

**Minutes of the December 2-4, 2013**  
**Meeting of the Ohio State Board of Pharmacy**

**Monday, December 2, 2013**

**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:

Kevin J. Mitchell, R.Ph., *President*; Michael A. Moné, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph. and Kilee S. Yarosh, R.Ph.

Also present were Kyle Parker, *Executive Director*; Tracy Nave, *Director of Legal Affairs*; Eric Griffin, *Interim Assistant Executive Director and Compliance Supervisor*; Jennifer Utterdyke, *Director of Internship and Licensing*; Chad Garner, *Information Technology and OARRS Administrator*; Cameron McNamee, *Legislative Affairs Liaison*; Charissa Payer, *Assistant Attorney General*, and Sana Ahmed, *Assistant Attorney General*.

Ms. Nave introduced Mr. McNamee to the Board.

Ms. Payer introduced Ms. Ahmed to the Board.

Ms. Nave updated the Board on the scheduling process of future hearings.

Mr. Parker stated that the Nursing Board CPG Committee meeting did not occur. The next meeting is scheduled to take place in January 2014.

Ms. Huwer stated the November 2013 PAPC Committee meeting was canceled, and the next meeting is scheduled for next week.

Mr. McNamee presented the Legislative Report.

The audience was invited to ask questions of the Board.

Mr. Griffin presented the Compliance Report.

Ms. Utterdyke provided the Licensing Update.

Mr. Garner presented the OARRS and I.T. Reports.

**R-2014-082** Ms. Utterdyke presented a request from pharmacy intern **Kayla Durkin** (06-0-09294) Valencia, Pennsylvania, for permission to approve her internship hours due to extraordinary circumstances pursuant to Rule 4729-3-06 (Statement of Preceptor and

Practical Experience Affidavit). After discussion, Mr. Moné moved that the Board approve Ms. Durkin's request. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 5.

**R-2014-083** Mr. Moné moved that the Board adopt a policy whereby the Board office administration shall approve requests for routine internship hours and that only unusual requests for internship hours shall be presented to the Board for approval. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5.

**R-2014-084** The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Richard Adams**, R.Ph. (03-1-17765) Steubenville, Ohio, be the responsible person for the following pharmacies:

Harrison Community Hospital, Cadiz (02-0034450)  
Health Connection Pharmacy, Cadiz (02-0560300)

After discussion, Mr. Kolezynski moved that the Board approve the request for a period of one year. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 5.

**R-2014-085** The Board received a request to withdrawal the Pain Management Clinic application of **Roberta June Guibord, D.O., Inc.**, Perrysburg, Ohio. Mr. Moné moved that the request to withdrawal the application be accepted. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 5.

**R-2014-086** The Board received a request to withdrawal the Pain Management Clinic application of **Steven A. Cremer, M.D.**, Akron, Ohio. Mr. Moné moved that the request to withdrawal the application be accepted. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 5.

**R-2014-087** Mr. Moné moved that 4729-5-11 be included in the Rules Review Committee discussion and agenda. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 5.

**R-2014-088** The Board received an application for the Continuing Education Provider Status of **James Toohey**, R.Ph. (03-2-11289) Massillon, Ohio. Ms. Huwer moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Cain and approved by the Board: Aye – 4/Nay – 0/Abstain – 1. Mr. Moné abstained from the vote.

**10:55 a.m.** The Board recessed briefly.

**11:05 a.m.** The meeting reconvened in room East B.

Philip P. Burgess, R.Ph., D.Ph., M.B., Philip Burgess Consulting, LLC, and Paul Mosko, *Premiere Health*, presented a request to install a Script Center employee prescription dispensing machine at **Miami Valley Hospital**, adjacent to the retail pharmacy, and allowing for prescriptions to be loaded from the front of the unit daily in the afternoon with Hospital Security staff present.

**R-2014-089** Philip P. Burgess, R.Ph., D.Ph., M.B., Philip Burgess Consulting, LLC, and Paul Mosko, *Premiere Health*, presented a request to install a Script Center employee prescription dispensing machine at **Miami Valley South** in the in-patient pharmacy, for a trial period, additionally allowing for prescriptions to be loaded from the front of the unit by a Pharmacy Technician with Hospital Security staff present. After discussion, Mr. Moné moved that the Board approve the request with the requirements of a Central Fill audit trail, opt-in only program, for employees' use only, pending final Board inspection, and a follow up presentation at the end of the twelve month trial. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.

**11:27 a.m.** Philip P. Burgess, R.Ph., D.Ph., M.B.A., Philip Burgess Consulting, LLC, and Paul Mosko, *Premiere Health*, presented a request to install a Script Center employee prescription dispensing machine at **Premiere Health corporate office**, for a six month trial, additionally allowing for prescriptions to be loaded from the front of the unit with Hospital Security staff present. The Board stated that they will discuss this presentation and the presentation for Miami Valley Hospital, and Mr. Parker shall inform Mr. Burgess of the Board's decision at a later time.

**11:35 a.m.** The Board recessed briefly.

**11:46 a.m.** The meeting reconvened in room East B.

Mr. Moné moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes and Yarosh – yes.

**12:31 p.m.** The Executive Session ended and the meeting was opened to the public.

The Board recessed for lunch.

**1:28 p.m.** The meeting reconvened in Room East B.

Mr. Moné moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by

law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes and Yarosh – yes.

**1:35 p.m.**      The Executive Session ended and the meeting was opened to the public.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John Patrick Thomas**, R.Ph. (03-2-15436) Hubbard, Ohio.

**2:29 p.m.**      The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**2:35 p.m.**      The recess ended and the hearing was opened to the public.

**R-2014-090**      After votes were taken in public session, the Board adopted the following order in the matter of **John Patrick Thomas**, R.Ph. (03-2-15436) Hubbard, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(D-091105-026 Case Number 2009-1423)

In The Matter Of:

**JOHN PATRICK THOMAS, R.Ph.**

7443 Oakwood Drive, S.E.

Brookfield, Ohio 44403

(R.Ph. Number 03-2-15436)

**INTRODUCTION**

The Matter of John Patrick Thomas came for hearing on December 2, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

John Patrick Thomas was not represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. John Patrick Thomas, R.Ph., Respondent
2. David Merk

Respondent's Witnesses:

1. Jarrod Grossman, R.Ph., PRO (Pharmacists Rehabilitation Organization, Inc.)
2. John Patrick Thomas, R.Ph., Respondent

State's Exhibits:

1. Reinstatement hearing request correspondence from John Thomas [06-14-12]  
1A-1C. Procedurals
2. Ohio State Board of Pharmacy Order in re John Patrick Thomas, R.Ph. [02-10-10]

Respondent's Exhibits:

1. Ohio State Board of Pharmacy Order in re John Patrick Thomas, R.Ph. [02-10-10]
2. Current PRO contract [04-10-13]
3. FirstLab Test Results [03-27-13 to 11-06-13]
4. Support Group Attendance Records [03-01-13 to 11-18-13]
5. Continuing Education Credits and Certificates [03-28-13 to 11-15-13]
6. Letters of Support [11-01-13 to 11-19-13]

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:

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that John Patrick Thomas has substantially complied with the terms set forth in the Order of the State Board of Pharmacy, Docket No. D-091105-026, effective February 10, 2010.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, Number 03-2-15436, held by John Patrick Thomas to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

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

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

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

(B) John Patrick Thomas must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of John Patrick Thomas' progress towards recovery and what John Patrick Thomas has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that John Patrick Thomas' pharmacist identification card is not in good standing and thereby denies the privilege

of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

- (2) John Patrick Thomas may not serve as a responsible pharmacist.
  - (3) John Patrick Thomas may not destroy, assist in, or witness the destruction of controlled substances.
  - (4) John Patrick Thomas must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
  - (5) John Patrick Thomas must not violate the drug laws of Ohio, any other state, or the federal government.
  - (6) John Patrick Thomas must abide by the rules of the State Board of Pharmacy.
  - (7) John Patrick Thomas must comply with the terms of this Order.
  - (8) John Patrick Thomas' 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.

