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Minutes of the May 2-4, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, May 2, 2011

- 9:12 a.m. The Ohio State Board of Pharmacy convened at Ohio Northern University, Pettit College of Law, Ada, 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.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.
- Also present were William T. Winsley, *Executive Director*; John Whittington, *Acting Assistant Executive Director*; Mark Keeley, *Legislative Affairs Administrator*; Kyle Parker, *Licensing Administrator*; David Rowland, *Legal Affairs Administrator*; and Tracy Greuel, *Assistant Attorney General*.
- 9:13 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 **Lance Ray Norris**, R.Ph. (03-2-28542) Brunswick, Ohio.
- 11:31 a.m. The hearing ended and the record was closed.
- 11:32 a.m. The Board recessed briefly.
- 11:45 a.m. The Board members introduced themselves to the assembled students.
- Mr. Keeley presented the Legislative report.
- 12:05 p.m. The Board recessed for lunch.
- 1:15 p.m. The meeting reconvened and Mr. Keeley continued with the Legislative report.
- Mr. Parker presented the Licensing report.
- 1:40 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 **John Theodore Rohal**, R.Ph. (03-3-13391) Broadview Heights, Ohio.
- 2:58 p.m. The hearing ended and the record was closed.
- The Board held a question and answer discussion with the students.
- 3:45 p.m. The Board recessed for the day.

Tuesday, May 3, 2011

8:05 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:

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.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Also present were William T. Winsley, *Executive Director*; John Whittington, *Acting 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*.

8:06 a.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

8:26 a.m. President Kolezynski left the Executive Session and recused himself from the discussion in the matter of **John Theodore Rohal**, R.Ph. (03-3-13391) Broadview Heights, Ohio.

9:00 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

9:08 a.m.

R-2011-201

After votes were taken in public session, the Board adopted the following order in the matter of **Lance Ray Norris**, R.Ph. (03-2-28542) Brunswick, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110321-174

in the matter of:

LANCE RAY NORRIS, R.Ph.

3466A Lexington Lane
Brunswick, Ohio 44212

R.Ph. Number 03-2-28542

INTRODUCTION

The matter of Lance Ray Norris came for hearing on May 2, 2011, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenbahn, R.Ph.

Lance Ray Norris was represented by James Lindon. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Lance Ray Norris, R.Ph., Respondent
Detective Bill Geng
John Whittington, D.O., R.Ph.

Respondent's Witness: None

State's Exhibits:

1. Hearing request letter [01-10-11]
- 1A. Notice of Opportunity for Hearing letter [03-21-11]
- 1B-1C. Procedurals
2. Reynoldsburg Police Department Ohio Uniform Incident Report [12-15-10]
3. Streamline Infusion & Pharmacy DEA Purchase Report [12-15-10]
4. Streamline Infusion & Pharmacy Specialists Prescriptions Dispensed Report [01-01-10 to 12-31-10]
5. Change of responsible person inventory [12-14-10]
6. Reynoldsburg Division of Police Voluntary Statement of Larry Tusick [12-15-10]

Respondent's Exhibits:

- A. Timeline of events [01-10-11 to 05-21-11]
- B. Hearing request letter from James Lindon, Pharm.D., Ph.D. to the Ohio State Board of Pharmacy [04-19-11]; Email Report fax confirmation [04-19-11]
- C. Schedule letter to Lance Ray Norris, R.Ph. from the Ohio State Board of Pharmacy [03-22-11]

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 Lance Ray Norris was originally licensed in the State of Ohio on May 13, 2008, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Lance Ray Norris 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: Lance Ray Norris was fired from his place of employment for performance problems and being belligerent to co-workers; Lance Ray Norris has admitted to stealing controlled substances for his personal abuse. Such conduct indicates that Lance Ray Norris is within the ambit of Section 4729.16(A)(3) of the Ohio Revised Code.
- (3) Lance Ray Norris did, on or about September 21, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Streamline Infusion and Pharmacy Specialists, without the consent of the owner, to wit: Lance Ray Norris stole 500 tablets of hydrocodone 10 mg with APAP 500 mg, a Schedule III Controlled Substance, from his employer for his own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Lance Ray Norris did, on or about October 28, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Streamline Infusion and Pharmacy Specialists, without the consent of the owner, to wit: Lance Ray Norris stole 500 tablets of hydrocodone 10 mg with

