (7) Alan Gregory Dobritch was, on or about February 8, 2002, convicted in the Parma Municipal Court of Driving Under the Influence of alcohol and/or drugs

in violation of Section 4511.19 of the Ohio Revised Code. Such conduct constitutes not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code and thus, not meeting the requirements of the Board within the meaning of Section 4729.11 of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (2) through (7) of the Findings of Fact constitute having been convicted of violating any state or federal pharmacy or drug laws as provided in paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (6) of the Findings of Fact constitute having been found by the Board of Pharmacy not to be of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code and Section 4729.08 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 as provided in paragraph (D) of Rule 4729-5-04 of the Ohio Administrative 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 approves the Application For Registration As A Pharmacy Intern submitted by Alan Gregory Dobritch with the following conditions:

- (A) Gregory Alan Dobritch must continue with his current S.A.R.P.H. contract and have that program report progress to this Board.
- (B) Gregory Alan Dobritch must have any other treatment program in which he participates report progress to this Board.
- (C) Gregory Alan Dobritch must personally appear before the Ohio State Board of Pharmacy if he chooses to seek an Ohio pharmacist license and he must show compliance with any and all treatment programs and fitness to practice.
- (D) Further, Gregory Alan Dobritch must show compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code.
- (E) Gregory Alan Dobritch must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.
- (F) Compliance with the terms of this Order.

Deborah Lange moved for Findings of Fact; Troy Gahm seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Deborah Lange seconded the motion. Motion passed (Aye-6/Nay-2).

Michael Moné moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-3).

12:31 p.m. The Board recessed for lunch.

R-2011-044 The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center. The following candidates for licensure by reciprocity introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator and the Board.

Mary Balaskas	<i>Illinois</i>
Yun Hye Christina Cho	<i>New Jersey</i>
Deepal Anantrai Dave	<i>Texas</i>
Anuja Desai	<i>Illinois</i>
Janine Douglas	<i>New York</i>
Adekunle Ibrahim Elegbede	<i>Arkansas</i>
Imelda I. Hanafi	<i>Indiana</i>
Thomas Katofiasc	<i>Michigan</i>
Rosemary R. Miller	<i>West Virginia</i>
Kim Mary Phan	<i>Florida</i>
Claire R. Poore	<i>Kentucky</i>
Leslie Ann Ray	<i>Indiana</i>
Vineeta Risbood	<i>Pennsylvania</i>
Bahareh Sadegh	<i>California</i>
Kwanza Carter Smith	<i>Alabama</i>
Lori Anne Uildriks	<i>Illinois</i>
Tyler Whisman	<i>Kentucky</i>
Laura Wilson	<i>Pennsylvania</i>

1:51 p.m.

R-2011-045 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 **Kaoru Shor**, R.Ph. (03-3-15815) Lorain, Ohio.

1:59 p.m. The hearing ended and the record was closed.

2:03 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 **Melissa Anne Tumino**, R.Ph. (03-3-21818) Berea, Ohio.

3:46 p.m. The hearing ended and the record was closed.

Mr. Kolezynski recused himself from this hearing and Mr. Casar assumed the chair.

3:47 p.m. Mr. Gahm 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. Lange and a roll-call vote was conducted by Vice-President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenbahn – *yes*; and Woodson – *yes*.

3:55 p.m. The Executive Session ended and the meeting was opened to the public.

3:56 p.m.

R-2011-046 After votes were taken in public session, the Board adopted the following order in the matter of **Melissa Anne Tumino**, R.Ph. (03-3-21818) Berea, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100311-108

*in the matter of:***MELISSA ANNE TUMINO, R.Ph.**501 Lindberg Boulevard
Berea, Ohio 44017

R.Ph. Number 03-3-21818

INTRODUCTION

The matter of Melissa Anne Tumino came for hearing on August 3, 2010, before the following members of the Board: Donald M. Casar, R.Ph., (*presiding*); Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

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

Melissa Anne Tumino was represented by Robert J. Garrity. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Greg Whitney, Ohio State Board of Pharmacy
Melissa Anne Tumino, R.Ph., Respondent

Respondent's Witness: Melissa Anne Tumino, R.Ph., Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [03-11-10]
- 1A-1D. Procedurals
2. Copy of notarized statement of Melissa Tumino [03-02-10]
3. Copy of Evidence/Property bag containing APAP/codeine pill found in Melissa Tumino's smock [03-02-10]
4. [REDACTED]
5. [REDACTED]
6. Notarized statement of Rhonda L. Taylor [03-03-10]
7. Statement of Rebecca A. Kennelly [02-26-10]
8. [REDACTED]
9. Photographs of [REDACTED]


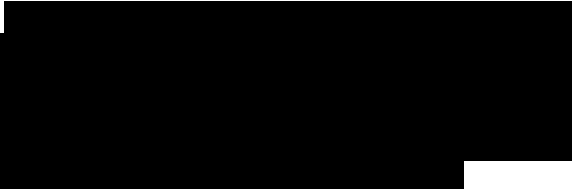
Respondent's Exhibits:

- A. Pharmacists Rehabilitation Organization Inc. treatment contract for Melissa Tumino; PRO Pharmacist's Recovery Contract [04-25-10]
- B. Chemical dependency/mental health treatment documentation for Melissa Tumino [04-14-10 to 07-19-10]