John Patrick Thomas is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

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

Margaret Huwer moved for Action of the Board; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

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**2:42 p.m.**      The Board recessed briefly.

**2:44 p.m.**      The meeting reconvened in room East B.

Ms. Nave led a discussion on the Governor's Executive Order 2013-05K related to various ways to assist military personnel and veterans.

Mr. Parker announced the appointment of a new Board Member, Melinda J. Ferris, R.Ph., who will begin attending the Board Meetings as of January 2014.

**3:10 p.m.**      The Board was joined by Assistant Attorney General Charissa Payer to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Derek Sapone**, R.Ph. (03-1-32400) Virginia Beach, Virginia.

**3:33 p.m.**      The hearing ended and the record was closed.

Ms. Huwer moved that the Board recess in order to consider the quasi-judicial matter of **Derek Sapone**, R.Ph. (03-1-32400) Virginia Beach, Virginia in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**3:36 p.m.**      The recess ended and the hearing was opened to the public.

**R-2014-091**      After votes were taken in public session, the Board adopted the following order in the matter of **Derek Sapone**, R.Ph. (03-1-32400) Virginia Beach, Virginia.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2012-1753)

In The Matter Of:

**DEREK A. SAPONE, R.Ph.**

853 Artesia Way  
Virginia Beach, Virginia 23456

**INTRODUCTION**

The Matter of Derek A. Sapone came for hearing on December 2, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Derek A. Sapone was not present nor was he represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.



SUMMARY OF EVIDENCE

State's Witness:

1. Kevin Flaharty, Ohio State Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing [07-03-13]  
1A.-1E.Procedurals
2. NABP Official Application for Transfer of Pharmacist License [08-13-12]
3. Copy of Order from City of Virginia Beach, Virginia [10-20-10]
4. Correspondence from Derek A. Sapone, R.Ph. [Not Dated]
5. Virginia Health Practitioners' Monitoring Program Contract [06-19-12]
6. Louisiana Board of Pharmacy Correspondence and certified [11-06-13]  
copy of Board Order

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) Derek A. Sapone is a registered pharmacist in the state of Virginia, and on or about August 13, 2012 applied for reciprocal registration into the State of Ohio.

(2) Derek A. Sapone did, on or about August 8, 2012, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Derek A. Sapone answered "No" to question #4 on the National Association of Boards of Pharmacy Application for Transfer of Pharmacist License to the State of Ohio, when asked "Have you ever been charged or convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not such sentence was imposed, suspended, expunged, or whether Derek A. Sapone was pardoned from any such offense?" In fact, on or around October 20, 2010, Derek A. Sapone plead guilty to two misdemeanor counts of Prescription Fraud. Commonwealth of Virginia vs. Derek Anthony Sapone, Circuit Court of the City of Virginia Beach, Case No. CR10-2978. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

(3) Derek A. Sapone did, on or about August 8, 2012, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Derek A. Sapone answered "No" to question #5 on the National Association of Boards of Pharmacy Application for Transfer of Pharmacist License to the State of Ohio, when asked "Are you presently or have you within the past five years ever participated in a chemical substance rehabilitation program?" In fact, on or around April 2010, in an agreement to stay disciplinary action in the Commonwealth of Virginia, Derek A. Sapone entered the Virginia Health Practitioner's Monitoring Program (HPMP), an addiction based treatment program. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

(4) Derek A. Sapone was, on or about March 6, 2013, denied a pharmacy license in the State of Louisiana for reasons of falsifying the Louisiana Board of Pharmacy reciprocity application. To wit: Derek A. Sapone stated that he had not been subject to disciplinary action by any board of pharmacy. In fact, Louisiana officials determined that Derek A. Sapone's "stay of disciplinary action" in Virginia in August of 2010 qualified as disciplinary action. Louisiana Board of Pharmacy File No. 2012-271. Such conduct, if proven, constitutes being disciplined by a professional licensing board within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code, and paragraph (B) of Rule 4729-5-04 of the Ohio Administrative Code.

(2) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

(3) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute 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, and paragraph (D) of Rule 4729-5-04 of the Ohio Administrative Code.

(4) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

(5) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

(6) The State Board of Pharmacy concludes that paragraphs (2) through (4) of the Findings of Fact constitute having been disciplined by any board of pharmacy professional licensing board as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

#### DECISION OF THE BOARD

Pursuant to Sections 4729.09 and 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Official Application for Transfer of Pharmacist Licensure submitted by Derek A. Sapone on or about August 13, 2012.

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

Michael Moné moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

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

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**3:39 p.m.** Ms. Nave led a further discussion on the Governor's Executive Order 2013-05K related to various ways to assist military personnel and veterans.

**3:45 p.m.** Mr. Parker led a discussion on Per Diem.

**3:50 p.m.** The Board recessed briefly.

**3:55 p.m.** The meeting reconvened in room East B.

Mr. Kolezynski moved that the Board go into Executive Session to discuss the employment of a public employee, the purchase of property and matters required to be confidential by law pursuant to Section 121.22(G)(1), (2) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes and Yarosh – yes.

**5:05 p.m.** The Executive Session ended and the meeting was opened to the public.

The Board recessed for the day.

**Tuesday, December 3, 2013**

**8:41 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:

Kevin J. Mitchell, R.Ph., President; Michael A. Moné, R.Ph., Vice-President; Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph. and Kilee S. Yarosh, R.Ph.

**R-2014-092**      Mr. Kolezynski moved that the Board Minutes of November 4-5, 2013, be approved as amended. Mr. Cain seconded the motion and it was approved by the Board: Aye – 5.

Mr. Mitchell led a discussion on the need for a new Pharmacy Board Member representative to be appointed to the Nursing Board CPG Committee. **Ms. Huwer** was appointed to this committee, and **Ms. Melinda Ferris** was appointed as the alternate **Pharmacy Board Member representative to the Nursing Board CPG Committee.**

**R-2014-093**      Mr. Moné moved that the request to install a Script Center employee prescription dispensing machine at **Miami Valley Hospital**, adjacent to the retail pharmacy, and allowing for prescriptions to be loaded from the front of the unit daily in the afternoon with Hospital Security staff present, be tabled until the Board inspects the security, traffic, and safety of the intended general installation area. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5.

**R-2014-094**      Mr. Moné moved that the request to install a Script Center employee prescription dispensing machine at **Premiere Health corporate office**, for a six month trial, additionally allowing for prescriptions to be loaded from the front of the unit with Hospital Security staff present, be denied as presented; The site should be licensed by the Ohio Board of Pharmacy, the licensed site's Responsible Person should be a pharmacist employed at the corporate office, and that person should be designated as the person responsible for loading the Script Center machine. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5.

