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

Minutes of the June 6-8, 2011
Meeting of the Ohio State Board of Pharmacy

Monday, June 6, 2011

10:00 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*; 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. Wiesenhahn, R.Ph.

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

10:01 a.m.

R-2011-223 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 and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Kolezynski as follows: Casar – *yes*; Gahm – *yes*; Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

11:00 a.m. The Executive Session ended and the meeting was opened to the public.

R-2011-224 After discussion, Mr. Joyce moved that a request for special accommodation during testing from **Lydia Darlene Gaydos**, pharmacy intern (06-0-06695) Caldwell, Ohio, be approved. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 7.

R-2011-225 Mr. Keeley presented a request from **Mohamad Hani Farhat**, pharmacy intern (06-0-07551) Cleveland, Ohio, for permission to extend his time to complete the licensing exam by one additional year due to extraordinary circumstances. After discussion, Mr. Moné moved that **Mr. Farhat's** request be approved. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 7.

R-2011-226 Mr. Joyce moved that the settlement offer in the matter of **Leonard S. Streicher**, R.Ph. (03-1-06163) Mason, Ohio, be denied. The motion was seconded by Mr. Casar and approved by the Board: *Aye* – 4/*Nay* – 3.

R-2011-227 The Board considered a request from **Mariane Letargo-Enriquez**, R.Ph. (03-2-24536) Cincinnati, Ohio, that she be allowed to work in a facility in contradiction to her Board Order of February 2009. After discussion, Mr. Wiesenhahn moved that Ms. Letargo-Enriquez must appear before the Board prior to a decision being made concerning her request. Mr. Moné seconded the motion and it was approved by the Board: *Aye* – 6/*Abstain* – 1; Lange.

R-2011-228 Mr. Casar moved that the settlement offer in the matter of **Tyler Jay Kaib**, R.Ph. (03-3-21901) Zanesville, Ohio, be denied. The motion was seconded by Mr. Joyce and approved by the Board: *Aye – 7.*

11:04 a.m. The Board recessed briefly.

11:10 a.m. The Board members reconvened and the meeting continued.

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

11:25 a.m. The Board met with **Tim Tannert**, R.Ph, of **Absolute Pharmacy Inc.**, to discuss the **AP Pharma** remote packaging system.

11:58 a.m. The meeting with Mr. Tannert ended.

11:59 a.m. The Board met with representatives **Thomas Wilson**, MPA; **Mark Keeler** and **Steve Wagner** from the **Ohio Department of Health, Office of Health Preparedness** to discuss emergency preparedness.

12:50 p.m. The Board recessed for lunch.

1:35 p.m. The Board reconvened with the following members present:

Richard Kolezynski; Donald Casar; Troy Gahm; Brian Joyce; Deborah Lange; Kevin Mitchell; Michael Moné; and Jerome Wiesenbahn.

R-2011-229 After discussion, Mr. Moné moved that Rule 4729-5-24 be final filed with an effective date of June 16, 2011. Mr. Mitchell seconded the motion and it was approved by the Board: *Aye – 7.*

1:39 p.m. The Board was joined by Assistant Attorney General Tracy Greuel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Paul Daniel Ciavarella**, R.Ph. (03-3-17226) Poland, Ohio. Mr. Mitchell and Mr. Joyce recused themselves from this hearing.

3:20 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: Casar – *yes*; Gahm – *yes*; (Joyce – *recused*); Lange – *yes*; (Mitchell – *recused*); Moné – *yes*; Wiesenbahn – *yes*.

3:31 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-230 After votes were taken in public session, the Board adopted the following order in the matter of **Paul Daniel Ciavarella**, R.Ph. (03-3-17726) Poland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110202-164

in the matter of:

PAUL DANIEL CIAVARELLA, R.Ph.

7631 Mulberry Walk
Poland, Ohio 44541

R.Ph. Number 03-3-17726

INTRODUCTION

The matter of Paul Daniel Ciavarella came for hearing on June 6, 2011, before the following members of the Board: Richard F. Kolezynski, R.Ph. (*presiding*); 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. Wiesenhahn, R.Ph.

