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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 October 31- November 1, 2011 **Meeting of the Ohio State Board of Pharmacy**

Monday, October 31, 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:

Donald M. Casar, R.Ph., *President*; Brian M. Joyce, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Troy A. Gahm, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph.; and Michael A. Moné, 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 Nave, *Assistant Attorney General*.

10:05 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 and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Mr. Gahm and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

11:00 a.m. The executive session ended and the meeting was opened to the public.

The Board recessed briefly.

11:07 a.m. The meeting resumed.

Representatives from **Medco** spoke to the board about the use of automated prescription processing.

11:40 a.m. The **Medco** presentation ended.

Mrs. Droz presented the OARRS report.

Ms. Lange presented the report from the Medical Board Physician Assistant Policy Committee.

Mr. Keeley presented the legislative report and also reported on the final filing of the new and amended rules.

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

Ms. Lange and Mr. Keeley presented the tech-exam report.

Mr. Mitchell presented the probation report and there were no issues requiring official Board action.

Mr. Whittington said there was no report from the Medical Board Prescribing Committee.

12:13 p.m. The Board recessed for lunch.

1:33 p.m. The Board meeting reconvened.

1:34 p.m. The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Cathy Sue Brinkman**, R.Ph. (03-1-20796) Bolivar, Ohio.

2:25 p.m. The hearing ended and the record was closed.

2:26 p.m. Ms. Lange moved that the Board go into executive session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

2:35 p.m. The Executive Session ended and the meeting was opened to the public.

R2012-089 After votes were taken in public session, the Board adopted the following order in the matter of **Cathy Sue Brinkman**, R.Ph. (03-1-20796) Bolivar, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110304-172

in the matter of:

CATHY SUE BRINKMAN, R.Ph.

9436 Ft. Laurens Road N.W.

Bolivar, Ohio 44612

R.Ph. Number 03-1-20796

INTRODUCTION

The matter of Cathy Sue Brinkman came for hearing on October 31, 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Cathy Sue Brinkman was represented by John R. Irwin. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witness: Cathy Sue Brinkman, R.Ph., Respondent

State's Exhibits:

1. Copy of reinstatement hearing request letter [03-02-11]
1A-1C. Procedurals
2. Order of the State Board of Pharmacy in re Cathy Sue Brinkman, R.Ph. [10-06-10]

Respondent's Exhibits:

- A. PRO Pharmacist's Recovery Contract for Cathy Sue Brinkman [10-25-10]
- B. Urine sample collection records [various dates]
- C. Support Group Calendar and attendance records [June 2010 to September 2011]
- D. Continuing education credits and certificates [04-17-11 to 09-20-11]
- E. Judgment Entry, State of Ohio vs. Cathy S. Brinkman, Case No. 2010 CR 09 0235, Tuscarawas County, Ohio Common Pleas Court [06-23-11]; Three Drug Court Program Certificates of Completion [date illegible]; Certificate of Achievement [06-22-11]; Recovery Plan [05-16-11]; Relapse Prevention Plan [not dated] Recovery documentation [various dates]
- F. Judge Elizabeth Thomakos Encomium [not dated]
- G. Ohio Pro Client Self-Report [10-03-10 to 10-02-11]
- H. Letter from Lisa Baker, R.Ph. to Ohio State Board of Pharmacy [10-23-11]
- I. Job prospect documentation [not dated]
- J. Life lessons learned [not dated]
- K. FirstLab Test History Report [09-21-10 to 06-03-11]
- L. Support group meeting attendance record [October 2011]
- M. Letter from Cynthia J. Perkson to Ohio Board of Pharmacy [10-29-11]

FINDING 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 that Cathy Sue Brinkman has substantially complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-100609-119, effective October 6, 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. 03-1-20796, held by Cathy Sue Brinkman 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) Cathy Sue Brinkman 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 her 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 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) Cathy Sue Brinkman 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 Cathy Sue Brinkman's progress towards recovery and what Cathy Sue Brinkman 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 Cathy Sue Brinkman'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) Cathy Sue Brinkman may not serve as a responsible pharmacist.
 - (3) Cathy Sue Brinkman may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Cathy Sue Brinkman must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Cathy Sue Brinkman must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Cathy Sue Brinkman must abide by the rules of the State Board of Pharmacy.
 - (7) Cathy Sue Brinkman must comply with the terms of this Order.
 - (8) Cathy Sue Brinkman'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.

