

Minutes of the March 3-5, 2008
Meeting of the Ohio State Board of Pharmacy

Monday, March 3, 2008

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:

Nathan S. Lipsyc, R.Ph., *Vice-President (presiding)*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Also present were William T. Winsley, *Executive Director*; Timothy Benedict, *Assistant Executive Director*; William McMillen, *Licensing Administrator*; Mark Keeley, *Legislative Affairs Administrator*; David Rowland, *Legal Affairs Administrator*; Danna Droz, *Prescription Drug Monitoring Program Director*; and Sally Ann Steuk, *Assistant Attorney General*.

10:05 a.m. Mrs. Gregg 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. Kolezynski and a roll-call vote was conducted by Vice-President Lipsyc as follows: Gregg – *yes*; Kolezynski – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; and Wiesenbahn – *yes*.

11:26 a.m. The Executive Session ended and the meeting was opened to the public. The Board recessed briefly.

11:32 a.m. The Board reconvened.

R-2008-132 Mr. Mitchell moved that the settlement offer in the matter of **Holly Lanet Blackley**, R.Ph. (03-3-25775), Cincinnati, Ohio, be accepted. The motion was seconded by Mrs. Gregg and approved by the Board: *Aye – 5 / Nay – 1 / Abstain: Wiesenbahn*.

R-2008-133 Mrs. Gregg moved that the settlement offer in the matter of **Steven Joseph Holtel**, R.Ph. (03-1-13701), Nelsonville, Ohio, be denied. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye – 7*.

Mr. Keeley presented the Legislative Report to the Board.

12:10 p.m. The Board recessed for lunch.

1:30 p.m. The Board reconvened with the following members present:

Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Lisa Ann Baker**, R.Ph. (03-2-15516), Bolivar, Ohio.

- 2:09 p.m. The hearing ended and the record was closed.
- 2:10 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. The motion was seconded by Mr. Wiesenhahn and a roll-call vote was conducted by President Braylock as follows: Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.
- 2:17 p.m. The Executive Session ended and the meeting was opened to the public.
- R-2008-134** Mr. Mitchell moved that the Board adopt the following order in the matter of **Lisa Ann Baker**, R.Ph. (03-2-15516), Bolivar, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070503-044

in the matter of:

LISA ANN BAKER, R.Ph.
9875 Bimeler Street N.E.
Bolivar, Ohio 44612

R.Ph. Number 03-2-15516

INTRODUCTION

The matter of Lisa Ann Baker came for hearing on March 3, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Lisa Ann Baker was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses: None

Respondent's Witnesses: Lisa Ann Baker, R.Ph., Respondent
Debra Lynn Basinger, R.Ph.

State's Exhibits:

1. Reinstatement Hearing Request letter [04-31-07 (sic) 05-01-07]
1A-1B. Procedurals
2. State Board of Pharmacy Order in re Lisa Ann Baker, R.Ph. [02-08-07]

Respondent's Exhibits:

- A1. PRO Pharmacist's Recovery Contract for Lisa Baker [03-01-07]; Three Client Self-Reports [06-30-07, 10-01-07 and 12-28-07]
- A2. Support Group Attendance Records [01-02-07 to 02-28-08]; Calendar Pages for January 2007 to February 2008
- A3. Letter from Thomas W. Hiland [01-29-08]; Drug Screen Reports [09-11-06 to 02-06-08]

- A4. Continuing Pharmaceutical Education Credits and Certificates [10-20-05 to 01-25-08]
- A5.
- A6. Two Progress Report Letters [02-01-07 and 02-05-08]; Five Letters of Support [02-04-08 to 2-15-08]
- A7. Restitution Documentation [01-22-08]
- A8. Correspondence between the Department of Health & Human Services and Lisa Ann Baker [07-31-07 to 10-31-07]
- A9. Letter From Lisa Ann Baker [not dated]; Hearing Schedule Letter [05-03-07]; State Board of Pharmacy Order in re Lisa Ann Baker, R.Ph. [02-08-07]

FINDING 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 Lisa Ann Baker has complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-060511-072, effective February 8, 2007.

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. 03-2-15516, held by Lisa Ann Baker to practice pharmacy in Ohio and places Lisa Ann Baker on probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Lisa Ann Baker 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, mail a copy of the contract to the Board office. The contract must provide that:
 - (1) **Random, observed** urine drug screens shall be conducted at least once each month 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 drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit to the Board reports, in a format acceptable to the Board, indicating drug screens and their results in

a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

- (3) Attendance is required a minimum of three times per week 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) Lisa Ann Baker 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 Lisa Ann Baker's progress towards recovery and what Lisa Ann Baker 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 Lisa Ann Baker'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) Lisa Ann Baker may not serve as a responsible pharmacist.
 - (3) Lisa Ann Baker may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Lisa Ann Baker must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Lisa Ann Baker must not violate the drug laws of the State of Ohio, any other state, or the federal government.
 - (6) Lisa Ann Baker must abide by the rules of the State Board of Pharmacy.
 - (7) Lisa Ann Baker must comply with the terms of this Order.
 - (8) Lisa Ann Baker'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.

Lisa Ann Baker 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.

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

2:25 p.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Richard Colosimo**, R.Ph. (03-2-12528), Shadyside, Ohio.

2:48 p.m. The hearing ended and the record was closed.

The Board recessed briefly.

2:56 p.m. Mr. Lipsyc moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted by President Braylock as follows: Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.

4:05 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-135 After discussion, Mr. Turner moved that the issuance of a notice of opportunity for a hearing dated May 30, 2005 in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio be ratified. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 7.

R-2008-136 Mr. Turner then moved that the issuance of the November 27, 2007 addendum to the notice of opportunity of in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio be ratified. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 7.

R-2008-137 After discussion, Mr. Turner moved that the date in paragraph 47 of the notice of opportunity for a hearing in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio, be amended from May 21, 2006 to May 30, 2006. The motion was seconded by Mrs. Teater and approved by the Board: *Aye* – 7.

R-2008-138 After discussion, Mr. Turner moved that the issuance of a notice of opportunity for a hearing in the matter of **Hazel A. Myrick**, R.Ph. (03-3-15797), Cincinnati, Ohio, be ratified. The motion was seconded by Mr. Kolezynski and approved by the Board: *Aye* – 7.

R-2008-139 After discussion, Mr. Turner moved that the issuance of an addendum to the notice of opportunity for a hearing issued December 19, 2007 in the matter of **Hazel A. Myrick**, R.Ph. (03-3-15797), Cincinnati, Ohio, be ratified. The motion was seconded by Ms. Pasquale and approved by the Board: *Aye* – 7.

R-2008-140 Mr. Mitchell moved that Board staff be authorized to pay the annual National Association of Boards of Pharmacy dues, \$250. Mr. Kolezynski seconded the motion and it was approved by the Board: *Aye* – 7.

R-2008-141 Mrs. Teater moved that the following order be adopted in the matter of **Richard Colosimo**, R.Ph. (03-2-12528), Shadyside, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080109-027

in the matter of:

RICHARD P. COLOSIMO, R.Ph.

510 West 41st Street
Shadyside, Ohio 43947

R.Ph. Number 03-2-12528

INTRODUCTION

The matter of Richard P. Colosimo came for consideration on March 3, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenhahn, R.Ph.

Richard P. Colosimo was not present nor was he represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses: None

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [01-09-08]
- 1A. Procedural
2. Written Statement of Rick Colosimo [12-21-07]
3. Notarized Statement of Richard Colosimo [01-02-08]
4. Statement of Rachel Dattoli [10-08-07]; Retail Expert Inc. Case #21733 Internal Theft Report for Store #3017 [12-21-07]; Promissory Note [12-21-07]
5. Copy of e-mail from Fred Wagoner to Bill Padgett [02-26-08]; West Virginia Internet License Verification for Richard P. Colosimo [02-27-08]

Respondent's Exhibits: None

FINDINGS OF FACT

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

- (1) On January 9, 2008, Richard P. Colosimo was notified by letter of his right to a hearing, his rights in such hearing, and his right to submit any contentions in writing.
- (2) As demonstrated by return receipt dated January 12, 2008, Richard P. Colosimo received the Summary Suspension Order/Notice of Opportunity for Hearing, informing him of the allegations against him, and his rights.