**8:56 a.m.**      The Board recessed briefly.

**9:10 a.m.**      The meeting reconvened in room East B.

The Board received a request for a Settlement Agreement from Mr. Douglas E. Graff, Esq., attorney representing John P. Moore, III, M.D.

**9:20 a.m.** Ms. Huwer moved that the Board recess in order to consider the quasi-judicial matter of **Synergistic Health Centers c/o John P. Moore, III, M.D.** (35.069259) Bellbrook, Ohio in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**9:30 a.m.** The recess ended and the meeting was opened to the public.

**R-2014-095** Mr. Moné moved that the terms of Settlement presented by Mr. Graff for **Synergistic Health Centers c/o John P. Moore, III, M.D.** (35.069259) Bellbrook, Ohio be accepted allowing a sufficient amount of time for drafting an official Settlement Agreement. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 5.

The Board recessed briefly.

**9:37 a.m.** The meeting reconvened in room East B.

**R-2014-096** The Board received a request for a Settlement Agreement from Mr. Douglas E. Graff, Esq., attorney representing **James P. Dambrogio, D.O., Inc.**, Hubbard, Ohio. After discussion, Ms. Yarosh moved that the terms of Settlement presented by Mr. Graff for **James P. Dambrogio, D.O., Inc.**, Hubbard, Ohio be accepted allowing a sufficient amount of time for drafting an official Settlement Agreement. The motion was seconded by Mr. Moné and approved by the Board: Aye – 5.

Mr. Parker invited the Board Members to listen to a conference call during lunch. The Board Members agreed to this working lunch.

**9:45 a.m.** The Board was joined by Assistant Attorney General Charissa Payer to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Michael H. Arnold**, R.Ph. (03-2-09233) Arcanum, Ohio.

**10:02 a.m.** The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matter of **Michael H. Arnold**, R.Ph. (03-2-09233) Arcanum, Ohio in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Moné and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**10:27 a.m.** The recess ended and the hearing was opened to the public.

**R-2014-097** After votes were taken in public session, the Board adopted the following order in the matter of **Michael H. Arnold**, R.Ph. (03-2-09233) Arcanum, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**  
(Case Number 2012-1354)

In The Matter Of:

**MICHAEL H. ARNOLD, R.Ph.**  
1268 Littles Road  
Arcanum, Ohio 45304  
(R.Ph. Number 03-2-09233)

**INTRODUCTION**

The Matter of Michael H. Arnold came for consideration on December 3, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Michael H. Arnold was not present nor was he represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witness:**

1. Todd Knauss, Ohio State Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

1. Summary Suspension Order/Notice of Opportunity for Hearing [04-29-12]  
1A-1F. Procedurals
2. Wayne Superior Court No.1 Judgment and Sentence in the [04-02-13]  
matter of Michael H. Arnold
3. The Indiana Board of Pharmacy Findings of Fact, Ultimate [03-22-13]  
Finding of Facts, Conclusions of Law and Order
4. E-mail correspondence from Terry O'Maley to Todd Knauss R.Ph. [10-13-12]  
in re Michael Arnold
5. Correspondence from Jon R. Chilcoate in re Michael H. Arnold [07-10-12]
6. Richmond Police Department Incident Offense Report in re [06-26-12]  
Michael H. Arnold
7. Investigating Manager Interview Notes for Michael Arnold [06-25-12]

8. Witnessing Manager Interview Notes for Michael Arnold [06-25-12]
9. Wal-Mart Stores, Inc. Exit Interview in re Michael Arnold [06-25-12]
10. Wal-Mart Diversion Post Investigation Summary [06-25-12]
11. Statement of Kirsten Parks [06-23-12]
12. Statement of Laura Robinson [06-25-12]

Respondent's Exhibits:

None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Michael H. Arnold was originally licensed by the State of Ohio as a pharmacist on August 4, 1969, pursuant to examination, and Michael H. Arnold's license has lapsed.
- (2) Michael H. Arnold was found guilty of a felony in Indiana, the factual basis of which was theft of drugs from the pharmacy where Mr. Arnold worked as a pharmacist.

CONCLUSIONS OF LAW

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

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 Michael H. Arnold on April 29, 2013.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-09233 held by Michael H. Arnold and such suspension is effective as of the date of the mailing of this Order.

(A) Michael H. Arnold, 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) Michael H. Arnold, 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 three years from the effective date of this Order, the Board will consider any petition filed by Michael H. Arnold for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Michael H. Arnold must show successful completion of the Multistate Pharmacy Jurisprudence Examination (MPJE) and the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

(B) Michael H. Arnold must complete a chemical dependency evaluation by a Board approved treatment provider and provide the results to the Board a minimum of three months prior to his appearance for reinstatement.

(C) Michael H. Arnold must demonstrate fitness to practice pharmacy within current standards.

Michael H. Arnold must provide, at the reinstatement petition hearing, documentation of the following:

(A) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(B) Compliance with the terms of this Order

Upon such time as the Board may consider reinstatement, Michael H. Arnold 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

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

Michael Moné moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).



Richard Kolezynski moved for Action of the Board; Margaret Huwer seconded the motion. Motion passed (Aye-5/Nay-0).

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**10:30 a.m.** The Board recessed briefly.

**10:45 a.m.** The meeting reconvened in room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jill Kristen Caruso**, R.Ph. (03-2-26184) Middleburg Heights, Ohio.

**12:11 p.m.** The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Cain and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**12:30 p.m.** The recess ended and the hearing was opened to the public.

**R-2014-098** After votes were taken in public session, the Board adopted the following order in the matter of **Jill Kristen Caruso**, R.Ph. (03-2-26184) Middleburg Heights, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2013-1317)

In The Matter Of:

**JILL KRISTEN CARUSO, R.Ph.**  
6933 East Winding Oak Drive  
Middleburg Heights, Ohio 44130  
(R.Ph. Number 03-2-26184)

**INTRODUCTION**

The Matter of Jill Kristen Caruso came for hearing on December 3, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Jill Kristen Caruso was represented by Douglas E. Graff. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witness:

1. Jill Kristen Caruso, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [05-10-13]  
1A-1D. Procedurals
2. Notarized Statement of Jill Caruso [05-07-13]
3. Anonymous Correspondence [04-02-13]
4. Accountability Statement at Marc's Pharmacy for alprazolam 0.25 [08-09-13]
5. Accountability Statement at Marc's Pharmacy for alprazolam 0.5 [08-09-13]
6. Accountability Statement at Marc's Pharmacy for alprazolam 1mg [08-09-13]
7. Accountability Statement at Marc's Pharmacy for alprazolam 2 mg [08-09-13]
8. Accountability Statement at Marc's Pharmacy for APAP/codeine 300/30 [08-09-13]
9. Accountability Statement at Marc's Pharmacy for APAP/codeine 300/60 [08-09-13]
10. Accountability Statement at Marc's Pharmacy for Diazepam 2 mg [08-09-13]
11. Accountability Statement at Marc's Pharmacy for Diazepam 5mg [08-09-13]
12. Accountability Statement at Marc's Pharmacy for Diazepam 10 mg [08-09-13]
13. Accountability Statement at Marc's Pharmacy for hydrocodone 5/300 [08-09-13]
14. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 5/325 [08-09-13]
15. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 7.5/300 [08-09-13]
16. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 7.5/325 [08-09-13]
17. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 7.5/500 [08-09-13]
18. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 7.5/750 [08-09-13]
19. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 10/325 [08-09-13]
20. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 10/500 [08-09-13]
21. Accountability Statement at Marc's Pharmacy for hydrocodone/APAP 10/660 [08-09-13]