APAP 325 mg, a Schedule III Controlled Substance, from his employer for his own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Lance Ray Norris did, on or about November 17, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Streamline Infusion and Pharmacy Specialists, without the consent of the owner, to wit: Lance Ray Norris stole two 4-oz bottles of Cheratussin AC Syrup, a Schedule V Controlled Substance, from his employer for his own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Lance Ray Norris did, on or about November 17, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Streamline Infusion and Pharmacy Specialists, without the consent of the owner, to wit: Lance Ray Norris stole 500 tablets of hydrocodone 10 mg with APAP 500 mg, a Schedule III Controlled Substance, from his employer for his own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Lance Ray Norris did, on or about December 9, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Streamline Infusion and Pharmacy Specialists, without the consent of the owner, to wit: Lance Ray Norris stole 500 tablets of acetaminophen 300 mg with codeine 60 mg, a Schedule III Controlled Substance, from his employer for his own personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

The Board notes the Respondent primarily complains about procedure. Though this administrative matter was not initiated until March 21, 2011, by the issuance of the Notice of Opportunity for Hearing, Respondent requested a hearing on January 10, 2011. As required by the provisions in 119.07, the Board immediately scheduled the requested hearing, but inasmuch as the Notice had yet to be issued, the matter was necessarily continued indefinitely. Once the Notice was issued on March 21, 2011, the hearing, now having substance due to the Notice allegations, was set on March 22, 2011, for May 2, 2011. The Board believes this to have been more than sufficient time for Respondent to be prepared. Although complaining of procedure, Respondent's counsel not once stated he was unprepared; moreover, at the commencement of the hearing, Respondent's counsel indicated he was indeed prepared to proceed.

Inasmuch as this matter concerned the possibility, which is now confirmed, that a pharmacist could be practicing pharmacy while impaired by drug abuse, there exists a certain amount of expediency in settling the hearing. However, this expediency did not impinge upon Respondent's ability to be prepared to answer the allegations. This fact was readily apparent at the hearing.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (7) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) through (7) 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 him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-28542, held by Lance Ray Norris and such suspension is effective as of the date of the mailing of this Order.

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

Further, after three years from the effective date of this Order, the Board will consider any petition filed by Lance Ray Norris 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) Lance Ray Norris 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) Lance Ray Norris 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.
- (C) Lance Ray Norris 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) Lance Ray Norris must show successful completion of the Multistate Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX) within six months preceding reappearance.

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

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

Kevin Mitchell moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-8/Nay-0).

R-2011-202 After votes were taken in public session, the Board adopted the following order in the matter of **John Theodore Rohal**, R.Ph. (03-3-13391) Broadview Heights, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110106-154

in the matter of:

JOHN THEODORE ROHAL, R.Ph.

3675 Elmbrook Drive

Broadview Heights, Ohio 44147

R.Ph. Number 03-3-13391

INTRODUCTION

The matter of John Theodore Rohal came for hearing on May 2, 2011, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenbahn, R.Ph.

Richard F. Kolezynski, R.Ph., recused

John Theodore Rohal 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: None

Respondent's Witness: John Theodore Rohal, R.Ph., Respondent

State's Exhibits:

1. Reinstatement schedule letter [01-06-11]
 - 1A. Procedural
2. Order of the State Board of Pharmacy in re John Theodore Rohal, R.Ph. [04-16-10]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for John Rohal [04-25-10]
- B. Glenbeigh Intensive Outpatient Program Certification of Completion [01-05-10]; Glenbeigh Out-Patient Program Certification of Completion [04-16-10]; Glenbeigh Center of Beachwood Outpatient Progress Report for John Rohal [04-01-11]
- C. FirstLab Test History Report [02-23-10 to 04-13-11]
- D. Advantage Health Care Affidavit of Correction [04-21-11]
- E. Meeting Attendance Records [01-09-10 to 04-30-11]
- F. Support Group Calendars [March 2010 to April 2011]
- G. Continuing education credits and certificates [04-25-10 to 04-17-11]
- H. Restitution correspondence [04-25-11]
- I. Résumé of John Rohal [not dated]
- J. American Heart Association 2010 BLS Science Guidelines Update Certificate of Completion [03-30-11]; American Heart Association Core Instructor Course Certificate of Completion [05-19-10]
- K. Letter from W.B. Bates II to the Ohio State Board of Pharmacy [04-11-11]; Letter from David R. Stepanik to the Ohio State Board of Pharmacy [04-04-11]
- L. Remington College Student Evaluations [04-06-11]
- M. Seven letters of advocacy [04-06-11 to 04-21-11]