- C. Support group attendance records [05-02-10 to 07-28-10]; Support group calendars [June and July 2010]
- D. Urine drug screen results Flowsheet Print Request [01-23-20 to 07-23-10]; FirstLab OHPRO Test History Report [06-28-10 and 07-20-10]
- E. Newspaper articles of family issues [10-30-08 to 12-30-08]; University Hospitals Health Systems patient chart note in re Brady Tumino [02-23-06]; Daily list of Brady's Care/Needs [05-05-10 to 05-10-10]; Intake Assessment Behavioral Health-Text in re Melissa A. Tumino [04-15-10]
- F. Continuing pharmacy education certificate and documentation [04-25-10]
- G. Resume of Melissa A. Tumino, R.Ph. [not dated]
- H. Six letters of support [01-15-07 to 07-31-10]

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 Melissa Anne Tumino was originally licensed in the State of Ohio on July 30, 1996, pursuant to examination, and her license to practice pharmacy in Ohio was summarily suspended on March 11, 2010. Records further reflect that Melissa Anne Tumino was previously disciplined by the Board on October 11, 2007.
- (2) Melissa Anne Tumino 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: Melissa Anne Tumino has admitted to Board agents that she is addicted to the use of controlled substances. Further, Melissa Anne Tumino has admitted to stealing the following controlled substances from her employer: diazepam, APAP with codeine, and the dangerous drug butalbital. Melissa Anne Tumino indicated that she would steal drugs every other time she worked, approximating her thefts at 300 APAP with codeine #4, 300 butalbital with acetaminophen and caffeine, and 200 diazepam 5 and/or 10 mg. Such conduct indicates that Melissa Anne Tumino is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Melissa Anne Tumino did, 
- (4) Melissa Anne Tumino did, 

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) and (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 (3) and (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 constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him/her 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 adjudicates the matter of Melissa Anne Tumino 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. 03-3-21818, held by Melissa Anne Tumino 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. 03-3-21818, held by Melissa Anne Tumino 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. 03-3-21818, held by Melissa Anne Tumino effective as of the date of the mailing of this Order.

Melissa Anne Tumino, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her 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.

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

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

Brian Joyce moved for Action of the Board; Michael Moné seconded the motion. Motion passed (Aye-7/Nay-0).

3:57 p.m. Mr. Kolezynski joined the meeting in progress.

R-2011-047 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:

Leiter's Pharmacy, Inc. , San Jose, California	(02-1620150)
The Ohio State University College of Optometry , Columbus, Ohio	(02-1995350)
Northeast Ohio Eye Surgeons , Kent, Ohio	(02-1870850)

Revision Advanced Laser Eye Center, Columbus, Ohio
Kunesh Eye Surgery Center, Dayton, Ohio

(02-1683450)
(02-0580750)

After discussion, Mr. Moné 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. Joyce and approved by the Board: *Aye* – 7; *Nay* – 1.

4:09 p.m.

Mr. Gahm 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 Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Moné – *yes*; Wiesenhahn – *yes*; and Woodson – *yes*.

5:50 p.m.

The Executive Session ended and the meeting was opened to the public.

R-2011-048

After votes were taken in public session, the Board adopted the following order in the matter of **KAORU SHOR**, R.Ph. (03-3-15815) Loraine, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100212-070

in the matter of:

KAORU SHOR, R.Ph.

5920 Province Court
Loraine, Ohio 44053

R.Ph. Number 03-3-15815

INTRODUCTION

The matter of Kaoru Shor came for consideration on August 3, 2010, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); Edward T. Cain, Public Member; Donald M. Casar, R.Ph.; Troy A. Gahm, R.Ph.; Brian M. Joyce, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenhahn, R.Ph. and Lori L. Woodson, R. Ph.

Kaoru Shor was not represented by counsel nor was she present. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: William T. Winsley, M.S., R.Ph., Ohio State Board of Pharmacy Executive Director

Respondent's Witnesses: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [02-12-10]
 - 1A. Procedural
2. 2009 Continuing Pharmacy Education Reporting Form with CE Certificates and Board documentation [02-26-09]
3. Internal Board computation document and notes [08-26-09]

Respondent's Exhibits: None

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 Kaoru Shor was originally licensed in the State of Ohio on March 1, 1985, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Kaoru Shor did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Kaoru Shor was short twenty four continuing education hours (2.4 CEUs) on board approved continuing education. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes 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.
- (4) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends the pharmacist identification card, No. 03-3-15815, held by Kaoru Shor until such time as she appears before the Board with documentation of appropriate continuing education.

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 imposes a monetary penalty of five hundred dollars (\$500.00) on Karou Shor and payment in full 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.

- (A) Karou Shor, 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) Karou Shor, 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.

Deborah Lange moved for Findings of Fact; Michael Moné seconded the motion. Motion passed (Aye-8/Nay-0).

Troy Gahm moved for Conclusions of Law; Edward Cain seconded the motion. Motion passed (Aye-8/Nay-0).

Donald Casar moved for Action of the Board; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-8/Nay-0).

5:51 p.m.

R-2011-049

A request to withdraw an application for a TDDD license was received from **Sojourner Recovery Services**, Hamilton Ohio. After discussion, Mr. Joyce moved that the request be approved. Mr. Moné seconded the motion and it was approved by the Board: *Aye – 8*.

5:52 p.m.

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

PER DIEM	07/13	08/02	08/03	08/13	Total
Cain		1	1		2
Casar	-	1	1	-	2
Gahm	-	1	1	-	2
Joyce	-	1	1	-	2
Kolezynski	-	1	1	-	2
Lange	1	1	1	1	4
Moné	-	1	1	-	2
Wiesenhahn	-	1	1	-	2
Woodson	-	1	1	-	2

Mr. Joyce seconded the motion and it was approved by the Board: *Aye – 8*.

5:53 p.m.

Mr. Gahm moved that the meeting be adjourned. The motion was seconded by Mr. Joyce and approved by the Board: *Aye – 8*.

Richard F. Kolezynski, R.Ph., President

Date: _____

William T. Winsley, M.S. R.Ph., Executive Director