22. Accountability Statement at Marc's Pharmacy for hydrocodone Ibuprophen 7.5/200 [08-09-13]
23. Accountability Statement at Marc's Pharmacy for hydromet 5mg syrup [08-09-13]
24. Accountability Statement at Marc's Pharmacy for hydrocodone/homatropine 5/1.5 [08-09-13]
25. Accountability Statement at Marc's Pharmacy for hydrocodone polistirex-chorpheniramine 10/5ml solution [08-09-13]
26. Accountability Statement at Marc's Pharmacy for lorazepam 1mg [08-09-13]
27. Accountability Statement at Marc's Pharmacy for lorazepam 2 mg [08-09-13]
28. Accountability Statement at Marc's Pharmacy for zolpidem 5 mg [08-09-13]
29. Accountability Statement at Marc's Pharmacy for zolpidem 6.25 mg [08-09-13]
30. Accountability Statement at Marc's Pharmacy for zolpidem 10 mg [08-09-13]

Respondent's Exhibits:

- A. Notice of Opportunity for Hearing [05-10-13]
- B. Request for Hearing, Notice of Appearance, Request for List of Witnesses and Documents [05-17-13]
- C. Resume of Jill Kristin Caruso, R.Ph. [not dated]
- D. Letter from Primary Counselor at Treatment Alternatives Center in Boca Raton with attachments [10-21-13]
- E. Discharge Summary from Treatment Alternatives Center in Boca Raton [11-26-13]
- F. Letter of Aftercare Activities from Jamie Norton, Med, LICDC-CS at Grace CMA at Grace CMA Recovery Ministries [11-28-13]
- G. Correspondence from Brenda L. Fox [12-02-13]

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 Jill Kristen Caruso was originally licensed in the State of Ohio on August 19, 2004, pursuant to examination, and her license to practice pharmacy in the State of Ohio was Summarily Suspended on May 10, 2013.

(2) Jill Kristen Caruso is addicted to or abusing drugs or alcohol and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Jill Kristen Caruso has admitted that she is addicted to the use of controlled substances. Jill Kristen Caruso has admitted to the following: stealing drugs from her employer; consuming approximately twenty (20) hydrocodone products daily, while

practicing pharmacy; and previously seeking drug treatment for her addiction in 2008. Such conduct indicates that Jill Kristen Caruso is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of 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 paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Jill Kristen Caruso on May 10, 2013.

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 for two years from the effective date of this Order, the pharmacist identification card, No. 03-2-26184, held by Jill Kirsten Caruso and such suspension is effective as of the date of the mailing of this Order.

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

Further, after two years from the effective date of this Order, the Board will consider any petition filed by Respondent for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Jill Kristen Caruso must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to

the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Alcohol must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.

(c) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

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

(B) Jill Kristen Caruso must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

(C) Jill Kristen Caruso must provide, at the reinstatement petition hearing, documentation of the following:

(1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

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

(E) Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

Kilee Yarosh moved for Findings of Fact; Michael Moné seconded the motion. Motion passed (Aye-/5Nay-0).

Michael Moné moved for Conclusions of Law; Margaret Huwer seconded the motion. Motion passed (Aye-5/Nay-0).

Michael Moné moved for Action of the Board; Kilee Yarosh seconded the motion. Motion passed (Aye5/Nay-0).

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The Board recessed for lunch.

**1:30 p.m.**

The Board reconvened in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts. The following candidates for licensure by reciprocity introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Ms. Terri Ghitman, *OARRS Pharmacist*:

Titilola Mitsuko Afolabi	Minnesota
Samson Amos	Virginia
Andrew Thomas Barrett	California
Myra Therese Belgeri	Illinois
Cyril George Cofie	Maine
Francis Henry Degidio	Pennsylvania
Jacqueline Bette Ducksworth	Arizona
Colin Fitzgerald	Florida
Amy Leigh Sayner-Flusche	New Mexico
James Kevin Hicks	Michigan
Melissa Ann Hunt	Missouri
Keun-Suk Jeong	Minnesota
Erin Paige Jerico	West Virginia
Elizabeth M. Miles	New York
Lauren Ann Ott	California
Frank Victor Pajek	Florida
Molly Renee Sinert	Florida

Shawn Taylor	West Virginia
Robert Matthew Teel	West Virginia
Brittney Valentine	West Virginia
Sarah Michelle Webb	Michigan
Elisabeth Emilia Zummo	South Carolina

**1:59 p.m.** The meeting reconvened in Room East B.

Ms. Nave provided a further detailed Legal department update.

**2:40 p.m.** The Board was joined by Assistant Attorney General Charissa Payer to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Timothy Bos**, Hercules, California.

**3:00 p.m.** The hearing ended and the record was closed.

Mr. Kolezynski moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Cain and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**3:10 p.m.** The recess ended and the hearing was opened to the public.

**R-2014-099** After votes were taken in public session, the Board adopted the following order in the matter of **Timothy Bos**, Hercules, California.

### **ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2012-1514)

In The Matter Of:

**TIMOTHY BOS, R.Ph.**  
616 Windsor  
Hercules, California 94547

### **INTRODUCTION**

The Matter of Timothy Bos came for consideration on December 3, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Timothy Bos was not present nor was he represented by counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witness:

1. Homer Chapa, Ohio State Board of Pharmacy

#### Respondent's Witnesses:

None

#### State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for hearing [05-23-13]
  - 1A. Procedural
2. Application for Examination as a Pharmacist [06-25-12]
  - 2A. Letter from Timothy Bos, R.Ph. [06-10-12]
  - 2B. Letter from State of Michigan Licensing and Regulatory Affairs [08-04-12]
  - 2C. State of Michigan Board of Pharmacy Final Order [07-12-01]
  - 2D. State of Michigan Board of Pharmacy Final Order Granting Reinstatement [11-23-98]
  - 2E. State of Michigan Proposal for Decision [09-01-98]
  - 2F. State of Michigan Final Order Denying Reinstatement [05-02-97]
  - 2G. State of Michigan Proposal for Decision [12-05-96]
  - 2H. State of Michigan Board of Pharmacy Final Order [04-03-95]
  - 2I. State of Michigan Proposal for Decision [07-29-94]
  - 2J. State of Michigan Board of Pharmacy Administrative Complaint [07-27-90]
  - 2K. State of Michigan Board of Pharmacy Acknowledgment of Violation [05-15-92]
  - 2L. State of Michigan Board of Pharmacy Notice of Intended Action [01-17-90]

#### Respondent's Exhibits:

None

### FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Timothy Bos submitted an application for examination as a pharmacist on or about June 25, 2012.
- (2) Timothy Bos did, on or about June 22, 2012, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Timothy Bos indicated on his Application for Examination as a Pharmacist that he had not been



charged or convicted of a felony or misdemeanor other than a minor traffic violation when in fact Timothy Bos had been charged with hit-and-run in California approximately 20 years ago. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

(3) On or about April 3, 1995, Mr. Bos' pharmacist and controlled substance licenses in the State of Michigan were suspended for one (1) year for dispensing 4 oz. bottles of Michigan schedule 5, codeine-base cough syrup for non-medical purposes. In the Matter of Timothy Bos, R.Ph., State of Michigan Dept. of Licensing and Regulation Board of Pharmacy File No. 53-89-0622-00. On or about May 2, 1997, reinstatement of Mr. Bos' pharmacist and controlled substance licenses was denied. In the Matter of the Application for Reinstatement of Timothy Bos, R.Ph., State of Michigan Department of Consumer and Industry Services Board of Pharmacy Docket No. 96-0407. On or around November 23, 1998, Mr. Bos' pharmacist and controlled substance licenses were reinstated subject to a one year probationary term. In the Matter of Timothy Bos, R.Ph., State of Michigan Department of Consumer and Industry Services Board of Pharmacy Docket No. 98-0400. Such discipline, if proven, constitutes not being of good moral character and habits and/or being disciplined by any professional licensing board within the meaning of Rule 4729-5-04 of the Ohio Administrative Code; further, such conduct, if proven, constitutes being guilty of a felony or gross immorality; and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) and (3) of the Findings of Fact constitute not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04 of the Ohio Administrative Code.