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 John Theodore Rohal has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-091207-029 effective April 16, 2010.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-13391 held by John Theodore Rohal to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) John Theodore Rohal must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before John Theodore Rohal's pharmacist identification card is issued. The contract must provide that:

- (1) Random, **observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit 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 (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) John Theodore Rohal must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- (1) The written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) A written description of John Theodore Rohal's progress towards recovery and what John Theodore Rohal has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that John Theodore Rohal's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - (2) John Theodore Rohal may not serve as a responsible pharmacist.
 - (3) John Theodore Rohal may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) John Theodore Rohal must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

- (5) John Theodore Rohal must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) John Theodore Rohal must abide by the rules of the State Board of Pharmacy.
 - (7) John Theodore Rohal must comply with the terms of this Order.
 - (8) John Theodore Rohal'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.
- (E) John Theodore Rohal must submit proof of restitution to the Board within 30 days from the effective date of this Board Order.

John Theodore Rohal 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; 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-7/Nay-0).

- 9:12 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 **Ryan Michael Griffin**, Intern (06-0-07537) Lancaster, Ohio.
- 10:27 a.m. The Board recessed briefly.
- 10:35 a.m. The **Ryan Michael Griffin** hearing resumed.
- 11:30 a.m. The hearing in the matter of **Ryan Michael Griffin**, Intern (06-0-07537) Lancaster, Ohio, recessed.
- 11:35 a.m. The public hearing concerning amended Rule 4729-5-24 began in Room South A, 31st Floor of the Riffe Center, with the following members in attendance:
- 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.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.
- Also attending were *Legislative Affairs Administrator*, Mark Keeley; *Executive Director*, William Winsley; and *Assistant Attorney General*, Tracy Greuel.
- 11:45 a.m. The public hearing for Rule 4729-5-24 ended.
- The Board recessed for lunch.
- 1:03 p.m. The hearing in the matter of **Ryan Michael Griffin**, Intern (06-0-07537) Lancaster, Ohio, resumed.
- 1:20 p.m. The hearing ended and the record was closed.

1:20 p.m. Ms. Lange moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Moné and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

1:39 p.m. The Executive Session ended and the meeting was opened to the public.

1:40 p.m.

R-2011-203 After votes were taken in public session, the Board adopted the following order in the matter of **Ryan Michael Griffin**, Intern (06-0-07537) Lancaster, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110118-161

in the matter of:

RYAN MICHAEL GRIFFIN, INTERN

331 Orchard View Drive

Lancaster, Ohio 43130

Intern Number 06-0-07537

INTRODUCTION

The matter of Ryan Michael Griffin came for hearing on May 3, 2011, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph. and Jerome J. Wiesenbahn, R.Ph.

Ryan Michael Griffin was represented by John M. Snider. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Ryan Michael Griffin, Respondent

Respondent's Witnesses: David Michael Griffin, R.Ph.
Jarrod Grossman, R.Ph., PRO
Ryan Michael Griffin, Respondent

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-18-11]
1A-1C. Procedurals
2. Joint Stipulations of Fact with Exhibits 2-8 attached

Respondent's Exhibits:

Letter of Introduction [04-19-11]

- A. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-18-11]
- B. Copy of Ohio Northern University Transcript for Ryan M. Griffin [04-11-11]
- C. Letter from Thomas L. Kier, Associate Dean of Operations to Mr. Ryan M. Griffin [01-03-11]; Appendix E College of Pharmacy Notice of Complaint [01-05-11]
- D. Letter from Richard N. Whitney, MD, Shepherd Hill in re Ryan M. Griffin [03-20-11]

- E. Shepherd Hill Termination/Discharge Summary in re Ryan M. Griffin [01-13-11]
- F. Support group attendance records [03-11-11 to 05-01-11]
- G. PRO Pharmacist's Recovery Contract in re Ryan Griffin [03-15-11]
- H. Journal Entry, State of Ohio vs Ryan M. Griffin, Case No. CRB 1100790, Fairfield County Municipal Court [04-15-11]
- I. Letter from Thomas L. Kier, Ohio Northern University to Board of Pharmacy [04-29-11]