Cathy Sue Brinkman 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 Finding of Fact; Michael Moné seconded the motion. Motion passed (Aye-7/Nay-0).

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

The Board recessed briefly.

2:44 p.m.

R2012-090

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:

Behavioral Healthcare Partners of Central Ohio Inc.,
Newark, Ohio (02-1917350)
Behavioral Healthcare Partners of Central Ohio Inc.,
Mt. Vernon, Ohio (02-0278250)

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. Mitchell and approved by the Board:
Aye - 7.

R2012-091 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:

DCI Steubenville, Ohio	(02-1586700)
DCI West Chester, Ohio	(02-1394450)
DCI Seaman, Ohio	(02-1550950)
DCI East Liverpool, Ohio	(02-1365600)
DCI Mt. Healthy, (Forest Park), Ohio	(02-0758150)
DCI Western Hills, (Cincinnati), Ohio	(02-1176900)
DCI Portsmouth, Ohio	(02-1300700)
DCI Cincinnati, Ohio	(02-0292300)

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* – 6; *Nay* – 1.

R2012-092 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:

Buderer Drug Company, Sandusky, Ohio	(02-1106900)
Buderer Drug Company, Perrysburg, Ohio	(02-1198400)
Mapleview Animal Hospital, Norwalk, Ohio	(02-1796100)

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.

R2012-093 The Board considered a request that had been tabled in the October, 2011, meeting for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following sites:

Bettman's Pharmacy, Dayton, Ohio	(02-0087000)
Public Health Dayton/Montgomery County, Dayton, Ohio	(02-0255300)
Samaritan Healthcare Clinic for the Homeless, Dayton, Ohio	(02-0978450)

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. Gahm and approved by the Board: *Aye* – 7.

R2012-094 After discussion, Mr. Moné moved that **Dr. Vadak Ranganathan**, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Gahm and approved by the Board: *Aye* – 7.

R2012-095 After discussion, Mr. Gahm moved that **Dr. Jay Nielsen**, be permitted to withdraw his application for licensure as a pain-management clinic. The motion was seconded by Mr. Moné and approved by the Board: *Aye* – 7.

R2012-096 A request to be registered as a Continuing Pharmacy Education provider was received from **Diabetes Solutions LLC**, New Albany, Ohio; **Christopher Lloyd Gamble**, R.Ph. (03-2-16429) Hilliard, Ohio. After discussion, Mr. Kolezynski moved that the request be approved. Ms. Lange seconded the motion and it was approved by the Board: *Aye* – 6; *Abstain* 1 (*Moné*).

3:08 p.m. The Board recessed for the day.

Tuesday, November 1, 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:

Donald Casar, *President*, Brian Joyce, *Vice-President*, Edward Cain, Troy Gahm; Richard Kolezynski, Deborah Lange, Kevin Mitchell, Michael Moné.

The Board was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jamie Raymond Kuhn**, R.Ph. (03-2-22939) Columbus, Ohio.

9:23 a.m. Mr. Joyce moved that the Board go into executive session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

9:31 a.m. The executive session ended and the adjudication hearing resumed.

10:19 a.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 Mr. Moné and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

10:21 a.m. The executive session ended and the meeting was opened to the public.

10:23 a.m.

R2012-097 After votes were taken in public session, the Board adopted the following order in the matter of **Jamie Raymond Kuhn**, R.Ph. (03-2-22939) Columbus, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-111018-227

in the matter of:

JAMIE RAYMOND KUHN, R.Ph.