(2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes having been disciplined by any board of pharmacy as provided in paragraph (F) of Rule 4729-5-04 of the Ohio Administrative Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code and Rule 4729-5-04 of the Ohio Administrative Code, and on the basis of the foregoing Findings of Fact and Conclusions of Law, the State Board of Pharmacy hereby denies the issuance of a certificate of registration or an identification card to practice as a pharmacist in Ohio and, therefore, denies the Application for Examination As A Pharmacist submitted by Timothy Bos on or about June 25, 2012.

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

Margaret Huwer moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

Margaret Huwer moved for Action of the Board; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

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**R-2014-100** Mr. Mitchell announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case Number 2012-1429)

In the Matter of:

**Royal Palm Specialty Pharmacy**

Katie Fafalla, R.Ph.  
118 Main Street  
Webster, MA 01570  
(TDD No. 02-2149350)

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

Royal Palm Specialty Pharmacy enters into this Agreement being fully informed of its rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, the right to appeal. Royal Palm Specialty Pharmacy acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

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

WHEREAS, Royal Palm Specialty Pharmacy is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about July 10, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Royal Palm Specialty Pharmacy was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Katie Fafalla requested a hearing. It was scheduled and continued by the Board. The July 10, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that Royal Palm Specialty Pharmacy is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Agnes Bergeron, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(2) Royal Palm Specialty Pharmacy did, on or about April 9, 2012, violate Ohio Administrative Code Rule 4729-5-10 by shipping dangerous drugs to an unlicensed clinic without obtaining the proper pick-up station waiver. Specifically, vials and syringes were obtained from an unlicensed clinic bearing the label of Royal Palm Specialty Pharmacy. Such drugs were obtained directly from the pharmacy without obtaining permission from the Ohio State Board of Pharmacy pursuant to Rule 4729-5-10 of the Ohio Administrative Code.

Royal Palm Specialty Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 10, 2013; 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, Royal Palm Specialty Pharmacy knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Royal Palm Specialty Pharmacy agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

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

Royal Palm Specialty Pharmacy waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Royal

Palm Specialty Pharmacy waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

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**R-2014-101**

Mr. Mitchell announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Case No. 2013-1010)

In the Matter of:

**Dr. Joseph Daugherty, III**

C/O Dr. Joseph Daugherty, III

Daugherty Medical Group, PSC, Inc.

2230 Auburn Avenue

Cincinnati, OH 45219

(Terminal Distributor Number 02-2071050)

This Settlement Agreement is entered into by and between Dr. Joseph Daugherty, III 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.

Dr. Joseph Daugherty, III enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. Dr. Joseph Daugherty, III acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Revised Code.

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

WHEREAS, on or about March 27, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Dr. Joseph Daugherty, III was notified of the allegations or charges against him,

his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. The March 27, 2013, Proposal To Deny/Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about June 14, 2011, Dr. Joseph Daugherty, III was the President and Responsible Person, for Daugherty Medical Group, PSC, Inc., and that on said date, Daugherty Medical Group, PSC, Inc. applied for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification.

(2) Dr. Joseph Daugherty, III has failed to furnish satisfactory proof to the Board that he complies with requirements for the operation of a pain management clinic established by Sections 4729.55 and 4729.552 of the Ohio Revised Code. To wit: Dr. Joseph Franklin Daugherty, III, owner and responsible person of Daugherty Medical Group, PSC, Inc., entered into a Consent Agreement with the State Medical Board of Ohio as a result of inappropriately prescribing controlled substances to six different patients. Such conduct violates Section 4729.552(B)(2) of the Ohio Revised Code, Rule 4731-29-01(D) of the Ohio Administrative Code, and constitutes a failure to meet the minimum requirements for licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification. Further, such conduct is within the purview of Rule 4729-9-19 of the Ohio Administrative Code to the extent that you have been disciplined by a professional licensing board and may not be of good moral character and habits. Such is contrary to Sections 4729.55 and 4729.552 of the Ohio Revised Code, and Rules 4731-29-01 and 4729-9-19 of the Ohio Administrative Code.

The Ohio State Board of Pharmacy and Dr. Joseph F. Daugherty, III hereby agree to the following stipulated facts:

(1) On or about June 14, 2011 Dr. Joseph F. Daugherty, III ("Dr. Daugherty"), as the President and Responsible Person for Daugherty Medical Group, PSC, Inc. applied for registration as a Terminal Distributor of Dangerous Drugs with a pain management clinic classification.

(2) Dr. Daugherty is a licensed physician in the state of Ohio, by the State Medical Board of Ohio and a licensed physician in the state of Kentucky, by the Kentucky Medical Board. Both licenses are current.

(3) On or about December 12, 2012, Dr. Daugherty entered into a consent agreement between himself and the State Medical Board of Ohio (case 12-CRF-058). The basis for the consent agreement includes allegations in the Notice of Opportunity for Hearing adopted by the State medical board of Ohio on July 11, 2012 which states:

'From in or about August 2010 to the present, you undertook the care of patients 1-6, as identified in the attached Patient Key (Patient Key is confidential and not subject to public disclosure). In regard to patients 1-6, you failed to appropriately physically examine patients and diagnose medical conditions and/or document appropriate

physical examination of patients in diagnosing a medical condition before prescribing scheduled controlled substances.'

(4) The State Medical Board of Ohio adopted the consent agreement in lieu of formal proceedings based on violations of the Medical Practice Act alleged in its Notice of Opportunity for Hearing. The State Medical Board of Ohio maintains that a consent agreement is a disciplinary action by the Board.

(5) The Ohio State Board of Pharmacy on or about March 27, 2013 proposed to deny the application of Dr. Daugherty for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic classification. The Board alleged:  
"You failed to furnish satisfactory proof to the Board that you comply with requirements for the operation of a pain management clinic established by Sections 4729.55 and 4729.552 of the Ohio Revised Code. To wit: Dr. Joseph Franklin Daugherty, III, owner and responsible person of Daugherty Medical Group, PSC, Inc., entered into a Consent Agreement with the State Medical Board of Ohio as a result of inappropriately prescribing controlled substances to six different patients."

(6) The State Board of Pharmacy has adopted Ohio Administrative Code, Rule 4729-9-19 which states:

"The state board of pharmacy may consider as evidence of a person not meeting the requirements provided in sections [4729.53](#) and [4729.55](#) of the Revised Code, and may deny a person registration as a wholesale distributor of dangerous drugs or licensure as a terminal distributor of dangerous drugs in Ohio if such person...(6) Has been disciplined by any professional licensing board."