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 Michael Ryan Griffin was originally licensed as an intern in the State of Ohio on March 12, 2008.
- (2) Ryan Michael Griffin 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: Ryan Michael Griffin has admittedly abused hydrocodone with APAP, a Schedule III controlled substance, and Ryan Michael Griffin has admitted to being addicted. Such conduct indicates that Ryan Michael Griffin is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Ryan Michael Griffin did, on or about December 29, 2010, knowingly obtain, possess, and/or use a controlled substance when the conduct was not in accordance with Chapters 3719., 4729. of the Ohio Revised Code, to wit: Ryan Michael Griffin possessed the following controlled substances outside the confines of a pharmacy and without a prescription:

<u>Drug</u>	<u>Quantity</u>
hydrocodone with APAP 10/325 mg	124
phentermine 37.5 mg	55
alprazolam 1 mg	36.5
hydrocodone with ibuprofen 7.5/200 mg	6.5
modavinil 200 mg	8
armodafinil 250 mg	117

Such conduct is in violation of Section 2925.11 of the Ohio Revised Code.

- (4) Ryan Michael Griffin did, on or about December 29, 2010, possess dangerous drugs when the conduct was not in accordance with Chapters 4729. and 4731. of the Ohio Revised Code, to wit: Ryan Michael Griffin possessed the following dangerous drugs outside the confines of a pharmacy and without a prescription:

<u>Drug</u>	<u>Quantity</u>
acetylcysteine 20% solution 200 mg/ml	3x4ml vials
lubiprostone 8 mg	86
ondansetron 4mg	2

Such conduct is in violation of Section 4729.51(C)(3) of the Ohio Revised Code.

- (5) Ryan Michael Griffin did, from July 4, 2010, through December 29, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Kroger Pharmacy #931, beyond the express or implied consent of the owner, to wit: Ryan Michael Griffin admittedly stole the following drugs in these and/or additional quantities:

<u>Drug</u>	<u>Quantity</u>
hydrocodone with APAP 10/325 mg	124
phentermine 37.5 mg	55
alprazolam 1 mg	36.5
hydrocodone with ibuprofen 7.5/200 mg	6.5
modaviniil 200 mg	8
armodafinil 250 mg	117
acetylcysteine 20% solution 200 mg/ml	3x4 ml vials
lubiprostone 8 mg	86
ondansetron 4 mg	2

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

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraphs (3) through (5) 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 (4) and (5) 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 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 paragraphs (3) and (4) 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 4729. 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 Ryan Michael Griffin on January 18, 2011.

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 pharmacy intern identification card, No. 06-0-07537, held by Ryan Michael Griffin and such suspension is effective as of the date of the mailing of this Order.

- (A) Ryan Michael Griffin, 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) Ryan Michael Griffin, 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.

Further, after one year from the date of Ryan Michael Griffin's Summary Suspension effective January 18, 2011, the Board will consider any petition filed by Ryan Michael Griffin for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the intern license in Ohio if the following conditions have been met:

- (A) Ryan Michael Griffin must complete Shepherd Hill's required aftercare program of 52 weekly sessions.

(1) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

- (B) Ryan Michael Griffin 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.

- (C) Ryan Michael Griffin 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) Satisfactory documentation from a Board approved college of pharmacy demonstrating that college's intent to allow enrollment to take professional classes directly related to the practice of pharmacy once Ryan Michael Griffin is licensed by the Board.

(3) Compliance with the terms of this Order.

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

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

Kevin Mitchell moved for Action of the Board; Troy Gahm seconded the motion. Motion passed (Aye-7/Nay-1).

1:42 p.m.

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.

Amy E. Agee	Kentucky
Karen Annette Alesch	Florida
Marie Ayoub	Connecticut
Soukaina A. Ayoub	Connecticut
Ryan Andrew Bane	West Virginia
Beth Anne Diehl	Iowa
Autumn Sheree Dominguez	Pennsylvania
Garrett George Eggers	Wisconsin
Lisa Elaine Glance	West Virginia
Mariam M. Hajeir	Tennessee
Julie Ann Hernandez	Illinois
Deborah Susan McNutt	Michigan
Scotty Ray Sears	Kentucky
Diment Deepan Singh	California
Yuann Ann Sun	New Jersey
Julie Ann Thayer	West Virginia
Heesung Yoon	Maryland

2:02 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 **Jeffrey Michael Pustulka**, Intern applicant, Milan, Michigan.

3:21 p.m. The hearing ended and the record was closed.