- (3) Richard P. Colosimo has not responded in any manner to the letter of January 9, 2008, and has not requested a hearing, therefore the matter was referred to the Board for consideration.
- (4) Records of the Board of Pharmacy indicate that Richard P. Colosimo was originally licensed by the State of Ohio as a pharmacist on August 9, 1978, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective January 9, 2008.
- (5) Richard P. Colosimo is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: Richard P. Colosimo has admitted to Board agents that he is addicted to hydrocodone; that Richard P. Colosimo has stolen drugs from his employer to supply his addiction; that Richard P. Colosimo began stealing phentermine daily because hydrocodone was making him tired; that Richard P. Colosimo has stolen temazepam to help him sleep; and, that Richard P. Colosimo has stolen hydrocodone syrup because it lacks Tylenol. Such conduct indicates that Richard P. Colosimo is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.
- (6) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 9,600 tablets of various hydrocodone products, a Schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 550 tablets and/or capsules of phentermine 37.5 mg, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (8) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 300 capsules of temazepam, a Schedule IV controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (9) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 2,880 tablets of carisoprodol 350 mg. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (10) Richard P. Colosimo did, from December, 2006, through December 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS, beyond the express or implied

consent of the owner, to wit: Richard P. Colosimo admitted to stealing from various CVS stores 416 ounces of hydrocodone syrup, a Schedule III controlled substance. 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 (6) through (10) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (6) through (10) 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 (5) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Richard P. Colosimo as follows:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12528, held by Richard P. Colosimo 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 set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12528, held by Richard P. Colosimo 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 set forth above, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12528, held by Richard P. Colosimo effective as of the date of the mailing of this Order.

Pursuant to Section 4729.16(B) of the Ohio Revised Code, Richard P. Colosimo 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.

The motion was seconded by Mr. Turner and approved by the Board: *Aye* – 6/*Nay* – 1.

4:25 p.m. The Board recessed for the day.

Tuesday, March 4, 2008

8:30 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:

Gregory Braylock, R.Ph., *President*; Nathan S. Lipsyc, R.Ph., *Vice-President*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

8:30 a.m. Mr. Keeley presented proposed revisions to student immunization training programs at the University of Findlay and Ohio Northern University.

R-2008-142 After discussion, Mr. Turner moved that the University of Findlay revisions be approved. Mrs. Gregg seconded the motion and it was approved by the Board: *Aye* – 8.

R-2008-143 Mr. Kolezynski then moved that the Ohio Northern University revisions be approved. Mr. Mitchell seconded the motion and it was approved by the Board: *Aye* – 8.

8:35 a.m.
R-2008-144 After discussion, Mrs. Gregg moved that requests from **MedNovations/Laurel, Maryland** (02-1444400) and **Wilson Hospital/Sydney, Ohio** (02-0031400) for after-hours remote R.Ph. coverage be approved. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 8.

8:39 a.m.
R-2008-145 Mr. Keeley presented a request for an electronic prescribing system from **MatchMD**. Mr. Mitchell moved that the positive ID portion system be found approvable pending final inspection. Mr. Wiesenbahn seconded the motion and it was approved by the Board: *Aye* – 8.

Mr. Keeley presented the Budget Report to the Board.

Mr. Kolezynski and Mr. Benedict discussed the probation report with the Board. There were no issues requiring action by the Board.

9:05 a.m. The Board recessed briefly.

10:00 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio.

11:56 a.m. The Board recessed for lunch.

1:00 p.m. The hearing in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio resumed.

1:30 p.m.
R-2008-146 The following candidates for licensure by reciprocity met in Room South A, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio introduced themselves, and participated in a discussion of pharmacy laws and rules with Mr. McMillen. They were then presented their pharmacist identification cards.

Roger Scott Cole	03-2-28502	West Virginia
Gregory Robert Cudzil	03-2-28449	South Carolina
Valerie Ann Cudzil	03-2-28450	South Carolina

Delfin V. David, Jr.	03-2-28426	Indiana
Mukul Garg	03-2-28469	Maine
Paul Richard Gotti	03-2-28454	New Mexico
Abby Marie Klaine	03-2-28485	Kentucky
Jerry Robert Krbec	03-2-28475	Illinois
Frank Thomas Magliery	03-2-09125	Pennsylvania
Laurie Jo Niemeyer	03-2-28496	Indiana
Kenneth William Tuell	03-2-28474	Mississippi
Jason M. Turner	03-2-28498	West Virginia

5:41 p.m. The hearing in the matter of **Mark T. Gary** ended and the record was closed.

The Board recessed for the day.

Wednesday, March 5, 2008

8:03 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:

Nathan S. Lipsyc, R.Ph., *Vice-President (presiding)*; Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

8:05 a.m.

R-2008-147

Mr. Benedict announced that the following Settlement Agreement with **Annette Kristine Kalina**, R.Ph. (03-1-27312), Parma, Ohio, has been signed by all parties and is now in effect.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

Docket Number D-071127-018

in the matter of:

ANNETTE KRISTINE KALINA, R.Ph.

10813 West Pleasant Valley Road
Parma, Ohio 44130

R.Ph. Number 03-1-27312

This Settlement Agreement is entered into by and between Annette Kristine Kalina and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Annette Kristine Kalina voluntarily enters into this Agreement being fully informed of her rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Annette Kristine Kalina acknowledges that by entering into this agreement she has waived her rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification

card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Annette Kristine Kalina is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about November 27, 2007, pursuant to Chapter 119. of the Ohio Revised Code, Annette Kristine Kalina was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Annette Kristine Kalina requested a hearing; it was scheduled. The November 27, 2007, Notice of Opportunity for Hearing contains the following allegations or charges:

- (1) Records of the State Board of Pharmacy indicate that Annette Kristine Kalina was originally licensed by the State of Ohio as a pharmacist on July 13, 2006, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Annette Kristine Kalina did, on or about July 18, 2006, misbrand a drug, to wit: when Annette Kristine Kalina received a prescription for Atarax, Rx #03053 0426122, she dispensed hydralazine 50 mg, which had not been specifically prescribed by the physician. The patient subsequently was hospitalized. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Annette Kristine Kalina neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 27, 2007; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Annette Kristine Kalina knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Annette Kristine Kalina agrees to the imposition of a monetary penalty of two hundred fifty dollars (\$250.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (B) Annette Kristine Kalina must obtain, within six months from the effective date of this Agreement, five hours of continuing pharmacy education (0.5 CEUs) on preventing medication errors, which may not also be used for license renewal.

Annette Kristine Kalina acknowledges that she has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Annette Kristine Kalina waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees,

and/or agents of either, arising out of matters which are the subject of this Agreement. Annette Kristine Kalina waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

/s/ Annette Kristine Kalina, R.Ph. Date Signed: 02/27/08
Respondent

/s/ Gregory Braylock Date Signed: 03/05/08
President, Ohio State Board of Pharmacy

/s/ Sally Ann Steuk Date Signed: 03/10/08
Ohio Assistant Attorney General

Mr. Benedict discussed the Medical Board's Prescribing Committee report with the Board.

8:06 a.m. Mr. Braylock arrived and subsequently presided over the meeting.

8:07 a.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. The motion was seconded by Mrs. Gregg and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenbahn – *yes*.

8:56 a.m. The Executive Session ended and the meeting was opened to the public. The Board recessed briefly.

9:03 a.m. The meeting reconvened.

R-2008-148 Ms. Pasquale moved that the Board adopt the following order in the matter of **Mark T. Gary**, R.Ph. (03-3-18639), Hamilton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-070530-050

in the matter of:

MARK TODD GARY, R.Ph.