(7) Dr. Daugherty has practiced pain management in Ohio for more than 30 years. Under the terms of House Bill 93 and emergency Ohio Administrative Code Rule 4731-29-01 Dr. Daugherty was eligible to apply as a physician able to own a pain management clinic based on his longevity of prior pain management practice.

(8) At this time, Dr. Daugherty is not operating a pain management clinic in Ohio. Dr. Daugherty remains active in the practice of pain management in Kentucky.

Dr. Joseph Daugherty, III neither admits nor denies the allegations stated in the Proposal to Deny/Notice of Opportunity for Hearing letter dated March 27, 2013; 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, Dr. Joseph Daugherty, III knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Dr. Joseph Daugherty, III withdraws his application for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management classification

(B) Dr. Joseph Daugherty, III shall not apply for or seek registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic classification in the future under the current Ohio regulatory scheme.

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

Dr. Joseph Daugherty, III waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Dr. Joseph Daugherty, III waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

This Agreement embodies the entire agreement between and of the parties. There are no express or implied promises, guarantees, terms, covenants, conditions, or obligations other than those contained herein; and this agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties.

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**R-2014-102**

Mr. Mitchell announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case Number 2013-1381)

In The Matter Of:

**Lisa Ann Baker, R.Ph.**  
9875 Bimeler St. N.E.  
Bolivar, Ohio 44612  
(R.Ph. No. 03-2-15516)

This Settlement Agreement is entered into by and between Lisa Ann Baker, R.Ph. 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.

Lisa Ann Baker 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. Lisa Ann Baker 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, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Lisa Ann Baker is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 10, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Lisa Ann Baker 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. Lisa Ann Baker requested a hearing; it was scheduled and continued. The May 10, 2013, **Summary Suspension Order/Notice of Opportunity for Hearing** contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that Lisa Ann Baker was originally licensed in the State of Ohio on August 8, 1984, pursuant to examination, and her license to practice pharmacy in the State of Ohio was suspended effective May 10, 2013.

(2) Lisa Ann Baker is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: in 2006, Lisa Ann Baker admitted that she is addicted to hydrocodone, an opiate. In May of 2006, the Board summarily suspended Lisa Ann Baker's license due in part to her addiction. In February of 2007, the Board imposed an indefinite suspension of Lisa Ann Baker's license with various monitoring conditions. In April of 2008 the Board reinstated Lisa Ann Baker's license. The Board's Order required Lisa Ann Baker to continue compliance with a treatment contract she had entered with an approved treatment provider. Such contract included random, observed urine drug screens conducted at least once each month for the first year and then at least once every three months thereafter. On or about March 13, 2012, while being on administrative probation with the Board and currently under a contract with PRO (the Pharmacist Rehabilitation Organization), Lisa Ann Baker provided a urine sample that tested positive for alcohol consumption. On April 9, 2013, Lisa Ann Baker provided a second urine sample that tested positive for hydrocodone. As such, Lisa Ann Baker fell within the ambit of Sections 3719.121 and 4729.16(A)(3) of the Ohio Revised Code. Lisa Ann Baker also fell directly under the control of Ohio Administrative Code Section 4729-6-10(2) for her failed compliance with her treatment contract from an approved treatment provider.

(3) Lisa Ann Baker did, on or about January 14, 2013, misbrand a drug, to wit: when she received a prescription for gabapentin 100mg, RX #6361761, Lisa Ann Baker dispensed gabapentin 300mg, which had not been specifically prescribed by the physician.



- (4) Lisa Ann Baker did, on or about January 14, 2013, misbrand a drug, to wit: when she received a prescription for ferrous sulfate 325mg, RX #6361780, Lisa Ann Baker dispensed ferrous gluconate 325mg, which had not been specifically prescribed by the physician.
- (5) Lisa Ann Baker did, on or about January 21, 2013, misbrand a drug, to wit: when she received a prescription for cephalexin 500mg, RX #6362949, Lisa Ann Baker labeled and dispensed this prescription to the wrong patient.
- (6) Lisa Ann Baker did, on or about February 1, 2013, misbrand a drug, to wit: when Lisa Ann Baker received a prescription for ceftriaxone 2mg, RX #6365338, she dispensed ceftriaxone 1mg, which had not been specifically prescribed by the physician.
- (7) Lisa Ann Baker did, on or about February 4, 2013, misbrand a drug, to wit: when she received a prescription for levofloxacin 500mg, RX #6365504, Lisa Ann Baker dispensed prednisone 10mg, which had not been specifically prescribed by the physician.
- (8) Lisa Ann Baker did, on or about February 4, 2013, misbrand a drug, to wit: when she received a prescription for prednisone 10mg, RX #6365505, Lisa Ann Baker dispensed levofloxacin 500mg, which had not been specifically prescribed by the physician.
- (9) Lisa Ann Baker did, on or about February 18, 2013, misbrand a drug, to wit: when she received a prescription for vancomycin 500mg, RX #6367243, Lisa Ann Baker dispensed vancomycin 1000mg which had not been specifically prescribed by the physician.
- (10) Lisa Ann Baker did, on or about February 27, 2013, misbrand a drug, to wit: when she received a prescription for prednisone 7.5mg, RX #6368635, Lisa Ann Baker dispensed prednisone 2.5 mg which had not been specifically prescribed by the physician.
- (11) Lisa Ann Baker did, on or about March 16, 2013, misbrand a drug, to wit: when she received a prescription for Detrol LA 4mg, RX #6362554, Lisa Ann Baker dispensed omeprazole in a bubble pack which had not been specifically prescribed by the physician.
- (12) Lisa Ann Baker did, on or about March 18, 2013, misbrand a drug, to wit: when she received a prescription for (16) .25ml Ativan Gel syringes, RX #4033727, Lisa Ann Baker dispensed (4) 1ml Ativan Gel syringes which had not been specifically prescribed by the physician.

(13) Lisa Ann Baker did, on or about March 20, 2013, misbrand a drug, to wit: when she received a prescription for Percocet, directions for use, 1 tab BID, RX #2012859, Lisa Ann Baker dispensed two Percocet tablets per pod in a bubble pack.

(14) Lisa Ann Baker did, on or about April 1, 2013, misbrand a drug, to wit: when she received a prescription for Muro-128 5%, RX #6372354, Lisa Ann Baker dispensed Muro-128-2%, which had not been specifically prescribed by the physician.

(15) Lisa Ann Baker did, on or about April 8, 2013, misbrand a drug, to wit: when she received a prescription for Merrem 1000mg, RX #6373141, Lisa Ann Baker dispensed Merrem 500mg, which had not been specifically prescribed by the physician.

(16) Lisa Ann Baker did, on or about April 8, 2013, misbrand a drug, to wit: when she received a prescription for escitalopram 10mg, RX #6373347, Lisa Ann Baker dispensed escitalopram 20mg, which had not been specifically prescribed by the physician.

(17) Lisa Ann Baker did, on or about April 22, 2013, fail to cooperate with a Board investigation and she failed to divulge all relevant information when requested by Board Agents. Specifically, Lisa Ann Baker refused to divulge information relevant to an ongoing administrative investigation when questioned by Board Agents, thereby failing to cooperate in the investigation.

Lisa Ann Baker neither admits nor denies the allegations stated in the Summary Suspension Order/Notice of Opportunity for Hearing letter dated May 10, 2013; 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, Lisa Ann Baker knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Lisa Ann Baker on May 10, 2013.