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 President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

3:25 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-204 After votes were taken in public session, the Board adopted the following order in the matter of **Jeffrey Michael Pustulka**, Intern applicant, Milan, Michigan.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110106-155

in the matter of:

JEFFREY MICHAEL PUSTULKA

30 East Second Street

Milan, Michigan 48160

INTRODUCTION

The matter of Jeffrey Michael Pustulka came for hearing on May 3, 2011, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph.; Michael A. Moné, R.Ph.; Jerome J. Wiesenbahn, R.Ph.

Jeffrey Michael Pustulka was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Jeffrey Michael Pustulka, Respondent

Respondent's Witness: Chris Pustulka

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [01-06-11]
1A-1C. Procedurals
2. Pharmacy Intern Registration Application [06-21-10]
3. Correspondence from Jeffrey Pustulka [08-02-10]
4. Certified Copy of Conviction, People of the Twp of West Bloomfield Vs Jeffrey Michael Pustulka, Case No. 97WB52696A, State of Michigan 48th Judicial District [09-13-10]
5. The University of Arizona Police Department report [07-15-10]
6. Ann Arbor Police Department Detention Petition Record with attachments [07-03-00]
7. Ann Arbor Police Department Detention Petition Record with attachments [01-05-01]
8. Ann Arbor Police Incident Report [09-02-02]
9. Order of Probation, State of Michigan VS. Jeffrey Pustulka, Case No. DR-5-02-01271(SD), 15th District Court [06-17-10]
10. Docket, State of Michigan v Pustulka/Jeffrey/Michael, Case No. 02-1271, 15th Judicial Court [02-07-09]
11. Ann Arbor Police Incident Report for Incident No. 2004-20663 [11-14-04]
12. Ann Arbor Police Incident Report for Incident No. 2004-20664 [11-14-04]
13. Ann Arbor Police Incident Report for Incident No. 2002-17351 [09-02-02]
14. Ann Arbor Police Incident Report for Incident No. 2004-22728 [12-18-04]
15. Ann Arbor Police Incident Report for Incident No. 2005-05979 [04-11-05]

Respondent's Exhibits:

- A. Letter of support from Valery Larocca, Pharm. D. [01-22-11]
- B. Letter of support from Paul J. Samenuk, R.Ph., MBA [04-17-11]
- C. Letter of support from Honorable Julie Creal [04-22-11]
- D. Letter of support from Chris Pustulka [04-26-11]
- E. University of Toledo Dean's List Recognition [01-20-11]
- F. University of Toledo Academic Transcript [04-27-11]

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 Jeffrey Michael Pustulka applied to the Board for registration as an intern in the State of Ohio on June 22, 2010.
- (2) Jeffrey Michael Pustulka was arrested, on or about May 28, 1997, and convicted of Operating a Vehicle while Impaired in the 4th Judicial District of Bloomfield Hills, Michigan. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (3) Jeffrey Michael Pustulka was, on or about November 24, 1998, arrested by the University of Arizona Police Department for possessing marijuana, a Schedule I Controlled Substance. Such conduct, indicates that Jeffrey

Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (4) Jeffrey Michael Pustulka was, on or about September 4, 1999, cited for Supplying Alcohol to a Minor, and Jeffrey Michael Pustulka was subsequently convicted. Jeffrey Michael Pustulka failed to appear at court and Jeffrey Michael Pustulka was arrested on a warrant on July 3, 2000. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (5) Jeffrey Michael Pustulka was, on or about January 5, 2001, arrested on an outstanding warrant, and Jeffrey Michael Pustulka was charged with Open Intoxicant in a Motor Vehicle. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (6) Jeffrey Michael Pustulka was, on or about September 2, 2002, arrested and charged with his 2nd offense of Operating a Vehicle while Impaired. Jeffrey Michael Pustulka was subsequently convicted on or about January 28, 2005, in the 15th District Court of Ann Arbor, Michigan. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (7) Jeffrey Michael Pustulka was, on or about November 14, 2004, arrested on an outstanding warrant related to his September 2, 2002 arrest, and Jeffrey Michael Pustulka was charged with Resisting and Obstruction of Justice as well as with Open Intoxication. Jeffrey Michael Pustulka was subsequently convicted of Operating a Vehicle while Impaired on or about January 28, 2005, in the 15th District Court of Ann Arbor, Michigan. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (8) Jeffrey Michael Pustulka was, on or about December 18, 2004, arrested on an outstanding warrant for Obstruction of Justice related to the November 14, 2004 incident. On April 11, 2005, Jeffrey Michael Pustulka was arrested again on an outstanding warrant for failing to appear in court for the Obstruction of Justice charge from November 14, 2004. Jeffrey Michael Pustulka was subsequently convicted. Such conduct, indicates that Jeffrey Michael Pustulka falls within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (9) Jeffrey Michael Pustulka did, on or about June 22, 2010, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Jeffrey Michael Pustulka indicated on his application for internship that Jeffrey Michael Pustulka had been charged with a crime, yet failed to disclose six other criminal offenses. 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 (8) of the Findings of Fact constitute having been found by the Board of Pharmacy to be abusing liquor or drugs as provided in paragraph (D) 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.