7404 Preakness Lane
Hamilton, Ohio 45011

R.Ph. Number 03-3-18639

INTRODUCTION

The matter of Mark Todd Gary came for hearing on March 4, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Mark Todd Gary was represented by Elizabeth Y. Collis. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Betty Jones, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness: Mark Todd Gary, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity For Hearing Letter [05-30-07]
- 1A-1D. Procedurals
- 1E. Amendment/Addendum Notice [11-27-07]
- 1F-1P. Procedurals
2. Medication Administration Report, Peninsula Regional Medical Center for Anne Wygal [03-07-06 to 03-17-06]
- 2A. Discharge Summary from Peninsula Regional Medical Center for Anne Wygal [03-17-06]
- 2B. Physician Order for Amyaryl 8 mg BID [03-17-06]
- 2C. Computer Screen Print Out showing Order Processing for Rx #5155306 [03-17-06]
- 2D. Drug Facts and Comparisons Antidiabetic Agents for Glimepiride® [February 2007]
- 2E. Ohio Administrative Code (OAC) Rule 4729-5-20 (Prospective Drug Utilization Review) [04-27-07]
- 2F. Medication Record for Anne Wygal [03-17-06]
- 2G. Kettering Medical Center Emergency Nursing Record for Anne Wygal; History and Physical [03-24-06]
- 2H. Ohio Department of Health Certificate of Death for Ruby Anne Wygal [09-27-06]
- 2I. Notarized Statement of Mark Todd Gary [05-03-06]
- 2J. Ohio State Board of Pharmacy News [February 2005]
- 2K. Notarized Statement of Vickie Haury [10-19-07]
3. Notarized Statement of Vickie Haury [05-25-06]
- 4-4B. Cherith Care Center Physician's Order Form [01-13-06]; Order Processing Computer Screen for Rx #4959827 [01-13-06]; Receipt for Prescriptions Delivered to Cherith Care Center [01-13-06]
- 5-5B. Physician's Telephone Order Form [01-20-06]; Order Processing Computer Screen for Rx #4979170 [01-20-06]; Receipt for Prescriptions Delivered to Deupree-Nursing [01-20-06]
- 6-6B. Two Physician's Telephone Order Forms [02-06-06]; Order Processing Computer Screen for Rx #5033147 [02-07-06]; Receipt for Prescriptions Delivered to Ohio Valley Manor [02-08-06]
- 7-7B. Two Physician's Telephone Order Forms [02-22-06]; Order Processing Computer Screen for Rx #5081389 [02-22-06]; Receipt for Prescriptions Delivered to Belle Manor Nursing [02-22-06]
- 8-8B. Physician's Telephone Order Form [03-08-06]; Order Processing Computer Screen for Rx #5124010 [03-08-06]; Receipt for Prescriptions Delivered to Dobbins Nursing [03-08-06]
- 9-9B. Physician's Telephone Order Form [03-07-06]; Order Processing Computer Screen for Rx #5123145 [03-08-06]; Receipt for Prescriptions Delivered to Dual Manor [03-08-06]
- 10-10B. Physician's Telephone Order Form [04-05-06]; Order Processing Computer Screen for Rx #5212024 [04-05-06]; Receipt for Prescriptions Delivered to Twin-Towers Nursing [04-08-06]

- 11-11B. Physicians Telephone Order Form [04-07-06]; Order Processing Computer Screen for Rx #5219820 [04-07-06]; Receipt for Prescriptions Delivered to St. Margaret Hall [04-07-06]
- 12-12B. Physician's Telephone Order Form [04-11-06]; Order Processing Computer Screen for Rx #5228504 [04-11-06]; Receipt of Prescriptions Delivered to Heinzer Developmental [04-11-06]
- 13-13B. Physician's Telephone Order Form [01-03-06]; Order Processing Computer Screen for Rx #4929496 [01-03-06]; Receipt for Prescriptions Delivered to Lutheran Village of Columbus [01-03-06]
- 14-14A. Patient Medication Orders [01-06-06]; Order Processing Computer Screen for Rx #4940294 [01-06-06]
- 15-15B. Two Physician's Telephone Orders [01-11-06]; Order Processing Computer Screen for Rx #4953069 [01-11-06]; Receipt for Prescriptions Delivered to Westminster-Thurber [01-11-06]
- 16-16A. Physician's Telephone Order Form [01-16-06]; Order Processing Computer Screen for Rx #4967324 [01-16-06]
- 17-17B. Physician's Telephone Order Form [01-24-06]; Order Processing Computer Screen for Rx #4989245 [01-24-06]; Receipt for Prescriptions Delivered to Columbus Colony Elderly [01-24-06]
- 18-18B. Physician's Telephone Order Form [01-27-06]; Order Processing Computer Screen for Rx #5001494 [01-27-06]; Receipt for Prescriptions Delivered to McAuley-Mercy [01-27-06]
- 19-19B. Pharmacy Telephone Order Sheet [02-14-06]; Order Processing Computer Screen for Rx #5056384 [02-14-06]; Receipt for Prescriptions Delivered to The Beechwood Home [02-14-06]
- 20-20B. Physician's Medication Order Form [03-09-06]; Order Processing Computer Screen for Rx #5129597 [03-09-06]; Receipt for Prescriptions Delivered to Meadowbrook Care Center [03-09-06]
- 21-21B. Physician's Order Form [03-09-06]; Order Processing Form for Rx #5130531 [03-09-06]; Receipt for Prescriptions Delivered to Bethany Lutheran Village [03-09-06]
- 22-22B. Physicians Order Form [03-09-06]; Order Processing Computer Screen for Rx #5130306 [03-09-06]; Receipt for Prescriptions Delivered to Terrace-Mercy [03-09-06]
- 23-23B. Prescription for Ativan 1mg [03-09-06]; Order Processing Form for Rx #5129898 [03-10-06]; Order Processing Computer Screen [03-09-06]; Receipt for Prescriptions Delivered to Front Gate [03-09-06]
- 24-24B. Medication Treatment Administration Record [03-10-06]; Order Processing Computer Screen for Rx #5133872 [03-10-06]; Receipt for Prescriptions Delivered to Gateway Rehab-Florence [03-10-06]
- 25-25B. Patient Medical Orders [03-10-06]; Order Processing Computer Screen for Rx #5133521 [03-10-06]; Receipt for Prescriptions Delivered to Swan Creek Retirement [03-10-06]
- 26-26B. Physician's Telephone Order Form [03-27-06]; Order Processing Computer Screen for Rx #5184182 [03-28-06]; Receipt for Prescriptions Delivered to Columbus Colony Elderly [03-28-06]
- 27-27B. Physician's Medication Order Form [03-31-06]; Order Processing Computer Screen for Rx #5199291 [03-31-06]; Receipt for Prescriptions Delivered to Gateway Rehab-Florence [03-31-06]
- 28-28B. Two Physician's Telephone Order Forms [04-06-06]; Order Processing Computer Screen for Rx #5216470 [04-06-06]; Receipt for Prescriptions Delivered to Lincoln Crawford [04-06-06]
- 29-29B. Referral for Patient Transfer [04-07-06]; Twelve Order Processing Computer Screens for Rx #5219493, Rx #5219494, Rx #5219497, Rx #5219498, Rx #5219500, Rx #5219502, Rx #5219503, Rx #5219506,