Edward Cain, absent

Brian Joyce, R.Ph., recused; Kevin Mitchell, R.Ph., recused

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

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witnesses: Kimberly McAbee
Nathan Goik, R.Ph.
Paul Daniel Ciavarella, R.Ph., Respondent

State's Exhibits:

1. Reinstatement hearing request letter [02-01-11]
1A-1B. Procedurals
2. Order of the State Board of Pharmacy in re Paul Daniel Ciavarella, R.Ph. [05-15-09]

Respondent's Exhibits:

- A. Order of the State Board of Pharmacy in re Paul Daniel Ciavarella, R.Ph. [05-15-09]
- B. State Board of Pharmacy schedule letter in re Paul Daniel Ciavarella, R.Ph. [02-02-11]
- C. PRO Pharmacist's Recovery Contract for Paul Ciavarella [05-18-09]
- D. Monetary Penalty Payment Transmittal Form [06-15-09]
- E. Glenbeigh Certificate of Completion [09-01-10]
- F. Glenbeigh Center of Nilis-Outpatient Discharge Form [09-01-10]
- G. Glenbeigh Discharge Summary [12-10-08]
- H. Mahoning County Common Pleas Drug Court Certificate of Graduation [not dated]
- I. Mahoning County TASC Program Completion Form [01-19-10]
- J. Fax verification of restitution to Walgreens [02-08-11]
- K. Calendar of urine screens and meetings [October 2008 to April 2011]
- L. Forensic Drug Testing Custody and Control Forms [12-09-08 to 04-26-11]
- M. FirstLab Test History Report [12-12-08 to 03-08-11]
- N. Forensic Drug Testing Custody and Control Form [01-27-09]; Copy of RX's for Paul Ciavarella [08-16-10]; Copy of FAX to Mike Quigley and Kathie Simpson from Paul Ciavarella [08-16-10]; Letter from Brian Bizub of Meridian Community Care in re Paul Ciavarella [05-05-11]; List of medications for Paul Ciavarella from Poland Family Practice [09-22-09]; Letter from Michael E. Bushey, D.D.S., Inc. in re Paul Ciavarella [03-30-11]; Letter from Patrick French of Meridian Community Care in re Paul Ciavarella [05-05-11]; Copy of FAX to Mike Quigley from Michael E. Bushey, D.D.S., Inc. in re Paul Ciavarella [08-16-10]; Copies of prescriptions for Paul Ciavarella [12-03-08 to 04-22-09]
- O. Continuing pharmacy education credits and certificates [03-10-08 to 4-17-11]

- P. Support group attendance records [01-01-09 to 04-28-11]
- Q. Copies of Guest Speaker certificates at recovery group meetings [08-17-09 to 10-13-10]
- R.-V. Five letters of support [05-05-11 to 05-20-11]
- W. FirstLab Test History Report [01-24-09 to 05-24-11]
- X. Meeting Attendance Sheet [05-03-11 to 05-30-11]
- Y. Letter from Kathie Simpson, S.A.R.P.H. Executive Director of Operations to John Whittington, Ohio State Board of Pharmacy [06-03-11]

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 Paul Daniel Ciavarella has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-081008-022, effective May 15, 2009.

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. 03-3-17226, held by Paul Daniel Ciavarella 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) Paul Daniel Ciavarella must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before his 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) Paul Daniel Ciavarella 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 Paul Daniel Ciavarella's progress towards recovery and what Paul Daniel Ciavarella 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 Paul Daniel Ciavarella'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) Paul Daniel Ciavarella may not serve as a responsible pharmacist.
 - (3) Paul Daniel Ciavarella may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Paul Daniel Ciavarella must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Paul Daniel Ciavarella must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Paul Daniel Ciavarella must abide by the rules of the State Board of Pharmacy.
 - (7) Paul Daniel Ciavarella must comply with the terms of this Order.
 - (8) Paul Daniel Ciavarella'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.

Paul Daniel Ciavarella 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.

Michael Moné moved for Finding of Fact; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-5/Nay-0).

Troy Gahm moved for Action of the Board; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-5/Nay-0).

R-2011-231 After discussion, Mr. Gahm moved that the hearing in the matter of **Tyler Jay Kaib**, R.Ph. (03-3-21901) Zanesville, Ohio, be continued. Mr. Joyce seconded the motion and it was approved by the Board: *Aye – 6/Nay – 1*.

3:40 p.m. Mr. Gahm and Mr. Moné left the meeting for personal reasons.

The Board discussed a meeting location for the July 11th and 12th, 2011, meeting and the consensus was to visit Mohican State Park, Loudonville, Ohio.

R-2011-232 Mr. Parker presented a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Humana Right Source, Cincinnati, Ohio (02-1972850)
Physician's offices on letter of request

After discussion, Ms. Lange 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. Casar and approved by the Board: *Aye – 5*.