- (2) The State Board of Pharmacy concludes that paragraph (9) of the Findings of Fact constitutes being guilty of dishonesty and/or 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 (9) of the Findings of Fact constitutes committing fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the Board as provided in Division (A)(10) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

The State Board of Pharmacy finds that Jeffrey Michael Pustulka has sufficiently rehabilitated himself and therefore; 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 Jeffrey Michael Pustulka on or about June 22, 2010.

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

Michael Moné moved for Conclusions of Law; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-2).

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

R-2011-205 Mr. Rowland announced that the following Settlement Agreement with **Timothy J. Heenan**, R.Ph. (03-1-11138) West Chester, Ohio, has been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-100115-153

in the matter of:

TIMOTHY J. HEENAN, R.Ph.

8850 Brook Knoll Drive
West Chester, Ohio 45069

R.Ph. Number 03-1-11138

This Settlement Agreement is entered into by and between Timothy J. Heenan 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.

Timothy J. Heenan 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. Timothy J. Heenan 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, limit, 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, Timothy J. Heenan is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about November 15, 2010, pursuant to Chapter 119. of the Ohio Revised Code, Timothy J. Heenan 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. Timothy J. Heenan requested a hearing; it was scheduled and continued. The November 15, 2010 Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Timothy J. Heenan was originally licensed in the State of Ohio on March 18, 1975, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Timothy J. Heenan did, on or about April 22, 2010, misbrand a drug, to wit: when Timothy J. Heenan received a prescription for 120 tablets of morphine sulfate, RX #2225185, he dispensed 360 tablets of methadone 10 mg, which had not been specifically prescribed by the physician. The patient subsequently was harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Paragraph three of the November 15, 2010 Notice of Opportunity for Hearing in the matter of Timothy J. Heenan is dismissed and held for naught.

Timothy J. Heenan neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 15, 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, Timothy J. Heenan knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Timothy J. Heenan 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 forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) In addition, Timothy J. Heenan must obtain, within one year from the effective date of this Agreement, five hours of approved continuing pharmacy education (0.5 CEUs), in preventing medication errors, which may not also be used for license renewal.

If, in the judgment of the Board, Timothy J. Heenan 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 probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board 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.

Timothy J. Heenan 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.

Timothy J. Heenan 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. Timothy J. Heenan 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/ Timothy J. Heenan, R.Ph. Date Signed: 04/07/2011
Respondent

/s/ Douglas E. Graff Date Signed: 04/07/2011
Attorney for Respondent

/s/ Richard F. Kolezynski Date Signed: 05/03/2011
President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 05/03/2011
Ohio Assistant Attorney General

R-2011-206 Mr. Rowland announced that the following Settlement Agreement with **Richard Carl Carano, R.Ph.** (03-3-11672) Poland, Ohio, has been signed by all parties making it effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-110222-170

in the matter of:

RICHARD CARL CARANO, R.Ph.

8616 Raintree Run

Poland, Ohio 44514

R.Ph. Number 03-3-11672

This Settlement Agreement is entered into by and between Richard Carl Carano 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.