- Rx #5219507, Rx #5219510, Rx #5219514, Rx #5219516 [04-07-06];
Receipt for Prescriptions Delivered to Green Hills [04-07-06]
- 30-30B. Physicians Order Form [05-05-06]; Order Processing Computer
Screen for Rx #5305141 [05-05-06]; Receipt for Prescriptions
Delivered to Bethany Village [05-05-06]
- 31-31B. Physician's Medication Order Form [05-05-06]; Order Processing
Computer Screen for Rx #5304015 [05-05-06]; Receipt for
Prescriptions Delivered to St. Theresa-Mercy [05-05-06]
- 32-32B. Physician's Order and Signature [05-12-06]; Order Processing
Computer Screen for Rx #5325040 [05-12-06]; Receipt for
Prescriptions Delivered to Dayton Rehab Institute [05-12-06]
- 33-33B. Pharmacy Telephone Order Sheet [06-08-06]; Order Processing
Computer Screen for Rx #5404299 [06-08-06]; Receipt for
Prescriptions Delivered to Lutheran Village of Columbus [06-08-06]
- 34-34A. Physician's Telephone Order Form [06-15-06]; Order Processing
Computer Screen for Rx #5424065 [06-15-06]
- 35-35B. Pharmacy Telephone Order Sheet [05-03-06]; Order Processing
Computer Screen for Rx #5296296 [05-03-06]; Receipt for
Prescriptions Delivered to Brethren's Home-Nursing [05-03-06]
- 36-36B. Medication Reorders-Refills Only Form [05-04-06]; Order Processing
Computer Screen for Rx #5014859 [02-01-06]; Receipt for
Prescriptions Delivered to Green Hills [05-04-06]
- 37-37B. Physician's Telephone Order Forms [05-26-06]; Order Processing
Computer Screen for Rx #5368014 [05-26-06]; Receipt for
Prescriptions Delivered to Deupree-Nursing [05-26-06]
- 38-38A. Order Processing Computer Screen for Rx #5167532 [03-21-06];
Receipt for Prescriptions Delivered to Ohio Valley Manor [05-23-06]
- 39-39B. Two Physician's Telephone Order Forms [10-14-05]; Order Processing
Computer Screen for Rx #4702664 [10-14-05]; Receipt for
Prescriptions Delivered to Wellspring [10-14-05]
- 40-40B. Two Physician's Telephone Order Forms [10-14-05]; Order Processing
Computer Screen for Rx #4703685 [10-14-05]; Receipt for
Prescriptions Delivered to St. Johns-Mercy [10-14-05]
- 41-41B. Medication Reorders-Refills Only Form [09-22-05]; Order Processing
Computer Screen for Rx #4478766 [07-23-05]; Receipt for
Prescriptions Delivered to St. Johns-Mercy [09-22-05]
- 42-42B. Doctor's Orders and Progress Notes [09-27-05]; Purged Order
Information Form and Purged Billing Profile for Rx #4652234 [09-27-
05]; Receipt for Prescriptions Delivered to Gateway Rehabilitation
Hospital [09-27-05]
- 43-43C. Medication Reorders-Refills Only Form [08-29-05]; Order Processing
Computer Screen for Rx #4366945 [08-29-05]; Receipt for
Prescriptions Delivered to Hillebrand Nursing [08-29-05]; Skilled Care
Pharmacy Medication Incident Report Form [11-03-05]
- 44-44B. Medication Reorders-Refills Only [09-17-05]; Order Processing
Computer Screen for Rx #4623810 [09-17-05]; Receipt for
Prescriptions Delivered to HMF-Memorial [09-17-05]
- 45-45B. Discharge Medications Form for The Ohio State University Medical
Center [09-20-05]; Order Processing Computer Screen for Rx
#4634535 [09-21-05]; Receipt for Prescriptions Delivered to Lutheran
Village of Columbus [09-21-05]
- 46-46C. Emergency Box Audit Sheet [09-13-05]; Order Processing Computer
Screen for Rx #4612262 [09-13-05]; Receipt for Prescriptions
Delivered to Belle Manor Nursing [09-13-05]; Skilled Care Pharmacy
Medication Incident Report Form [11-03-05]

- 47-47B. Physician's Telephone Orders Form [09-20-05]; Order Processing Computer Screen for Rx #4632135 [09-20-05]; Receipt for Prescriptions Delivered to St. Margaret Hall [09-20-05]
- 48-48B. Medication Records-Refills Only [09-01-05]; Purged Order Information and Purged Billing Profiles for Rx #4581541 [09-01-05]; Receipt for Prescriptions Delivered to Westminster-Thurber [09-15-05]
- 49-49B. Physician's Telephone Order [09-15-05]; Order Processing Computer Screens for Rx #4619491 [09-15-05]; Receipt for Prescriptions Delivered to Schroder Nurs-Mercy [09-15-05]
- 50-50B. Physician's Telephone Orders Form [09-06-05]; Order Processing Computer Screen for Rx #4593975 [09-07-05]; Receipt for Prescriptions Delivered to Good Shepherd of Ashland [09-07-05]
- 51-51C. Rx #310817C [02-27-07]; Camden Village Pharmacy Daily Prescription Log [02-27-07]; Notarized Statement of Jon Rauschenbach, R.Ph. [11-23-07]
- 52-52A. Rx #331377 [09-10-07]; ScriptPro Script Processing Details [09-10-07]
- 53-53B. Prescription written for Buspar 15 mg [09-12-07]; Rx #331954 [09-14-07]; ScriptPro Script Processing Details [09-14-07]
- 54-54B. Prescription written for Lyrica 100 mg [09-21-07]; Rx #332937C [09-24-07]; ScriptPro Script Processing Details [09-24-07]
- 55-55B. Prescription written for Coumadin 2 mg [09-23-07]; Rx #332919 [09-24-07]; ScriptPro Script Processing Details [09-24-07]
- 56-56D. Prescription written for Rosula [date illegible]; Rx 332987 [09-24-07]; ScriptPro Script Processing Details [09-24-07]
- 57-57B. Prescription written for Amoxicillin [10-01-07]; Rx #333822 [10-01-07]; ScriptPro Script Processing Details [10-01-07]
- 58-58B. Prescription written for Cipro 500 [not dated]; Rx #334260 [10-04-07]; ScriptPro Script Processing Details [10-04-07]
- 59-59B. Prescription written for Flexeril 10 mg [10-09-07]; Rx #335836 [10-18-07]; ScriptPro Script Processing Details [10-18-07]
- 60-60C. Rx #319809 [05-17-07]; Pharmacy label for Rx 319809 [11-01-07]; ScriptPro Script Processing Details [11-01-07]; Photograph of Humalog Mix 75/25 Pen [not dated]
- 61-61A. Rx #338307 [11-09-07]; ScriptPro Script Processing Details [11-09-07]
62. Notarized Statement of Carol A. Perry [10-19-07]

Respondent's Exhibits:

- A. Request for Continuance of Pharmacy Board Hearing [01-09-08]
- B. Motion to Dismiss [01-09-08]
- C. Motion for Clarification of Charges and Motion to Strike [01-16-08]
- D. Request for Issuance of Subpoenas [01-16-08]
- D1. Second Request for Issuance of Subpoenas [01-25-08]
- D2. Memorandum in Opposition to State's Motion to Amend Notice [01-31-08]
- D3. Supplemental List of Exhibits [01-31-08]
- E. Letter from Cheryl A. Rush to Beth Collis [01-10-08]
- F. Letter from Dennis V. Humphries, M.D. [01-22-08]
- J. Diagram of Floor Plan at Skilled Care Pharmacy [not dated]
- K. Letter of Support [01-30-08]
- L. Letter from Michael E. Miller, M.D. [02-26-08]

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 Mark Todd Gary was originally licensed by the State of Ohio as a pharmacist on February 15, 1991, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Mark Todd Gary did, on or about March 17, 2006, prior to dispensing Rx #5155306, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. The physician had intended the patient, not a diabetic, to receive Reminyl 8 mg. However, the patient was inadvertently prescribed, and Mark Todd Gary dispensed, Amaryl 8 mg to be administered twice daily. The patient was administered Amaryl for a week, and subsequently died due to brain injury resulting from severe hypoglycemia. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (3) Mark Todd Gary did, on or about May 3, 2006, make a false statement with the purpose to mislead a public official in performing her official function, to wit: Mark Todd Gary lied to a Board of Pharmacy agent who was investigating his actions within the practice of pharmacy. When Mark Todd Gary described to a Board agent his actions, Mark Todd Gary indicated that he had sent, via a computer, a message to the "missed diagnosis queue" questioning a prescription for a patient that was not diabetic, though the prescription was for a drug used to treat diabetes. The Board of Pharmacy investigation revealed that Mark Todd Gary had not sent such a message. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.
- (4) Mark Todd Gary did, on or about January 13, 2006, prior to dispensing Rx #4959827, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "hydralazine 25 mg; 1 tab po every 8 hrs prn itching" that had been entered by a technician onto the patient's profile, yet the prescription was written for hydroxyzine. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (5) Mark Todd Gary did, on or about January 20, 2006, prior to dispensing Rx #4979170, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "meclizine 25 mg; 1 tab po every day" that a technician had entered onto the patient's profile, yet the prescription was written to "increase HCTZ to 25 mg 1 tab once/day, D/C HTCZ 12.5 mg once/day." Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