R-2011-233 Mr. Parker presented a request from **Morton Hilltop Pharmacy**, Portsmouth, Ohio (02-0464400) for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Shawnee Mental Health Center, Colegrove, Ohio (02-0968800)
Shawnee Mental Health Center, Colegrove, Ohio (02-0819100)
Shawnee Mental Health Center, Scioto County, Ohio (02-0595900)
Shawnee Mental Health Center, Adams County, Ohio (02-0968850)

After discussion, Mr. Wiesenhahn 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. Casar and approved by the Board: *Aye – 5*.

R-2011-234 Mr. Parker presented a request to be registered as a Continuing Pharmacy Education provider from **Kim Blanco, Pharm. D.** (03-2-28060) **Northside Medical Center-Valley Care Health Systems**, Youngstown, Ohio. After discussion, Mr. Casar moved that the request be approved. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 5*.

R-2011-235 Mr. Parker presented a request to be registered as a Continuing Pharmacy Education provider from **Danielle Lykins, Pharm. D.** (03-1-27425) **Fort Hamilton Hospital**, Hamilton, Ohio. After discussion, Ms. Lange moved that the request be approved. Mr. Casar seconded the motion and it was approved by the Board: *Aye – 5*.

R-2011-236 Mr. Parker presented a request for approvable status for the electronic prescribing system from **Rocket System Laboratories, Inc., PowerBill 10.0**. 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 – 4/Nay – 1*.

R-2011-237 Mr. Parker presented a request for approvable status for the electronic prescribing system **VersaForm**. Ms. Lange moved that the system be found approvable pending final inspection. Mr. Wiesenhahn seconded the motion and it was approved by the Board: *Aye – 4/Nay – 1*.

R-2011-238 Mr. Parker presented a request for approvable status for the electronic prescribing system **"PowerSoft MD"** by **Data Tec Inc.** Mr. Casar moved that the system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 4/Nay – 1*.

A discussion for the Pick-Up Station Waiver from **The Pharmacy Counter LLC.** (02-2067250) Oregon, Ohio, was tabled until June 7, 2011.

R-2011-239 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Michele Holley**, R.Ph. (03-1-27358) Dublin, Ohio, be permitted to be the responsible person for the following site

Riverside Methodist Hospital, Columbus, Ohio (02-0030850)
HomeReach Hospice, Columbus, Ohio (02-1717050)

After discussion, Mr. Casar moved that the Board approve the request for one year. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 5.

R-2011-240 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-11 (Responsible Person) requesting that **Rebecca Jones**, R.Ph. (03-1-10972) Ashville, Ohio, be permitted to be the responsible person for the following sites:

Riverside Medical Building Pharmacy, Columbus, Ohio (02-0721950)
RXCare Pharmacy, Columbus, Ohio (02-1074200)

After discussion, Ms. Lange moved that the Board approve the request for one year. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 5.

R-2011-241 Mr. Mitchell moved that the annual dues to the National Association of State Controlled Substance Authorities be paid. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 5.

4:36 p.m. The Board recessed for the day.

Tuesday, June 7, 2011

8:56 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 Kolezynski, R.Ph., *President*; Donald Casar, R.Ph.; *Vice-President*; Edward Cain, Public Member; Troy Gahm, R.Ph.; Brian Joyce, R.Ph.; Deborah Lange, R.Ph.; Kevin Mitchell, R.Ph.; Michael Moné and Jerome Wiesenbahn, R.Ph.

R-2011-242 Mr. Parker presented a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

The Pharmacy Counter LLC. Toledo, Ohio (02-2015600); (02- 2015550)-(pending)
The Pharmacy Counter LLC., Oregon, Ohio (02-2015650)

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-2011-243 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received from **College Pharmacy**, Colorado Springs, Colorado (02-1615900) for the following site:

George Pettit, M.D., Portsmouth, Ohio (exempt)

After discussion, Mr. Casar moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 8.

9:07 a.m.

R-2011-244 The Board was joined by Assistant Attorney General Tracy Greuel to create a record in accordance with Ohio Revised Code Chapters 119. and 4729. in the matter of **Gary A. Evankovich**, R.Ph. (03-2-13226) Youngstown, Ohio.

Mr. Joyce was recused from this hearing.

9:18 a.m. The hearing ended and the record was closed.

9:18 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. Casar and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; Gahm – *yes*; (Joyce – *recused*); Lange – *yes*; Mitchell – *yes*; Moné – *yes*; Wiesenhahn – *yes*.

9:26 a.m. The Executive Session ended and the meeting was opened to the public.

9:27 a.m.