Richard Carl Carano 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. Richard Carl Carano 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, limit, 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, Richard Carl Carano is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 22, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Richard Carl Carano 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. Richard Carl Carano requested a hearing; it was scheduled and continued. The February 22, 2011, Notice of Opportunity for Hearing letter contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Richard Carl Carano was originally licensed in the State of Ohio on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Richard Carl Carano did, on or about September 16, 2008, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #990340, for 20 hydrocodone 7.5 mg with APAP 750 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Richard Carl Carano did, on or about October 20, 2008, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #992533, for 60 APAP with codeine #3 tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Richard Carl Carano did, on or about November 6, 2008, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #993929, for 20 lorazepam 1 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Richard Carl Carano did, on or about December 12, 2008, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #996570, for 20 APAP with codeine #3 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Richard Carl Carano did, on or about January 23, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #999553, for 20 propoxyphene napsylate/APAP 100/650 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (7) Richard Carl Carano did, on or about February 13, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1000994, for 30 zolpidem 5 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (8) Richard Carl Carano did, on or about March 28, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1004304, for 30 zolpidem 5 mg tablets, and otherwise engaged in the practice of pharmacy after your license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) Richard Carl Carano did, on or about April 3, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1004785, for 90 hydrocodone 7.5 mg with APAP 750 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (10) Richard Carl Carano did, on or about May 1, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1006875, for 10 hydrocodone 5 mg with APAP 500 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (11) Richard Carl Carano did, on or about June 8, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1009430, for 30 phentermine 37.5 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (12) Richard Carl Carano did, on or about July 21, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1012312, for 16 hydrocodone 5 mg with APAP 500 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (13) Richard Carl Carano did, on or about August 26, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX

#1014490, for 20 propoxyphene napsylate/APAP 100/650 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (14) Richard Carl Carano did, on or about September 30, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1016788, for 60 hydrocodone 10 mg with APAP 325 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (15) Richard Carl Carano did, on or about October 7, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1017355, for 120 butalbital/APAP/codeine tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (16) Richard Carl Carano did, on or about November 24, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1020775, for 30 hydrocodone 5 mg with APAP 500 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (17) Richard Carl Carano did, on or about December 3, 2009, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1021374, for 30 propoxyphene napsylate/APAP 100/650 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (18) Richard Carl Carano did, on or about January 6, 2010, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1023480, for 6 hydrocodone 5 mg with APAP 500 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (19) Richard Carl Carano did, on or about February 4, 2010, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1025510, for 120 hydrocodone 10 mg with APAP 660 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's

license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (20) Richard Carl Carano did, on or about March 27, 2010, while not a licensed pharmacist or a pharmacy intern under the personal supervision of a pharmacist, dispense or sell dangerous drugs or otherwise engage in the practice of pharmacy, to wit: Richard Carl Carano dispensed RX #1028961, for 2 diazepam 5 mg tablets, and otherwise engaged in the practice of pharmacy after Richard Carl Carano's license had lapsed and prior to its renewal. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

Richard Carl Carano neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 22, 2011; 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, Richard Carl Carano knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Richard Carl Carano agrees to the imposition of a monetary penalty of four thousand five hundred dollars (\$4,500.00) 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.

Richard Carl Carano 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.

Richard Carl Carano 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. Richard Carl Carano 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/ Richard Carl Carano, R.Ph. Date Signed: 04/21/2011

Respondent

/s/ Richard F. Kolezynski Date Signed: 05/03/2011

President; Ohio State Board of Pharmacy

/s/ Tracy Marie Greuel Date Signed: 05/03/2011

Ohio Assistant Attorney General

3:44 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. Cain and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

Wednesday, May 4, 2011

9:00 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:

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.; Kevin J. Mitchell, R.Ph.; Michael A. Moné, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

R-2011-207 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:

Humana RightSource Pharmacy, Cincinnati, Ohio (02-1972850)
Multiple physician's offices on letter of request

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* – 8.

R-2011-208 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:

Helix Infusion Therapy, Sugar Land, Texas (02-1979350)
South Dayton Acute Care Consultants Inc., Dayton, Ohio (02-1475950)

After discussion, Mr. Joyce 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. Wiesenbahn and approved by the Board: *Aye* – 8.

R-2011-209 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:

One Stop Pharmacy, St. Petersburg, Florida (02- 2077600)
Unique Medical Weight Loss & Wellness, Cincinnati, Ohio (02- 2055350)

After discussion, Mr. Gahm moved that the Board deny the request. The motion was seconded by Mr. Cain. The request was denied by the Board: *Aye* – 8.

R-2011-210 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:

University OptionCare, Columbus, Ohio (02-1543600)
Walgreens Pharmacy, Blacklick, Ohio (02-1297150)

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 Mr. Mitchell and approved by the Board: *Aye* – 7. Abstained: Mr. Joyce.

R-2011-211 Mr. Parker presented a request from **Kroger Pharmacy #014402** (02-1042200) Madeira, Ohio. The pharmacy is scheduled for remodeling June 1, 2011, continuing through October 2011, and asks to use a secure pharmacy trailer in the interim. After discussion, Mr. Casar moved that the request be

granted pending final inspection. The motion was seconded by Mr. Mitchell and approved by the Board: *Aye* – 8.