- (6) Mark Todd Gary did, on or about February 7, 2006, prior to dispensing Rx #5033147, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "megestrol 40 mg/1 ml oral susp; 20 ml (200 mg) po three times daily," that had been entered by a technician onto the patient's profile, which was four times the prescribed dose. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (7) Mark Todd Gary did, on or about February 22, 2006, prior to dispensing Rx #5081389, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "lisinopril 10 mg; 1 tab po four times daily" that had been entered by a technician onto the patient's profile when the prescription was written for "qd." Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (8) Mark Todd Gary did, on or about March 8, 2006, prior to dispensing Rx #5124010, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "furosemide 40 mg tablet; inject 40 mg every day for 3 doses" that had been entered by a technician onto the patient's profile. Accordingly, the wrong dosage form was entered onto the patient profile. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (9) Mark Todd Gary did, on or about March 8, 2006, prior to dispensing Rx #5123145, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "viscous lidocaine" that had been entered by a technician onto the patient profile when the drug was prescribed for wound debridement. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (10) Mark Todd Gary did, on or about April 5, 2006, prior to dispensing Rx #5212024, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "gentamicin 0.1% ointment 30 gm; place thin ribbon left eye twice daily x 5 days" that had been entered by a technician onto the patient's profile. The prescription had been written for Garamycin ophthalmic. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (11) Mark Todd Gary did, on or about April 7, 2006, prior to dispensing Rx #5219820, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified "lorazepam 1 mg tab; inject IM as needed for sleeplessness" that had been entered by a technician on the patient's profile when the prescriber wrote "Ativan 1 mg

IM prn SZ.” Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.

- (12) Mark Todd Gary did, on or about April 11, 2006, prior to dispensing Rx #5228504, fail to review the patient profile in order to conduct prospective drug utilization review, to wit: Mark Todd Gary failed to review the patient profile for over-utilization, incorrect drug dosage and duration of drug treatment, and misuse. Mark Todd Gary verified “docusate sodium 100 mg cap; insert 1 cap (R)” that had been entered by a technician onto the patient’s profile when the prescribed order stated to “D/C liquid Colace and restart r/s.” The patient had previously been on a bisacodyl suppository. Such conduct is in violation of Rule 4729-5-20 of the Ohio Administrative Code.
- (13) Mark Todd Gary did, on or about January 3, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Sudafed 60 mg, Rx #4929496, he caused another to dispense Sudafed 30 mg; 1 tab po bid x 3 days, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (14) Mark Todd Gary did, on or about January 6, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Darvocet-N 100, Rx #4940294, he caused another to label the prescription for the wrong patient, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (15) Mark Todd Gary did, on or about January 11, 2006, cause to be dispensed, and thereby misbranded, a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when dispensing Rx #4953069, Mark Todd Gary verified “metronidazole 500 mg; 1 tab po TUD” that had been entered by a technician onto the patient’s profile when the prescribed frequency was ordered “TID.” Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (16) Mark Todd Gary did, on or about January 13, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for hydroxyzine, Rx #4959827, he caused another to dispense hydralazine 25 mg; 1 tab po every 8 hours prn itching, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (17) Mark Todd Gary did, on or about January 16, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Coumadin 1 mg, Rx #4967324, he caused another to dispense Coumadin 6 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (18) Mark Todd Gary did, on or about January 20, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for HCTZ, Rx #4979170, he caused another to label the prescription for meclizine 25 mg; 1 tab po every day, which had not been specifically

prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (19) Mark Todd Gary did, on or about January 24, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Darvocet, Rx #4989245, he caused another to dispense Percocet, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (20) Mark Todd Gary did, on or about January 27, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Neosporin topical ointment, Rx #5001494, he caused another to dispense triple atb ophthalmic ointment, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (21) Mark Todd Gary did, on or about February 7, 2006, cause to be dispensed, and thereby misbranded, a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when verifying Rx #5033147, Mark Todd Gary verified "megestrol 40 mg/1 ml oral susp; 20 ml (200 mg) po three times daily" that had been entered by a technician onto the patient's profile, which was four times the prescribed dose. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code and Rule 4729-5-16 of the Ohio Administrative Code.
- (22) Mark Todd Gary did, on or about February 14, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Azo Yeast 400 mg, Rx #5056384, he caused another to dispense Azo Cranberry 450 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (23) Mark Todd Gary did, on or about February 22, 2006, cause to be dispensed, and thereby misbranded, a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when verifying Rx #5081389, Mark Todd Gary caused another to dispense lisinopril 10 mg; 1 tab po four times daily" that had been entered by a technician onto the patient's profile when the prescribed frequency was "qd," which had not been prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (24) Mark Todd Gary did, on or about March 8, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Lasix 40 mg IM qd x 3 days, Rx #5124010, he caused another to dispense furosemide 40 mg tablet; inject 40 mg every day for 3 doses, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (25) Mark Todd Gary did, on or about March 8, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for lidocaine for wound debridement, Rx #5123145, he caused another to dispense viscous lidocaine, which had not been specifically prescribed by the physician.

Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (26) Mark Todd Gary did, on or about March 9, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Novolog, Rx #5129597, he caused another to dispense Novolin R, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (27) Mark Todd Gary did, on or about March 9, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for K-Dur 10 mEq, Rx #5130531, he caused another to dispense Klor-Con 20 mEq, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (28) Mark Todd Gary did, on or about March 9, 2006, cause to be dispensed, and thereby misbranded, a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when verifying Rx #5130306, Mark Todd Gary caused another to dispense "Depakote 500 mg; 1 tab po twice daily and 1 tab every day with 250 mg" that had been entered by a technician onto the patient's profile when the prescribed strength was "1000 mg po BID at 0800; and 4 p.m. and Depakote 1250 mg po daily at 2400". Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (29) Mark Todd Gary did, on or about March 10, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Ativan 1 mg; 1 TID, Rx #5129898, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (30) Mark Todd Gary did, on or about March 10, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for cyclobenzaprine 20 mg, Rx #5133872, he caused another to dispense "cyclobenzaprine 10 mg, 1 tab po at bedtime" which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (31) Mark Todd Gary did, on or about March 10, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for glucosamine 150 mg po daily; chondroitin 1200 mg po daily, Rx #5133521, he caused another to dispense glucosamine 500 mg capsule; 3 capsules (1500 mg) po every day, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (32) Mark Todd Gary did, on or about March 28, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Colace 100 mg po BID, Rx #5184182, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (33) Mark Todd Gary did, on or about March 31, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Vytorin 10/20, Rx #5199291, he caused another to dispense Vytorin 10/80, which