3127 Gideon Lane
Columbus, Ohio 43219

R.Ph. Number 03-2-22939

INTRODUCTION

The matter of Jamie Raymond Kuhn came for hearing on November 1, 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Jamie Raymond Kuhn was not represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: None

Respondent's Witness: Jamie Raymond Kuhn, R.Ph., Respondent

State's Exhibits:

1. Reinstatement hearing request letter [10-13-11]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Jamie Raymond Kuhn, R.Ph. [11-06-09]

Respondent's Exhibits:

- A. Attempt at restitution letter [not dated]; Letter from Todd B. Feasel, PCC-S, Cornerstone of Recovery [10-28-11]; [REDACTED] [06-17-11 to 08-12-11]; PRO Pharmacist's Recovery Contract for Jamie Kuhn [11-18-09]
- B. Village Family Medicine patient record for Jamie Kuhn [08-25-09]; FirstLab Test History Report [08-22-09 to 10-07-11]; Five chain of custody forms [06-23-10 to 04-15-11]; Email from Amanda Morrison, First Lab [10-31-11]; Patient Discharge Medication Directions [not dated]
- C. Support group calendars [September 2009 to October 2011]; Support group attendance sheets [09-13-09 to 10-29-11]
- D. Continuing education credits and certificates [06-02-08 to 04-25-11]
- E. Pharmacist's Letter Statement of Credit on Generic Drugs: A Law CE [10-29-09]
- F. Monetary Penalty Payment Transmittal Form [11-30-09]

FINDING 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 that Jamie Raymond Kuhn has substantially complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-090522-138, effective November 6, 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. 03-2-22939, held by Jamie Raymond Kuhn 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) Jamie Raymond Kuhn 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) Jamie Raymond Kuhn 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 Jamie Raymond Kuhn's progress towards recovery and what Jamie Raymond Kuhn 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 Jamie Raymond Kuhn'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) Jamie Raymond Kuhn may not serve as a responsible pharmacist.
- (3) Jamie Raymond Kuhn may not destroy, assist in, or witness the destruction of controlled substances.
- (4) Jamie Raymond Kuhn must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
- (5) Jamie Raymond Kuhn must not violate the drug laws of Ohio, any other state, or the federal government.
- (6) Jamie Raymond Kuhn must abide by the rules of the State Board of Pharmacy.
- (7) Jamie Raymond Kuhn must comply with the terms of this Order.
- (8) Jamie Raymond Kuhn'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.

Jamie Raymond Kuhn 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.

Richard Kolezynski moved for Finding of Fact; Edward Cain seconded the motion. Motion passed (Aye-6/Nay-1).

Troy Gahm moved for Action of the Board; Michael Moné seconded the motion. Motion passed (Aye-6/Nay-1).

10:25 a.m. The Board recessed briefly.

10:30 a.m. Mr. Joyce moved that the Board go into executive session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code and to confer with an attorney for the Board regarding pending or imminent court action pursuant to Section 121.22(G)(3) of the Ohio Revised Code. The motion was seconded by Ms. Lange and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

10:40 a.m. The executive session ended and the meeting was opened to the public.

10:48 a.m. The Board meeting reconvened and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio

Revised Code Chapters 119. and 4729. in the matter of **Edward Hamilton Allen Jr., R.Ph. (03-3-23988)** Middletown, Ohio.

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

11:01 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. Moné and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Gahm – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*; Moné – *yes*.

11:15 a.m. The hearing ended and the meeting was opened to the public.

R2012-098 After votes were taken in public session, the Board adopted the following order in the matter of **Edward Hamilton Allen Jr., R.Ph. (03-3-23988)** Middletown, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-100219-085

in the matter of:

EDWARD HAMILTON ALLEN, JR., R.Ph.

5756 Hamilton Lebanon Road

Middletown, Ohio 45044

R.Ph. Number 03-3-23988

INTRODUCTION

The matter of Edward Hamilton Allen Jr. came for consideration on November 1, 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.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph.; Kevin J. Mitchell, R.Ph. and Michael A. Moné, R.Ph.

Edward Hamilton Allen, Jr. was not present nor was he represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: Vicki Fyffe, Ohio State Board of Pharmacy
John Whittington, DO, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: None

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter with attachments [01-19-10]
- 1A. Procedural
2. Continuing education audit documentation [various dates]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) Records of the State Board of Pharmacy indicate that Edward Hamilton Allen, Jr. was originally licensed in the State of Ohio on February 8, 2000, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.
- (2) Edward Hamilton Allen, Jr. did, on or about or prior to May 15, 2009, fail to obtain and/or fail to submit to the Board evidence of approved continuing education, to wit: when audited, it was determined that Edward Hamilton Allen, Jr. was short three continuing education hours (0.3 CEUs) on board approved Jurisprudence. Such conduct is in violation of Rule 4729-7-02 of the Ohio Administrative Code.