R-2011-245 After votes were taken in public session, the Board adopted the following order in the matter of **Gary A. Evankovich**, R.Ph., (03-2-13226) Youngstown, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110321-175

in the matter of:

GARY A. EVANKOVICH R.Ph.

4470 Devonshire Drive
Youngstown, Ohio 44512

R.Ph. Number 03-2-13226

INTRODUCTION

The matter of Gary A. Evankovich came for consideration on June 7, 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. Wiesenhahn, R.Ph.

Brian Joyce, R.Ph., recused

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

SUMMARY OF EVIDENCE

State's Witness: Christopher K. Reed, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

- 1-1A. Procedurals
2. Documents relating to Judgment Entry, State of Ohio v. Gary Evankovich, Case No. 09 CR 38, Mahoning County, Ohio Common Pleas Court [02-11-11]

Respondent's Exhibits: None

FINDINGS OF FACT

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

In accordance with Section 2929.24 of the Ohio Revised Code, the office of the Prosecuting Attorney of Mahoning County, Ohio, has submitted to this Board information which indicates that on February 11, 2011, Gary Evankovich was found guilty in the Common Pleas Court of Mahoning County, Ohio, of felony drug abuse offenses in violation of Section 4729.51(C)(1) of the Ohio Revised Code, felonies of the fourth degree. State of Ohio vs. Gary Evankovich, Case No. 09 CR 38, Mahoning County Common Pleas Court.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Gary A. Evankovich on March 21, 2011.

- (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. 03-2-13226, held by Gary A. Evankovich 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. 03-2-13226, held by Gary A. Evankovich 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. 03-2-13226, held by Gary A. Evankovich effective as of the date of the mailing of this Order.

Gary A. Evankovich, 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.

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

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

Kevin Mitchell moved for Action of the Board; Jerome Wiesenhahn seconded the motion. Motion passed (Aye-7/Nay-0).

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

Ms. Lange said there was no report from the Medical Board's Physician-Assistant Policy Committee this month.

Mr. Mitchell presented the Probation Report.

The Board discussed the annual meeting of the National Association of Boards of Pharmacy.

Mr. Keeley presented the Legislative Report.

10:17 a.m. The Board recessed briefly.

10:41 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 **Leonard S. Streicher**, R.Ph. (03-1-06163) Mason, Ohio.

12:30 p.m. The Board recessed for lunch.

1:22 p.m. The Ohio Pharmacists Association (OPA) met with the Board to discuss items of mutual interest.

R-2011-246
1:30 p.m. The following candidates for licensure by reciprocity met in Room South A, 31st Floor of the Vern Riffe Center. They introduced themselves and then participated in a discussion of pharmacy laws and rules with Mr. Parker, Licensing Administrator.

<u>Alison Anne Brophy</u>	<u>New Jersey</u>
<u>Rebecca Marie Castner</u>	<u>Louisiana</u>
<u>Stephen T. Harris</u>	<u>Georgia</u>
<u>Matthew Helgeson</u>	<u>Florida</u>
<u>Deborah Ann Kaminsky</u>	<u>Oklahoma</u>
<u>Shelley Ann Klochan</u>	<u>Missouri</u>
<u>Kristyn Marie Laban</u>	<u>Michigan</u>
<u>David Leszunov</u>	<u>Pennsylvania</u>
<u>Wilson Liu</u>	<u>New Jersey</u>
<u>Bonnie L. Loos</u>	<u>Indiana</u>
<u>Lindsay Michelle Rhollans</u>	<u>Kentucky</u>
<u>Sergey V. Slobodzian</u>	<u>Michigan</u>
<u>Martina Sucic</u>	<u>Arizona</u>
<u>Heidi Renee Trembl</u>	<u>Wisconsin</u>
<u>Christopher Damian Weaver</u>	<u>Kentucky</u>

- 2:22 p.m. The meeting with the OPA ended and no official action by the Board was required.
- 2:31 p.m. The hearing in the matter of **Leonard S. Streicher**, R.Ph. (03-1-06163) Mason, Ohio, resumed in Room East B, 31st Floor.
- 2:54 p.m. The hearing ended and the record was closed.
- 2:54 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*; Mitchell – *yes*; Moné – *yes*; Wiesenbahn – *yes*.
- 3:20 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2011-247** After votes were taken in public session, the Board adopted the following order in the matter of **Leonard S. Streicher**, R.Ph. (03-1-06163) Mason, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110211-165

in the matter of:

LEONARD S. STREICHER, R.Ph.