R-2011-212 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Najib Mawad**, R.Ph. (03-1-20929) Swanton, Ohio, be permitted to be the responsible person for the following sites:

Swanton ALL-CARE Pharmacy, Swanton, Ohio	(pending)
Swanton Pharmacy, Swanton, Ohio	(pending)

After discussion, Ms. Lange moved that the Board approve the request for 6 months. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 8.

R-2011-213 Mr. Parker presented a request for approvable status for the electronic prescribing system **Design Clinicals, "Meds Tracker"**. Mr. Mitchell moved that the system be found approvable pending final inspection. Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-214 Mr. Parker presented a request for approvable status for the electronic prescribing system **OmniMD, "OmniMD eRX"**. Mr. Joyce moved that the system be found approvable pending final inspection. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 7/*Nay* – 1.

R-2011-215 Mr. Parker presented a request for approvable status for the electronic prescribing system **Easy RX Pad, LLC, "Easy RX Pad"**. Mr. Casar moved that the system be found approvable pending final inspection. Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye* – 7/*Nay* – 1.

R-2011-216 Mr. Parker presented a request for approvable status for the electronic prescribing system **Origin Healthcare Solution, "EMRge"**. Mr. Moné moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7/*Nay* – 1.

R-2011-217 Mr. Parker presented a request for approvable status for the electronic prescribing system **IO Practiceware, Inc., "IO Practiceware"**. Mr. Moné moved that the system be found approvable pending final inspection. Mr. Cain seconded the motion and it was approved by the Board: *Aye* – 7/*Nay* – 1.

R-2011-218 Mr. Parker presented a request for approvable status for the electronic prescribing system **Remedi Senior, "Remedi COE"**. Mr. Joyce moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 2/*Nay* – 2.

R-2011-219 Mr. Parker presented a request for approvable status for the electronic prescribing system **StreamlineMD, LLC, "Streamline EHR"**. Mr. Casar moved that the system be found approvable pending final inspection. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 8.

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

Mr. Casar said there was no report from the Nursing Board Committee on Prescriptive Governance.

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

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

There was no Medical Board Prescribing Committee Report this month.

Mr. Joyce reported on his April 5, 2011, attendance (representing the Board) at an Accreditation Council for Pharmacy Education site visit at Northeastern Ohio Universities College of Medicine.

He noted that the institution has officially changed its name from Northeastern Ohio Universities College of Medicine (NEOUCOM) to Northeast Ohio Medical University (**NEOMED**).

R-2011-220 The Board approved payment of the 2011 dues to the Alliance of States with Prescription Monitoring Programs. Mr. Joyce made the motion and it was seconded by Mr. Gahm: *Aye* – 8.

10:47 a.m. The Board recessed briefly.

10:52 a.m. The meeting resumed and Mr. Winsley discussed the National Association of Boards of Pharmacy annual meeting and elections with the Board.

R-2011-221 Mr. Gahm moved that the Board minutes of April 4-6, 2011, be approved as amended. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 8.

11:22 a.m. Ms. Lange 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. Gahm and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.

11:55 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-222 Mr. Joyce moved that the Board adopt the following recognition resolution for **Timothy J. Benedict**, recognizing his many years of service to the Board of Pharmacy. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 8.

RESOLUTION OF THE BOARD

In recognition of your contributions so selflessly given to the enhancement of pharmacy, law enforcement, and the health and welfare of the citizens of Ohio;

For your contributions nationally to the National Association of Boards of Pharmacy, to other states' boards, to states' and federal law enforcement agencies, and as an advisor and office holder in the National Association of State Controlled Substance Authorities;

For aid and advice given to other Ohio agencies, the Ohio Legislature, and Ohio's public officials;

This Board expresses its profound appreciation and gratitude to

Timothy J. Benedict, R.Ph.,

For 31 years of Exemplary Service and Performance.

April 4, 2011

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

PER DIEM	May 2	May 3	May 4	Total
Cain	1	1	1	3
Casar	1	1	1	3
Gahm	1	1	1	3
Joyce	1	1	1	3
Kolezynski	1	1	1	3
Lange	1	1	1	3
Mitchell	1	1	1	3
Moné	1	1	1	3
Wiesenhahn	1	1	1	3

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

11:58 a.m. Ms. Lange moved that the meeting be adjourned. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 8.

**The Ohio State Board of Pharmacy
approved these Minutes June 3, 2011**