had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (34) Mark Todd Gary did, on or about April 5, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Garamycin 0.1% OPH, with directions as: "os bid x 5 days," Rx #5212024, he caused another to label the drug as gentamicin 0.1% ointment 30 gm, and also to dispense topical gentamicin. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (35) Mark Todd Gary did, on or about April 6, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Lasix 80 mg po qd, Rx #5216470, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (36) Mark Todd Gary did, on or about April 7, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received prescriptions for the following 12 drug orders, Rx #5219493, Rx #5219494, Rx #5219497, Rx #5219498, Rx #5219500, Rx #5219502, Rx #5219503, Rx #5219506, Rx #5219507, Rx #5219510, Rx #5219514, and Rx #5219516, he caused another to label the drugs for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (37) Mark Todd Gary did, on or about April 7, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Ativan 1 mg IM prn SZ, Rx #5219820, he caused another to dispense lorazepam 1 mg tab; inject IM as needed for sleeplessness, which had not been specifically prescribed by the physician, nor did it indicate the correct directions for use. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (38) Mark Todd Gary did, on or about April 11, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription to "D/C Liquid Colace and restart r/s," Rx #5228504, he caused another to dispense docusate sodium 100 mg cap; insert 1 cap (R), which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (39) Mark Todd Gary did, on or about May 5, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for aspirin EC 81 mg, Rx #5305141, he caused another to dispense aspirin EC 325 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (40) Mark Todd Gary did, on or about May 5, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Advair 50/250, Rx #5304015, he caused another to dispense Advair 50/500, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (41) Mark Todd Gary did, on or about May 12, 2006, cause to be dispensed, and thereby misbranded, a drug pursuant to prescription without having the correct directions for use indicated on the label affixed to the container, to wit: when verifying Rx #5325040, Mark Todd Gary did not indicate the

directions for use of the drug as was prescribed by the physician. Mark Todd Gary caused another to dispense "trazadone 50 mg BID" when the prescribed frequency was "at bedtime." Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (42) Mark Todd Gary did, on or about June 8, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Zyprexa 1.25 mg; 1 po hs, Rx #5404299, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (43) Mark Todd Gary did, on or about June 15, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Aricept 10 mg po qd, Rx #5424065, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (44) Mark Todd Gary did, on or about May 3, 2006, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for primidone 50 mg, Rx #5296296, he caused another to dispense prednisone 50 mg, which had not been prescribed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (45) Mark Todd Gary did, on or about May 4, 2006, misbrand a drug, to wit: when Mark Todd Gary received a prescription for nitroglycerin 0.4 mg patches, Rx #5014859, he dispensed Lidoderm patches, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (46) Mark Todd Gary did, on or about May 26, 2006, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Coumadin 2.5 mg, Rx #5368014, he dispensed Coumadin 6 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (47) Mark Todd Gary did, on or about May 21, 2006, misbrand a drug, to wit: when Mark Todd Gary received a prescription for acetaminophen PM, Rx #5167532, he dispensed furosemide 80 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (48) Mark Todd Gary did, on or about October 14, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for KCl 20 mEq po qd x 4 days, Rx #4702664, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (49) Mark Todd Gary did, on or about October 14, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Keri Lotion, Rx #4703685, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (50) Mark Todd Gary did, on or about September 22, 2005, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Lanoxin 0.125, Rx

#4478766, he dispensed Lanoxin 0.25, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (51) Mark Todd Gary did, on or about September 27, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Zocor 10 mg q day, Rx #4652234, he caused another to dispense Zocor 20 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (52) Mark Todd Gary did, on or about August 29, 2005, dispense an adulterated drug, to wit: when Mark Todd Gary received a prescription for terazosin, Rx #4366945, he dispensed a drug which was past its expiration date. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (53) Mark Todd Gary did, on or about September 17, 2005, misbrand a drug, to wit: when Mark Todd Gary received a prescription for baclofen 10 mg, Rx #4623810, he dispensed baclofen 20 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (54) Mark Todd Gary did, on or about September 21, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for diltiazem 60 mg q6h, Rx #4634535, he caused another to dispense diltiazem ER, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (55) Mark Todd Gary did, on or about September 13, 2005, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Cipro 250 mg #2, Rx #4612262, he dispensed Cipro 500 mg #2, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (56) Mark Todd Gary did, on or about September 20, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Restoril 30 mg po q bedtime, Rx #4632135, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (57) Mark Todd Gary did, on or about September 15, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Lamictal 150 mg, Rx #4581541, he caused another to dispense Lamictal 200 mg, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (58) Mark Todd Gary did, on or about September 15, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Detrol LA 4 mg 1 po daily, Rx #4619491, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (59) Mark Todd Gary did, on or about September 7, 2005, cause to be misbranded a drug, to wit: when Mark Todd Gary received a prescription for Nasonex, Rx #4593975, he caused another to label the drug for the wrong patient. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (60) Mark Todd Gary did, on or about February 26, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for alprazolam 0.5 mg, to be taken "one tid," Rx #310817C, he dispensed the drug to be taken twice daily. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (61) Mark Todd Gary did, on or about September 10, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Celebrex 200 mg, to be taken "one Bid," Rx #331377, he dispensed the drug to be taken daily. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (62) Mark Todd Gary did, on or about September 14, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Buspar 15 mg "1-1.5 tid", Rx #331954, he dispensed bupropion SR. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (63) Mark Todd Gary did, on or about September 24, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Lyrica 100 mg, to be taken "1 PO TID," Rx #332937C, he dispensed the drug to be taken twice daily. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (64) Mark Todd Gary did, on or about September 24, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Coumadin 2 mg, Rx #332919, he dispensed Coumadin 1 mg. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (65) Mark Todd Gary did, on or about September 24, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Rosula clarifying wash, Rx #332987, he dispensed Rosaderm clns 10/5 wash. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (66) Mark Todd Gary did, on or about October 1, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for amoxicillin 500 mg/5 ml "3/4 tsp po BID", Rx #333822, he dispensed amoxicillin 250 mg/5 ml "3/4 tsp po BID". Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (67) Mark Todd Gary did, on or about October 4, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Cipro 500 mg, to be taken daily, Rx #334260, he dispensed the drug to be taken twice daily. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (68) Mark Todd Gary did, on or about October 18, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for Flexeril 10 mg, to be taken "1 po tid," Rx #335836, he dispensed the drug to be taken twice

daily. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

- (69) Mark Todd Gary did, on or about November 1, 2007, misbrand a drug, to wit: when Mark Todd Gary refilled a prescription for Humalog pen, Rx #319809, he dispensed Humalog Mix 75/25, which had not been specifically prescribed by the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.
- (70) Mark Todd Gary did, on or about November 9, 2007, misbrand a drug, to wit: when Mark Todd Gary received a prescription for metoprolol 25 mg take "0.5 tablet by mouth every day", Rx #338307, he labeled the prescription with the directions to "take one tablet by mouth daily", which had not been specifically prescribed the physician. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (70) of the Findings of Fact constitute 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.
- (3) The State Board of Pharmacy concludes that paragraphs (2) and (4) through (12) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any rule adopted by 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 suspends indefinitely the pharmacist identification card, No. 03-3-18639, held by Mark Todd Gary and such suspension is effective as of the date of the mailing of this Order.

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

Further, after twenty-four months from the effective date of this Order, the Board will consider any petition filed by Mark Todd Gary 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:

- (1) Mark Todd Gary must, six months immediately preceding his appearance at the reinstatement petition hearing, work in a manner similar to a pharmacy intern for 1,000 hours. During this time, Mark Todd Gary may not work more than 40 hours per week.
- (2) The responsible pharmacist must provide, to the Board, a performance evaluation of the 1,000 hours worked, which must include documentation of any errors.
- (3) Mark Todd Gary must take and pass both the Multistate Pharmacy Jurisprudence Examination (MPJE), or an equivalent examination acceptable to the Board and the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board during the six months immediately preceding his appearance at the reinstatement petition hearing.
- (4) Mark Todd Gary must show evidence that he has recognized his problems that caused his bad pharmacy practice, and what steps he has taken to correct the problems to restore his competency to practice pharmacy, and that he is in fact competent to practice pharmacy.
- (5) Inasmuch as Mark Todd Gary has testified and/or otherwise agreed that there should be restrictions placed on his pharmacy practice, Mark Todd Gary must, at his reinstatement hearing, identify such restrictions that should be in place so as to further ensure his competency to practice pharmacy.