4536 English Oak Court
Mason, Ohio 45040

R.Ph Number 03-1-06163

INTRODUCTION

The matter of Leonard S. Streicher came for hearing on June 7, 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.

Leonard S. Streicher was represented by Harry B. Plotnick. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Betty Jones, R.Ph., Ohio State Board of Pharmacy
Leonard S. Streicher, R.Ph., Respondent

Respondent's Witness: Leonard S. Streicher, R.Ph., Respondent

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [02-11-11]
1A-1C. Procedurals
2. Copy of RX #14306320 [03-12-10]
3. Pharmacy record of RX #14306320 [03-15-10]
4. Drug Error Verification Report [03-12-10]
5. Medication Error Record [March 2010]
6. Controlled Drug Record [03-12-10]
7. Physician's Order Form [March 2010]
8. Written statement of Rachel Stacy [.3-19-10]
9. Written statement of Leonard S. Streicher [not dated]
10. Written statement of Elizabeth Chaffin [03-19-10]

11. Perpetual Inventory Log for Kadian 100 mg [01-28-10 to 03-16-10]
12. Written statement of Alex Machen [03-19-10]
13. Written statement of Beth Gralton [03-21-10]
14. Notarized written statement of Tess Fontaine, RN [03-31-10]
15. Notarized written statement of Leonard S. Streicher [03-31-10]
16. Color photographs of RX #14306320 [not dated]
17. Color printout of Kadian capsules [03-30-10]
18. Dangerous Drug Distributor Inspection Report [04-07-10]
19. Notarized written statement of Marc Alexander [04-13-10]
20. Death Record and Opinion of William Ralston, M.D. [07-01-10]

Respondent's Exhibits:

- A. Complaint, Brigid Cucinotta, Executrix vs. Mercy Franciscan Senior Health and Housing Services, Inc., Omnicare, Inc., Home Care Pharmacy, LLC, March Alexander, M.D., Leonard Streicher, R.Ph., and Eva Minh Nguyen, R.Ph., Case No. A-1101851, Court of Common Pleas, Hamilton County, Ohio [03-03-11]
- B. Copies of partial Resident Discharge Summary from Mercy Franciscan at West Park in re Rosemary Savoca [03-18-10]
- C. Copies of Sections 3715.64 and 3715.99 of the Ohio Revised Code.

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 Leonard S. Streicher was originally licensed in the State of Ohio on October 25, 1955, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Leonard S. Streicher did, on or about March 12, 2010, misbrand a drug, to wit: when Leonard S. Streicher received a prescription for Kadian (extended release morphine) 10 mg, RX #14306320, he dispensed Kadian 100 mg, which had not been specifically prescribed by the physician. The patient was subsequently harmed, and succumbed three days later. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

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.

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 Leonard S. Streicher as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Leonard S. Streicher a monetary penalty of two hundred and fifty dollars (\$250.00) due and owing within thirty days of the mailing of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) Leonard S. Streicher must obtain, within six months from the effective date of this Order, ten hours of approved continuing pharmacy education (1.0 CEUs) in prevention of medication errors, which may not also be used for license renewal.

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; Jerome Wiesenbahn seconded the motion. Motion passed (Aye-8/Nay-0).

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

3:28 p.m. The Board recessed briefly.

3:31 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 **Michele Bao Thi Nguyen**, intern applicant, Ada, Ohio.

4:06 p.m. The hearing ended and the record was closed.

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*.

4:15 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-248 After votes were taken in public session, the Board adopted the following order in the matter of **Michele Bao Thi Nguyen**, intern applicant, Ada, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110222-169

in the matter of:

MICHELLE BAO THI NGUYEN

3718 E. Huber Street
Mesa, Arizona 85205

INTRODUCTION

The matter of Michelle Bao Thi Nguyen came for hearing on June 7, 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.

Michelle Bao Thi Nguyen was not represented by counsel. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Homer Chapa, Ohio Board of Pharmacy
Michelle Bao Thi Nguyen, Respondent

Respondent's Witness: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [02-22-11] 1A-1C. Procedurals
2. Pharmacy Intern Registration Application [04-26-10]; Verification of Enrollment [04-21-10]; Ohio Northern University transcript for Michelle Bao Thi Nguyen [04-23-10]
3. Tempe Police Department Incident Report [11-21-09]; City of Tempe Arrest/Booking Record [11-21-09]; Case Summary, State of Arizona vs Michelle Nguyen, Case No. 09-029190-2 [11-23-09]

Respondent's Exhibits:

- A. Copy of letter from Anthony J. Knowles, Attorney at Law to Michelle Nguyen [03-08-11]
- B. Copy of letter from Michael M. Milks, Ph.D., R.Ph., Ohio Northern University to Arizona Criminal Defense [04-09-10]
- C. Motion to Dismiss, State of Arizona vs. Michelle Nguyen, Case No. 09-029190-2, Tempe Municipal Court [04-12-10]

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 Michelle Bao Thi Nguyen applied to the Board for registration as an intern in the State of Ohio on April 26, 2010.
- (2) Michelle Bao Thi Nguyen did, on or about April 26, 2010, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Michelle Bao Thi Nguyen omitted informing the Board of her November 21, 2009 arrest and charge of false reporting and fraudulent use of an identification card. State of Arizona vs. Michelle Nguyen, Case No. 09-029190-2, Tempe Municipal Court. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

The State Board of Pharmacy finds that Michelle Bao Thi Nguyen has sufficiently rehabilitated herself 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 Michelle Bao Thi Nguyen on April 26, 2010.

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; Michael Moné seconded the motion.
Motion passed (Aye-7/Nay-1).

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

- 4:20 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 **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio.
- 6:42 p.m. The hearing ended and the record was closed.
- 6:43 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 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*.
- 7:06 p.m. The Executive Session ended and the meeting was opened to the public.
- 7:08 p.m. The Board recessed for the day.

Wednesday, June 8, 2011

- 8:54 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.
- 8:56 a.m. Mr. Casar moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Wiesenbahn 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*.
- 9:22 a.m. The Executive Session ended and the meeting was opened to the public.
- 9:23 a.m.
R-2011-249 After votes were taken in public session, the Board adopted the following order in the matter of **Risa Jo Gethers**, R.Ph. (03-3-27085) West Chester, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110114-160
in the matter of:

RISA JO GETHERS, R.Ph.
5287 Fieldstone Court
West Chester, Ohio 45069

R.Ph. Number 03-3-27085

INTRODUCTION

The matter of Risa Jo Gethers came for hearing on June 7, 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. Wiesenhahn, R.Ph.

Risa Jo Gethers was represented by Harry B. Plotnick. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Risa Jo Gethers, R.Ph., Respondent
John Whittington, R.Ph., D.O., Ohio State Board of Pharmacy

Respondent's Witnesses: Risa Jo Gethers, R.Ph., Respondent
Jim Liebetrau, R.Ph., PRO
Matt Gethers

State's Exhibits:

1. Copy of Summary Suspension Order/Notice of Opportunity for Hearing letter [01-14-11]
1A-1E. Procedurals
2. Ohio State Board of Pharmacy Order in re Risa Jo Gethers, R.Ph. [04-09-09]
3. Ohio State Board of Pharmacy Order in re Risa Jo Gethers, R.Ph. [12-09-10]
4. PRO Inc. drug screen report to Tim Benedict, Ohio State Board of Pharmacy in re Risa Jo Gethers [12-14-10]
5. Drug screen correspondence between the Ohio State Board of Pharmacy and Michael Quigley of PRO [12-17-10]
6. Notarized written statement of Risa Gethers [01-11-11]
- H1. Letter to Dr. Harry Plotnick from John F. Wyman, PhD., DABT, DABFT of Forensic Toxicology Consultant [05-25-11]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Risa Gethers [12-16-10]
- B. Confirmatory Test Results, December 1, 2010 urine collection [12-10-10]
- C. NMS Labs Toxicology Report [04-01-11]
- D. FirstLab Test History Report [01-06-10 to 12-09-10]; FirstLab Result Certificates [01-19-11 to 04-08-11]
- E. TriHealth Medication Review for Risa Gethers [12-15-10]
- F. TriHealth Medication Review for Matthew Gethers [10-07-10]
- G. Duragesic® patch prescribing information pages 3 and 4 [not dated]
- H. Letter to Dr. Harry Plotnick from John F. Wyman, PhD., DABT, DABFT of Forensic Toxicology Consultant [05-25-11]; Curriculum vitae of John F. Wyman [not dated]
- H1. Letter to Dr. Harry Plotnick from John F. Wyman, PhD., DABT, DABFT of Forensic Toxicology Consultant [05-25-11]

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 Risa Jo Gethers was originally licensed in the State of Ohio on March 2, 2006, pursuant to examination, and is not currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Risa Jo Gethers was previously

disciplined by the Board on April 9, 2009 and Risa Jo Gethers was summarily suspended effective January 14, 2011.