(B) Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends indefinitely for a period of no less than six months the pharmacist identification card, No. 03-2-15516, held by Lisa Ann Baker and such suspension is effective as of the date of the mailing of this Order.

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

Further, after a minimum of six months from the effective date of this Order, the Board will consider any petition filed by Lisa Ann Baker for a hearing, pursuant to Ohio Revised Code Chapter 119, for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Lisa Ann Baker must enter into a contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) approved chemical dependency treatment provider or a treatment provider acceptable to the Board for a period of not less than six months and submit a copy of the signed contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month during her period of suspension.

(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) Alcohol and Ethyl Glucuronide (EtG) must be added to the standard urine drug screen. Testing for alcohol must be conducted within forty-eight hours from the time the sample is given. The test must be conducted by an appropriately certified individual within twelve hours of notification.

(c) Results of all drug screens must be negative. Any positive results, including those that may have resulted from ingestion of food, but excluding false positives that resulted from medication legitimately prescribed, indicate a violation of probation.

(d) Refusals of urine screens or diluted urine screens are equivalent to a positive result and indicate a violation of probation.

(e) Results of all drug screens and all documentation of compliance with the chemical dependency treatment provider must be presented to the Board at any reinstatement hearing.

(2) The intervener/sponsor shall provide copies of all drug screen reports to the Board in a timely fashion.

(3) Attendance is required at a minimum of ninety (90) meetings in ninety (90) days at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

(B) Lisa Ann Baker must submit to the Board within 90 days from the date of this Order a full chemical dependency evaluation and treatment plan from an Ohio

Department of Mental Health and Addiction Services (ODMHAS) approved treatment provider or a treatment provider acceptable to the Board. At any reinstatement hearing Lisa Ann Baker, must show compliance with her treatment plan and show fitness to practice pharmacy.

(C) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement.

(D) Compliance with the terms of this Order.

(E) Lisa Ann Baker must successfully pass the Pharmacist Assessment for Remediation Evaluation (PARE) offered by the National Association of Boards of Pharmacy, prior to her petition to the Board of Pharmacy for reinstatement.

(F) Lisa Ann Baker must provide, at the reinstatement hearing, documentation of the following:

(1) Compliance with the contract required above (e.g. proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, etc.)

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

Lisa Ann Baker 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.

Lisa Ann Baker 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. Lisa Ann Baker waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**3:16 p.m.** Mr. Parker gave an update on his meeting with Representative Watchmann and Representative Ryan Smith.

**3:20 p.m.** The Board recessed for the day.

Wednesday, December 4, 2013

8:45 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:

Kevin J. Mitchell, R.Ph., President; Michael A. Moné, R.Ph., Vice-President; Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph. and Kilee S. Yarosh, R.Ph.

R-2014-103 Mr. Moné moved that the Board Conference Call Minutes of November 19, 2013, be approved as presented. Mr. Kolezynski seconded the motion and it was approved by the Board: Aye – 5.

8:51 a.m. Mr. Parker led a discussion and provided an update in reference to pharmacy graduate examinees and the MPJE and NAPLEX.

The Board was joined by Assistant Attorney General Charissa Payer to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **George D.J. Griffin, III, M.D.** (35.038479) Cincinnati, Ohio.

9:10 a.m. The hearing ended and the record was closed.

Mr. Kolezynski moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

9:20 a.m. The recess ended and the hearing was opened to the public.

R-2014-104 After votes were taken in public session, the Board adopted the following order in the matter of **George D.J. Griffin, III, M.D.** (35.038479) Cincinnati, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**  
(Case Number 2013-1195)

In The Matter Of:

**GEORGE D.J. GRIFFIN, III, M.D.**  
5754 Bridgetown Road  
Cincinnati, Ohio 45248)

## INTRODUCTION

The Matter of George D.J. Griffin, III came for consideration on December 4, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

George D.J. Griffin, III was not present nor was he represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

## SUMMARY OF EVIDENCE

### State's Witness:

1. Kevin Flaharty, Ohio State Board of Pharmacy

### Respondent's Witnesses:

None.

### State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing letter [06-28-13]
  - 1A Procedural
2. Application for a Terminal Distributor License [06-15-11]
3. Certified Copies of State of Ohio Medical Board Records [07-06-11]
4. Court of Common Pleas, Civil Division Case No. 11CVG 05 7480 [02-03-11]  
Copy of Final Appealable Order; Decision and Entry
5. Court of Appeals of Ohio, Tenth Appellate District Case No. [11-22-11]  
11AP-174, Certified Judgment Entry
6. The Supreme Court of Ohio, Case No. 2011-1996 Entry [04-04-12]

### Respondent's Exhibits:

None

## FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that on or about June 15, 2011, George D.J. Griffin, III, M.D. was the Responsible Person, for George D.J. Griffin, III, M.D., and that on June 15, 2011, George D.J. Griffin, III, M.D. applied for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification.

(2) George D.J. Griffin, III has failed to furnish satisfactory proof to the Board that he complies with the requirements for the operation of a pain management clinic established by Sections 4729.55 and 4729.552 of the Revised Code. To wit: George D.J. Griffin, III, M.D., owner, physician and responsible person, was disciplined by the State Medical Board of Ohio for failing to conform to the minimal standards of care with respect to treatment of 14 specified patients by inappropriately and/or excessively prescribing dangerous drugs, including controlled substances. Dr. Griffin's medical license was suspended for 120 days, with all but 30 days of suspension stayed, and subsequent probationary terms, conditions, and limitations established for at least three years. In the Matter of George D.J. Griffin, III, M.D., Case No. 09-CRF-002 Before the State Medical Board of Ohio. Such conduct, if proven violates Section 4729.552(B)(2) of the Ohio Revised Code, Section 4731-29-01(D) of the Ohio Administrative Code, and constitutes a failure to meet the minimum requirements for licensure as a category III terminal distributor of dangerous drugs with a pain management clinic designation. Further, such conduct is within the purview of section 4729-9-19 of the Ohio Administrative Code to the extent that George D.J. Griffin, III has been disciplined by a professional licensing board and may not be of good moral character and habits.

#### CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes violating Section 4729.552(B)(2) of the Ohio Revised Code.

(2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes failure to meet the qualifications set forth in Section 4731-29-01(D) of the Ohio Administrative Code.

(3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes failure to meet the qualifications set forth in Section 4729-9-19(A)(6) of the Ohio Administrative Code.

(4) The Board specifically concludes that such findings directly relate to George J.D. Griffin, III's lack of fitness and lack of competence to practice under the license applied for.

#### DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register George D.J. Griffin, III, M.D. and, therefore, denies the Application for a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification license submitted by George D.J. Griffin, III, M.D. Inc. on June 15, 2011.

George D.J. Griffin, III, M.D. is reminded that section 4729.552 of the Ohio Revised Code states, in pertinent part that:

(C) No person shall operate a facility that under this chapter is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification without obtaining and maintaining the license with the classification.

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (B) of this section and any other applicable requirements of this chapter.

(D) The state board of pharmacy may impose a fine of not more than five thousand dollars on a terminal distributor of dangerous drugs license holder who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. Of the Revised Code. of the Ohio Revised Code.

Margaret Huwer moved for Findings of Fact; Kilee Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

Michael Moné moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

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

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**9:25 a.m.**

Ms. Nave led further discussion on the Governor's Executive Order 2013-05K related to various ways to assist military personnel and veterans.