Upon such time as the Board may consider reinstatement, Mark Todd Gary will be afforded a Chapter 119. hearing. At such time, the Board may consider reinstatement with or without restrictions and/or conditions as the Board deems appropriate under the circumstances.

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

9:07 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Hazel A. Myrick**, R.Ph. (03-3-15797), Cincinnati, Ohio.

10:20 a.m. The hearing ended and the record was closed.

10:21 a.m. Mrs. Gregg 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 Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and; Wiesenbahn – *yes*.

10:46 a.m. The Executive Session ended and the meeting was opened to the public.

10:47 a.m.

R-2008-149

Mr. Lipsyc moved that the Board adopt the following order in the matter of **Hazel A. Myrick**, R.Ph. (03-3-15797), Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-071108-013

in the matter of:

HAZEL A. MYRICK, R.Ph.

2143 Deer Meadow Drive
Cincinnati, Ohio 45240

R.Ph. Number 03-3-15797

INTRODUCTION

The matter of Hazel A. Myrick came for hearing on March 5, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (*presiding*); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

Hazel A. Myrick was not represented by counsel. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General and Andrea L. Vincent, Pharm.D, Legal Intern.

SUMMARY OF EVIDENCE

State's Witnesses: Rick Haun, Ohio State Board of Pharmacy
Hazel A. Myrick, R.Ph., Respondent

Respondent's Witnesses: None

State's Exhibits:

1. Notice of Opportunity For Hearing letter [11-08-07]
- 1A. Addendum Notice [12-19-07]
- 1B-1E. Procedurals
2. Notarized Statement of Hazel A. Myrick [09-27-07]
3. Rx #4424669 [09-17-07]; Rx #4424673 [09-17-07]; Rx #4424677 [09-18-07]; Rx #4424676 [09-18-07]; Rx #4424696 [09-21-07]; Rx #2206304 [09-21-07]; Rx #4424697 [09-22-07]; Rx #4424698 [09-22-07]; Rx #4424699 [09-23-07]; Rx #4424700 [09-23-07]; Rx #6759626 [09-24-07]; Rx #4424706 [09-25-07]; Rx #4424709 [09-25-07] and Rx #6759737 [09-27-07]
4. Rx #6759588 [09-22-07] and Rx #6759589 [09-22-07]
5. Notarized Statement of Hazel Augustine-Myrick [11-27-07]
6. Written Statements of Cindy (Stelzer) and Iris M. Funk [11-19-07]
7. Ohio State Board of Pharmacy Order in re Hazel A. Myrick, R.Ph. [08-23-89]

Respondent's Exhibits:

- A. Letter from Hazel Augustine-Myrick [03-04-08]; Resume of Hazel M. Augustine-Myrick, R.Ph.; Four Letters of Support [02-16-08 to 03-03-08]

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 Hazel A. Myrick was originally licensed by the State of Ohio as a pharmacist on March 1, 1985, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Hazel A. Myrick was previously disciplined by the Board on August 23, 1989.
- (2) Hazel A. Myrick did, on or about September 17, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #4424669 and Rx #4424673, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (3) Hazel A. Myrick did, on or about September 18, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #4424676 and Rx #4424677, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (4) Hazel A. Myrick did, on or about September 21, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #2206304 and Rx #4424696, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (5) Hazel A. Myrick did, on or about September 22, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #4424697 and Rx #4424698, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (6) Hazel A. Myrick did, on or about September 23, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #4424699 and Rx #4424700, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (7) Hazel A. Myrick did, on or about September 24, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though

Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #6759626, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

- (8) Hazel A. Myrick did, on or about September 25, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, Hazel A. Myrick dispensed Rx #4424706 and Rx #4424709, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) Hazel A. Myrick did, on or about September 27, 2007, when not a registered pharmacist or pharmacy intern, dispense or sell dangerous drugs and/or otherwise engage in the practice of pharmacy, to wit: though Hazel A. Myrick did not renew her license to practice pharmacy, and after being specifically told by a Board employee that she was not renewed, Hazel A. Myrick dispensed Rx #6759737, and she performed other pharmacy practice tasks. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (10) Hazel A. Myrick did, on or about September 22, 2007, intentionally create and/or knowingly possess a false or forged prescription, to wit: Hazel A. Myrick created Rx #6759588 for 20 Zyrtec-D tablets and Rx #6759589 for Zithromax 250 mg without authorization from a prescriber. Such conduct is in violation of Section 2925.23 of the Ohio Revised Code.
- (11) Hazel A. Myrick did, on or about the middle of October 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Wal-Mart Pharmacy, beyond the express or implied consent of the owner, to wit: Hazel A. Myrick admittedly stole a 10-day supply of naproxen for self-medication. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (12) Hazel A. Myrick did, on or about October 31, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Wal-Mart Pharmacy, beyond the express or implied consent of the owner, to wit: Hazel A. Myrick admittedly stole 15 clonazepam 0.5 mg tablets and 5 Prozac 20 mg tablets for self-medication. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (13) Hazel A. Myrick did, on or about November 3, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Wal-Mart Pharmacy, beyond the express or implied consent of the owner, to wit: Hazel A. Myrick admittedly stole neomycin and polymyxin 5 ml for self-medication. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (14) Hazel A. Myrick did, on or about November 21, 2007, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Wal-Mart Pharmacy, beyond the express or implied consent of the owner, to wit: Hazel A. Myrick admittedly stole 6 Prozac for self-medication. 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 (10) through (14) of the Findings of Fact constitute being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraphs (2) through (14) 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 paragraphs (2) through (10) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Chapter 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Hazel A. Myrick as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy places Hazel A. Myrick on probation for one year from the effective date of this Order, or until completion of the terms of probation, whichever is later, with the following conditions:
 - (1) Hazel A. Myrick must obtain, within one year from the effective date of this Order, three hours of approved continuing pharmacy education (0.3 CEUs) in Jurisprudence, which may not also be used for license renewal.
 - (2) Hazel A. Myrick will be automatically audited for the next continuing pharmacy education cycle.
 - (3) The State Board of Pharmacy hereby declares that Hazel A. Myrick'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.
 - (4) Hazel A. Myrick may not serve as a responsible pharmacist.
 - (5) Hazel A. Myrick must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Hazel A. Myrick must abide by the rules of the State Board of Pharmacy.
 - (7) Hazel A. Myrick must comply with the terms of this Order.
 - (8) Hazel A. Myrick's license is deemed to be not in good standing until successful completion of the probationary period.

(9) 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.

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

Hazel A. Myrick 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.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

10:48 a.m. The Board recessed briefly.

11:06 a.m. The Board was joined by Assistant Attorney General Sally Ann Steuk to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **William Merle Preston**, R.Ph. (03-3-21668), Ada, Ohio.

12:08 p.m. The Board recessed for lunch.

1:06 p.m. The hearing continued in the matter of **William Merle Preston**.

2:05 p.m. The hearing ended and the record was closed.

2:06 p.m. Mrs. Gregg moved that the Board go into Executive Session for the purpose of the investigation of complaints regarding licensees and registrants pursuant to Section 121.22(G)(1) of the Ohio Revised Code. The motion was seconded by Ms. Pasquale and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes* and Wiesenbahn – *yes*.

2:36 p.m. The Executive Session ended and the meeting was opened to the public.

R-2008-150 Mr. Lipsyc moved that the following order be adopted in the matter of **William Merle Preston**, R.Ph. (03-3-21668), Ada, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

Docket Number D-080109-029

in the matter of:

WILLIAM MERLE PRESTON, R.Ph.

3299 TR 35
Ada, Ohio 45810

R.Ph. Number 03-3-21668

INTRODUCTION

The matter of William Merle Preston came for hearing on March 5, 2008, before the following members of the Board: Gregory Braylock, R.Ph. (presiding); Elizabeth I. Gregg, R.Ph.; Richard F. Kolezynski, R.Ph.; Nathan S. Lipsyc, R.Ph.; Kevin J. Mitchell, R.Ph.; Heather L. Pasquale, R.Ph.; Dorothy S. Teater, Public Member; James E. Turner, R.Ph.; and Jerome J. Wiesenbahn, R.Ph.