- (2) Risa Jo Gethers 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: in 2008, Risa Jo Gethers admitted that she is addicted to hydrocodone, an opiate. In April of 2009, the Board indefinitely suspended Risa Jo Gethers' license to practice pharmacy due in part to her addiction. The Board's Order required Risa Jo Gethers to have random, observed drug screens during the period of her suspension, stating that any positive result would be indicative of a violation of her treatment contract. In December of 2010, the Board's Order reinstating Risa Jo Gethers' license to practice pharmacy placed her on a period of probation. Terms of that probation required Risa Jo Gethers to have random, observed drug screens, and included the provision that "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." On December 1, 2010, Risa Jo Gethers admittedly tested positive for norfentanyl, a metabolite of fentanyl, a Controlled Substance opiate. The presence of this substance indicates that Risa Jo Gethers falls within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code.

Further, Risa Jo Gethers has not shown she is no longer addicted to controlled substances. Section 3719.121 of the Ohio Revised Code requires as much; Risa Jo Gethers has not satisfied this provision.

CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to 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 Risa Jo Gethers on January 14, 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 adjudicates the matter of Risa Jo Gethers as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist's identification card, No. 03-3-27085, held by Risa Jo Gethers effective as of the date of the mailing of this Order.

Further, the Board stays the revocation pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No.03-3-27085, held by Risa Jo Gethers and such suspension is effective as of the date of the mailing of this Order.

- (A) Risa Jo Gethers, 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) Risa Jo Gethers pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her identification card and license (wall certificate) to the office of

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

Further, after two years from the date of her summary suspension order effective January 14, 2011, the Board will consider any petition filed by Risa Jo Gethers 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) Risa Jo Gethers 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 a minimum of twice 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 five 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) Risa Jo Gethers must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (C) Risa Jo Gethers 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, Risa Jo Gethers must also show successful completion of the

North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

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

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

- 9:29 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 **Unique Relief, LLC. c/o Margy Temponeras MD.**, Wheelersburg, Ohio. Mr. Gahm and Mr. Moné recused themselves from the hearing.
- 12:37 p.m. The hearing ended and the record was closed.
- 12:38 p.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. The motion was seconded by Mr. Casar and a roll-call vote was conducted by President Kolezynski as follows: Cain – *yes*; Casar – *yes*; (Gahm – *recused*); Joyce – *yes*; Lange – *yes*; Mitchell – *yes*; (Moné – *recused*); Wiesenhahn – *yes*.
- 12:48 p.m. The Executive Session ended and the meeting was opened to the public
- 12:49 p.m. **R-2011-250** After votes were taken in public session, the Board adopted the following order in the matter of Unique Relief, LLC, Wheelersburg, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110223-171

in the matter of:

UNIQUE RELIEF, LLC
c/o Margy Temponeras, M.D.
418 Center Street
Wheelersburg, Ohio 45694

INTRODUCTION

The matter of Unique Relief, LLC came for hearing on June 8, 2011, 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.; Kevin J. Mitchell, R.Ph.; Deborah A. Lange, R.Ph. and Jerome J. Wiesenhahn, R.Ph.

Troy A. Gahm, R.Ph., recused
Michael A. Moné, R.Ph., recused

Unique Relief, LLC was represented by Bradley Barbin. The State of Ohio was represented by Tracy M. Greuel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Kevin Kinneer, Ohio Board of Pharmacy

Respondent's Witness: None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [02-23-11]
1A-1D. Procedurals
2. Application for Registration as a Distributor of Dangerous Drugs [12-09-10]
3. Drug Inventory Report Listing for Unique Relief, LLC [02-09-11]
4. Unique Relief, LLC drug label

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 Board of Pharmacy indicate that on or about December 9, 2010, Margy Temponeras was the owner of Unique Relief, LLC, 418 Center Street, Wheelersburg, Ohio, and that on said date, Unique Relief, LLC submitted an application for registration as a Terminal Distributor of Dangerous Drugs.
- (2) Unique Relief has failed to furnish satisfactory proof to the Board that a pharmacist or a licensed health professional authorized to prescribe drugs will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant. Specifically, employees have unfettered, unsupervised access to the drug stock, possessing keys to the drug stock storage. Additionally, the facility does not maintain adequate records of the receipt and sale of dangerous drugs, and records of accountability for the drugs are inadequate. Such is contrary to Section 4729.55(B) of the Ohio Revised Code.
- (3) Unique Relief has failed to furnish satisfactory proof to the Board that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs. Specifically, the facility has used unlicensed, unsupervised employees to furnish controlled substances and dangerous drugs to the doctor's patients. Such is contrary to Section 4729.55(C) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs license as set forth in Section 4729.55 (B) of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs license as set forth in Section 4729.55 (C) of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register Unique Relief, LLC; and therefore denies the Application for a Terminal Distributor of Dangerous Drugs license submitted by Margy Temponeras on December 9, 2010.