CONCLUSIONS OF LAW

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

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of five hundred dollars (\$500.00) on Edward Hamilton Allen, Jr., and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-23988, held by Edward Hamilton Allen, Jr. until successful completion and submission of six hours of continuing pharmacy education (0.6 CEUs) in board approved Jurisprudence, which may not be used for license renewal.

- (A) Edward Hamilton Allen, Jr., 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) Edward Hamilton Allen, Jr., 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.

If reinstatement is not accomplished within three years of the effective date of this Order, Edward Hamilton Allen, Jr., must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

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

Kevin Mitchell moved for Action of the Board; Deborah Lange seconded the motion. Motion passed (Aye-5/Nay-2).

11:18 a.m. The Board recessed for lunch.

Mr. Moné and Mr. Gahm left the meeting for personal reasons.

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

Hulan Carlisle Ashby	<i>Kentucky</i>
Derek Bibler	<i>Indiana</i>
James C. Burke	<i>Pennsylvania</i>
Rudolph Choich, Jr.	<i>Pennsylvania</i>
Christopher W. Crowley	<i>Indiana</i>
Jessica Leann Edwards	<i>West Virginia</i>
Amy Lynn Ehlers	<i>Arizona</i>
Ian S. Gifford	<i>New Jersey</i>
Christina Marie Kopa	<i>Michigan</i>
Marcie Anne Malone	<i>Florida</i>
Bernard Matthew Maynard	<i>West Virginia</i>
Josiemar M. Perez	<i>Puerto Rico</i>
Josephine An Nhi Than	<i>Illinois</i>
Kyle Joseph Wilson	<i>Pennsylvania</i>

- 1:40 p.m. The Board meeting resumed with the following members present:
Donald Casar, *President*; Brian Joyce, *Vice-President*; Edward Cain, Troy Gahm, Richard Kolezynski, Deborah Lange, Kevin Mitchell, Michael Moné.
- 1:45 p.m. The Board met with **Ernest Boyd**, R.Ph., (03-3-11310) Executive Director of the Ohio Pharmacists Association to discuss matters of mutual interest.
- 2:22 p.m. The meeting ended with no formal action needed by the Board.
- 2:30 p.m. The Board meeting reconvened.
The Board and was joined by Assistant Attorney General Tracy Nave to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jennifer Lynn MacDonald**, R.Ph. (03-3-26894) Hamilton, Ohio.
- 2:57 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. Mitchell and a roll-call vote was conducted by President Casar as follows: Cain – *yes*; Joyce – *yes*; Kolezynski– *yes*; Lange – *yes*; Mitchell – *yes*.
- 3:14 p.m. The hearing ended and the meeting was opened to the public.
- R2012-099** After votes were taken in public session, the Board adopted the following order in the matter of **Jennifer Lynn MacDonald**, R.Ph. (03-3-26894) Hamilton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-110612-182

in the matter of:

JENNIFER LYNN MACDONALD, R.Ph.

2285 Ross Estates Drive
Hamilton, Ohio 45013

R.Ph. Number 03-3-26894

INTRODUCTION

The matter of Jennifer Lynn MacDonald came for consideration on November 1, 2011, before the following members of the Board: Donald M. Casar, R.Ph. (*presiding*); Edward T. Cain, Public Member; Brian M. Joyce, R.Ph.; Richard F. Kolezynski, R.Ph.; Deborah A. Lange, R.Ph. and Kevin J. Mitchell, R.Ph.

Troy A. Gahm, R.Ph., Board member, absent.
Michael A. Moné, R.Ph., Board member, absent.

Jennifer Lynn MacDonald was not present nor was she represented by counsel. The State of Ohio was represented by Tracy M. Nave, Assistant Attorney General.