William Merle Preston was represented by Harry R. Reinhart. The State of Ohio was represented by Sally Ann Steuk, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness: Todd Knauss, Ohio State Board of Pharmacy

Respondent's Witness: William M. Preston, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity For Hearing letter [01-09-08]
- 1A-1C. Procedurals
2. Written Statement of Jaime L. Flanagan, PharmD, R.Ph. [02-18-08]
3. Rx #290294/Refill Authorization for Rx #284566 [10-25-03]; Rx #296230/Refill Authorization for Rx #287344 [12-30-03]; Rx #296231/Refill Authorization for Rx #290294 [12-30-03]
4. Spreadsheet of William Preston's Prescriptions [01-12-02 to 08-30-06]
5. Notarized Statement of Wesley Shankland, DDS [12-29-05]; John P. Ziegler, M.D. Medication List for William Preston [07-22-05 to 10-31-05]
6. Two Notarized Statements of John P. Ziegler, M.D. [02-23-06 and 01-29-08]
7. Notarized Statement of Donald T. Evert, M.D. [07-19-06]
8. Statement of Christopher P. Steidle, M.D. [03-09-06]
9. [REDACTED]
10. Letter from William M. Preston, R.Ph. [09-13-07]

Respondent's Exhibits:

- A. [REDACTED]
- B. Treatment Letter from Lynn A. Snyder, MSW [10-22-07]
- C. [REDACTED]
- D. Support Group Attendance Records [01-08-05 to 02-15-08]
- E. Letter from Lynn A. Snyder to Harry R. Reinhart [02-28-08]
- F. Copy of "The Depression Workbook", Second Edition, Title Page; two Content Pages; Introduction Page [not dated]
- G. Copy of "The Anxiety & Phobia Workbook", Fourth Edition; two Content Pages; Introduction Page [not dated]
- H. Copy of Facsimile Cover Page from Teresa to Catherine [03-04-08]; Copy of Letter from Christopher P. Steidle, MD [03-03-08]
- I-J. Copies of Two Northeast Indiana Urology Laboratory Test Results [October 2007 and January 2008]

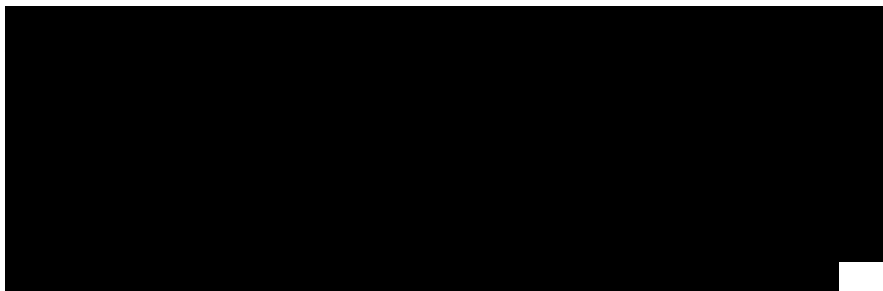
K. Copy of Psychological Evaluation of William Merle Preston [02-28-08]

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 William Merle Preston was originally licensed by the State of Ohio as a pharmacist on July 30, 1996, pursuant to examination, and that his license to practice pharmacy in Ohio was summarily suspended effective January 9, 2008.

(2)



CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

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

(3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being 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 William Merle Preston on January 9, 2008.

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. 03-3-21668, held by William Merle Preston and such suspension is effective as of the date of the mailing of this Order.

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

Further, the Board will consider reinstatement of William Merle Preston's license to practice pharmacy in Ohio if William Merle Preston meets the following requirements:

- (A) William Merle Preston must obtain a full psychiatric or psychological evaluation by a licensed psychiatrist or psychologist regarding stresses in his life and in his pharmacy practice and, if deemed necessary by the psychiatrist or psychologist, follow the treatment plan developed by the psychiatrist or psychologist. The initial evaluation must be forwarded to the Board. At such time as the psychiatrist or psychologist determines that William Merle Preston is capable of dealing with the stresses in his life and in his pharmacy practice in an appropriate manner, the psychiatrist or psychologist must submit a written report to the Board that specifies such and describes the reasons that the psychiatrist or psychologist has made that determination. After the Board approves the letter as satisfying the requirements of the Board, William Merle Preston's license will be reinstated.
- (B) If reinstatement is not accomplished within three years of the effective date of this Order, William Merle Preston must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) examination.

After reinstatement of his license to practice pharmacy in Ohio, William Merle Preston will be placed on probation for a period of five years. The terms of probation are as follows:

- (1) The State Board of Pharmacy hereby declares that William Merle Preston'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) William Merle Preston may not serve as a responsible pharmacist.
- (3) William Merle Preston must not violate the drug laws of Ohio, any other state, or the federal government.
- (4) William Merle Preston must abide by the rules of the State Board of Pharmacy.
- (5) William Merle Preston must comply with the terms of this Order.
- (6) William Merle Preston's license is deemed not in good standing until successful completion of the probationary period.

- (7) 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.

William Merle Preston 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.

The motion was seconded by Mrs. Gregg and approved by the Board: *Aye* – 8.

2:38 p.m. Mr. Benedict distributed the Medical Board's rule 4731-11-04 and discussed it with the Board.

R-2008-151 Mr. Keeley presented a request from **Prematics** for an electronic prescribing system. Mr. Turner moved that the system be found approvable pending final inspection and validation. Mrs. Teater seconded the motion and it was approved by the Board: *Aye* – 8.

Mr. McMillen distributed the revised 2008 Continuing Pharmacy Education reporting form and letter then discussed it with the Board.

R-2008-152 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:

Teregen Laboratories, Willoughby, Ohio (02-1235150)
Various Physician Offices on the letter or request

After discussion, Mrs. Gregg 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 Mrs. Teater and approved by the Board: *Aye* – 8.

R-2008-153 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:

Select Specialty Hospital/Boardman, Youngstown, Ohio (02-1781750)
Central Admixture Pharmacy Services, Valley View, Ohio (02-1312700)

After discussion, Mr. Lipsyc 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 Mrs. Gregg and approved by the Board: *Aye* – 8.

R-2008-154 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:

ValueCare Pharmacy, Brecksville, Ohio (02-1677500)
CSI Infusion Services, Brecksville, Ohio (02-0533450)

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 Ms. Pasquale and approved by the Board: *Aye* – 8.

Mr. Braylock said there was no meeting of the Nursing Board's Committee on Prescriptive Governance this month.

Mr. Mitchell said the Medical Board's Physician Assistant Policy Committee Report did not meet this month.

R-2008-155 After discussion, Mrs. Gregg moved that the Board minutes of February 4-6, 2008 be approved as amended. Ms. Pasquale seconded the motion and it was approved by the Board: *Aye* – 8.

4:07 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. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Braylock as follows: Gregg – *yes*; Kolezynski – *yes*; Lipsyc – *yes*; Mitchell – *yes*; Pasquale – *yes*; Turner – *yes*; Teater – *yes*; and Wiesenhahn – *yes*.

5:04 p.m. The Executive Session ended and the meeting was opened to the public.

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

<u>PER DIEM</u>	<u>03/03</u>	<u>03/04</u>	<u>03/05</u>	<u>Total</u>
Braylock	1	1	1	3
Gregg	1	1	1	3
Kolezynski	1	1	1	3
Lipsyc	1	1	1	3
Mitchell	1	1	1	3
Pasquale	1	1	1	3
Teater	1	1	1	3
Turner	1	1	1	3
Wiesenhahn	1	1	1	3

Mrs. Gregg seconded the motion and it was approved by the Board: *Aye* – 8.

5:05 p.m. Mr. Lipsyc moved that the meeting be adjourned. The motion was seconded by Mr. Wiesenhahn and approved by the Board: *Aye* – 8.

Gregory Braylock, R.Ph., President

Date: _____

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