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

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

Edward Cain moved for Action of the Board; Kevin Mitchell seconded the motion. Motion passed (Aye-6/Nay-0).

12:50 p.m. The Board recessed for lunch.

1:43 p.m. The meeting reconvened with all members present.

Ms. Lange and Mr. Keeley discussed the Technician Exam Status Report with the Board.

There was no Medical Board Prescribing Committee Report this month.

R-2011-251 Mr. Gahm moved that the Board minutes of May 2-4, 2011, be approved as amended. Mr. Casar seconded the motion and it was approved by the Board: *Aye* – 8.

R-2011-252 Mr. Winsley presented a request from pharmacy intern **Susan Kidd** (06-0-07166) Atwater, Ohio, for permission to count previously worked internship hours due to extraordinary circumstances not discovered until her graduation. After discussion, Mr. Mitchell moved that **Ms. Kidd's** request be approved. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 8.

R-2011-253 Mr. Winsley presented a request from pharmacy intern **Kara Krzan** (06-07838) Columbus, Ohio, for permission to count previously worked internship hours due to extraordinary circumstances not discovered until her graduation. After discussion, Mr. Gahm moved that **Ms. Krzan's** request be approved. The motion was seconded by Ms. Lange and approved by the Board: *Aye* – 8.

R-2011-254 After discussion, Mr. Moné moved that in those cases where internship requirements vary between Ohio and other states, Board staff be authorized to approve internship hours for purposes of licensure in those other states when the applicant would otherwise be excluded from licensure due to the differences in the internship requirements. Board staff must be able to verify that the hours were actually worked and would have been counted if reported properly. Mr. Gahm seconded the motion and it was approved by the Board: *Aye* – 8.

Election of Officers for FY 2012

R-2011-255 Mr. Joyce moved that Donald M. Casar, R.Ph., be named President of the Board of Pharmacy for fiscal year 2012. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 7; *Abstain* – Casar.

R-2011-256 Mr. Cain moved that Brian M. Joyce, R.Ph., be named Vice-President of the Board of Pharmacy for fiscal year 2012. Mr. Mitchell seconded the motion and it was approved by the Board: *Aye* – 7; *Abstain* – Joyce.

2:15 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. Mitchell 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*; Wiesenhahn – *yes*.
3:45 p.m. The Board recessed briefly.

3:51 p.m. The Executive Session continued.

4:09 p.m. The Executive Session ended and the meeting was opened to the public.

R-2011-257 After discussion, Mr. Gahm moved that a request from **Rebecca Carey** for special testing accommodations be approved. Mr. Moné seconded the motion and it was approved by the Board: *Aye – 7/Nay – 1*.

R-2011-258 Mr. Casar moved that the Board summarily suspend the license to practice pharmacy belonging to **Jennifer Lynn MacDonald**, R.Ph. (03-3-26894) Hamilton, Ohio, pursuant to Ohio Revised Code 3719.121(A). Mr. Gahm seconded the motion and it was approved by the Board: *Aye – 8*.

4:11 p.m. Mr. Gahm and Mr. Wiesenhahn left for personal reasons.

Mr. Casar was appointed by President Kolezynski as the Board's representative to the Northeastern Universities Pharmacy Dean's Advisory Council at Northeastern Universities College of Medicine and Pharmacy in Rootstown, Ohio.

R-2011-259 After discussion, Mr. Mitchell moved that the **AP Pharma** system be found approvable pending final inspection. Mr. Moné seconded the motion and it was approved by the Board: *Aye – 6*.

President Kolezynski administered the Oath of Office to president-elect, Donald Casar.

Oath of the President

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

President Kolezynski then administered the Oath of Office to Vice-President-elect, Brian Joyce.

Oath of the Vice-President

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

4:17 p.m. Ms. Lange moved that the Board receive Per Diem as follows:

PER DIEM	5/7	5/12	6/6	6/7	6/8	Total
Cain	-	-	-	1	1	2
Casar	-	1	1	1	1	4
Gahm	1	1	1	1	1	5
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* – 6.

4:18 p.m.

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

<p>The Ohio State Board of Pharmacy approved these Minutes July 11, 2011</p>