SUMMARY OF EVIDENCE

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

Respondent's Witness: None

State's Exhibits:

1. Copy of Summary Suspension/Notice of Opportunity for Hearing letter [06-10-11]
1A-1E.Procedurals
2. Notarized written statement of Jennifer MacDonald [06-02-11]

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:

- (1) Records of the Board of Pharmacy indicate that Jennifer Lynn MacDonald was originally licensed in the State of Ohio on August 8, 2005, pursuant to examination, and her license to practice pharmacy in Ohio was summarily suspended effective June 10, 2011.
- (2) Jennifer Lynn MacDonald 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: Jennifer Lynn MacDonald has admitted to a Board agent that she is addicted to the use of controlled substances. Jennifer Lynn MacDonald has admitted stealing controlled substances from her various employers as a pharmacist "floater." Jennifer Lynn MacDonald has admitted stealing controlled substances to supplement prescribed drugs from 2009 to the present, and she has entered into drug treatment. Such conduct indicates that Jennifer Lynn MacDonald is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (3) Jennifer Lynn MacDonald did, on or about June 27, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS # 6080, beyond the scope of consent of the owner, to wit: Jennifer Lynn MacDonald admittedly stole 30 tablets of amphetamine salts, a Schedule II Controlled Substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Jennifer Lynn MacDonald did, on or about April 26, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS # 5426, beyond the scope of consent of the owner, to wit: Jennifer Lynn MacDonald admittedly stole 8 tablets of amphetamine salts, a Schedule II Controlled Substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (5) Jennifer Lynn MacDonald did, on or about May 5, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS # 5433, beyond the scope of consent of the owner, to wit: Jennifer Lynn MacDonald admittedly stole 6 tablets of amphetamine salts, a Schedule II Controlled Substance, for her personal abuse. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (6) Jennifer Lynn MacDonald did, on or about May 31, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS # 6089, beyond the scope of consent of the owner, to wit: Jennifer Lynn MacDonald admittedly stole 7 tablets of amphetamine salts, a Schedule II Controlled Substance, for her personal abuse. 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 (6) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (3) through (6) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

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 Jennifer Lynn MacDonald on June 10, 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 pharmacist identification card, No. 03-3-26894, held by Jennifer Lynn MacDonald and such suspension is effective as of the date of the mailing of this Order.

- (A) Jennifer Lynn MacDonald, 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) Jennifer Lynn MacDonald, 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, Jennifer Lynn MacDonald must enter into a **new** contract 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. In addition, after two years from the effective date of the signed ODADAS contract, the Board will consider any petition filed by Jennifer Lynn MacDonald for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. 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) Jennifer Lynn MacDonald 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) Jennifer Lynn MacDonald 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, Jennifer Lynn MacDonald must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

Deborah Lange moved for Findings of Fact; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

Kevin Mitchell moved for Conclusions of Law; Brian Joyce seconded the motion. Motion passed (Aye-5/Nay-0).

Kevin Mitchell moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-5/Nay-0).

After discussion, Mr. Joyce moved that the **Medco** request concerning its automated processing system be found approvable pending final inspection. Ms. Lange seconded the motion and it was approved by the Board: *Aye – 5*.

R2012-100 The Board considered a request for an exemption to Ohio Administrative Code Rule 4729-5-10 (Prescription pick-up station) received for the following site:

Central Ohio Compounding, Columbus, Ohio (02-1050650)

After discussion, Mr. Kolezynski moved that the Board approve the request as long as the parties to the request comply with the requirements in the rule for such an exemption. The motion was seconded by Mr. Joyce and approved by the Board: *Aye – 5*.

Mr. Kolezynski moved that the Board minutes of October 3-5, 2011, be approved as amended. The motion was seconded by Mr. Cain and approved by the Board: *Aye – 5*.

3:43 p.m. Mr. Mitchell 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 Casar as follows: Cain – *yes*; Joyce – *yes*; Kolezynski – *yes*; Lange – *yes*; Mitchell – *yes*.

4:26 p.m. The executive session ended and the meeting was opened to the public.

4:27 p.m. Ms. Lange moved that the Board receive Per Diem as follows:

PER DIEM	10/22	10/31	11/01	Total
Cain	-	1	1	2
Casar	-	1	1	2
Gahm	1	1	1	3
Joyce	-	1	1	2
Lange	1	1	1	3
Kolezynski	-	1	1	2
Mitchell	-	1	1	2
Moné	-	1	1	2

Mr. Joyce seconded the motion and it was approved by the Board: *Aye* – 5.

11:56 a.m. Ms. Lange moved that the meeting be adjourned. The motion was seconded by Mr. Joyce and approved by the Board: *Aye* – 5.

<p>The Ohio State Board of Pharmacy approved these Minutes December 7, 2011</p>