**R-2014-105**

Mr. Cain moved that the three "military credits" discussed in reference to Executive Order 2013-05K be adopted, specifically (1) The Board seeks to waive all licensure fees for pharmacists, and pharmacy interns, who present evidence of active duty status with a military body; (2) The Board seeks to waive all licensure fees for pharmacists who present evidence of separation from a military body via a DD-214 form. Such waiver will be effective for five years from the date of the DD-214 form; and (3) The Board seeks to toll licensure requirements concerning continuing education for pharmacists upon proof of active duty deployed status. The Board seeks to toll licensure requirements concerning deadlines for completion of course curriculum for pharmacy interns upon proof of active duty status with a military body. The motion was seconded by Mr. Moné and approved by the Board: Aye – 5.

Mr. Parker provided an update about a request that was presented to the Board by Absolute Pharmacy.



**9:42 a.m.** The Board recessed until the next scheduled hearing.

**10:25 a.m.** The meeting reconvened in room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **John M. Casale**, R.Ph. (03-2-13741) Warren, Ohio.

**11:55 a.m.** The Board recessed briefly.

**12:03 p.m.** The hearing reconvened in room East B.

**12:07 p.m.** The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**12:24 p.m.** The recess ended and the hearing was opened to the public.

**R-2014-106** After votes were taken in public session, the Board adopted the following order in the matter of **John M. Casale**, R.Ph. (03-2-13741) Warren, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2012-1594)

In The Matter Of:

**JOHN MICHAEL CASALE, R.Ph.**

1885 Brittany Oaks Tail, N.E.

Warren, Ohio 44484

(R.Ph. No. 03-2-13741)

**INTRODUCTION**

The Matter of John Michael Casale came for hearing on December 4, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

John Michael Casale was represented by Robert Garrity. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Joann Predina, R.Ph., Ohio State Board of Pharmacy
2. John Michael Casale, R.Ph., Respondent

Respondent's Witness:

1. John Michael Casale, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [08-14-13]
- 1A-1C. Procedurals
2. Report of Theft of Loss of Controlled Substances [10-05-12]
3. Notarized Statement of John Casale [11-14-12]
4. Pharmacists Rehabilitation Organization, Inc. Contract [11-19-12]
5. Prescription Records Document [04-29-11]
6. Prescription Records Document [09-11-09]
7. Prescription Records Document [05-26-12]
8. Prescription Records Document [06-22-12]
9. Prescription Records Document [08-10-12]
10. Prescription Records Document [08-30-12]
11. Prescription Records Document [09-13-12]
12. Prescription Records Document [08-24-12]
13. Prescription Records Document [07-29-11]
14. Prescription Records Document [09-19-09]
15. Prescription Records Document [06-08-10]
16. Prescription Records Document [07-01-10]
17. Prescription Records Document [07-20-10]
18. Prescription Records Document [11-05-10]
19. Prescription Records Document [11-23-10]
20. Prescription Records Document [01-19-11]
21. Prescription Records Document [09-03-11]
22. Prescription Records Document [09-07-11]
23. Prescription Records Document [06-06-12]
24. Prescription Records Document [06-22-12]
25. Prescription Records Document [06-26-12]
26. Prescription Records Document [07-03-12]
27. Prescription Records Document [08-08-12]
28. Prescription Records Document [08-20-12]
29. Prescription Records Document [08-21-12]
30. Prescription Records Document [08-24-12]
31. Prescription Records Document [08-29-12]

32. Prescription Records Document [09-04-12]
33. Prescription Records Document [09-06-12]
34. Prescription Records Document [09-07-12]
35. Prescription Records Document [05-04-12]
36. Prescription Records Document [06-22-12]
37. Prescription Records Document [05-23-12]
38. Prescription Records Document [06-01-12]
39. Prescription Records Document [06-14-12]
40. Prescription Records Document [07-16-12]
41. Theft from perpetual inventory prepared by R.Ph. Foster and verified by Joann Predina, R.Ph. [not dated]
42. List of returns from perpetual inventory prepared by R.Ph. Foster and verified by Joann Predina, R.Ph. [not dated]
43. Verification of returns from perpetual inventory prepared by R.Ph. Foster, witnessed by Joann Predina, R.Ph. and verified by John P. Casale, R.Ph., Respondent [not dated]
44. Receipt from Cardinal Health [09-13-12]

Respondent's Exhibits:

- A. PRO Pharmacists Rehabilitation Organization Inc. Contract In re John M. Casale, R.Ph., Respondent [11-19-12]
- B. Completion of chemical dependency treatment documentation [11-06-12]
- C. Support group attendance records [11-06-12 to 11-19-13]
- D. First Lab Drug Screen Test Results [12-27-12 to 11-04-13]
- E. Youngstown State University acceptance letter [11-05-13]
- F. Letters of support and affidavits [09-12-13 to 11-21-13]

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 John M. Casale was originally licensed in the State of Ohio on August 1, 1980, pursuant to examination, and his license to practice pharmacy in the State of Ohio was summarily suspended effective August 14, 2013.

(2) John M. Casale is addicted to or abusing drugs or alcohol and/or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy, to wit: John M. Casale has admitted that he is addicted to the use of controlled substances. John M. Casale has admitted stealing drugs from Institutional Prescription Service, where he was an owner and employee. John M. Casale accomplished this theft by falsifying the controlled substance perpetual inventory log, stealing from returned drug

stock, and ordering drugs without adding them to the controlled substance inventory. Such conduct indicates that John M. Casale is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3) John M. Casale did, on or around September 11, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(4) John M. Casale did, on or around May 26, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(5) John M. Casale did, on or around June 22, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(6) John M. Casale did, on or around August 10, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(7) John M. Casale did, on or around August 30, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(8) John M. Casale did, on or around September 13, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(9) John M. Casale did, on or around August 24, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 10mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(10) John M. Casale did, on or around July 29, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 30mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(11) John M. Casale did, on or around September 19, 2009, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(12) John M. Casale did, on or around June 8, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(13) John M. Casale did, on or around July 1, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(14) John M. Casale did, on or around July 20, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(15) John M. Casale did, on or around November 5, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(16) John M. Casale did, on or around November 23, 2010, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M.

Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(17) John M. Casale did, on or around January 19, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(18) John M. Casale did, on or around September 3, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(19) John M. Casale did, on or around September 7, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(20) John M. Casale did, on or around June 6, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(21) John M. Casale did, on or around June 22, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal ninety oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(22) John M. Casale did, on or around June 26, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(23) John M. Casale did, on or around July 3, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(24) John M. Casale did, on or around August 8, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(25) John M. Casale did, on or around August 20, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(26) John M. Casale did, on or around August 21, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(27) John M. Casale did, on or around August 24, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(28) John M. Casale did, on or around August 29, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(29) John M. Casale did, on or around September 4, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional

Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(30) John M. Casale did, on or around September 6, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(31) John M. Casale did, on or around September 7, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal sixty oxycodone 5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(32) John M. Casale did, on or around May 4, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 7.5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(33) John M. Casale did, on or around June 22, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 7.5/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(34) John M. Casale did, on or around May 23, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 10/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(35) John M. Casale did, on or around June 1, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 10/APAP



325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(36) John M. Casale did, on or around June 14, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 10/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(37) John M. Casale did, on or around July 16, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale falsified a perpetual inventory log in order to steal thirty oxycodone 10/APAP 325mg tablets. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code,.

(38) John M. Casale did, on or around September 13, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale failed to enter into the perpetual inventory one-hundred oxycodone 10mg tablets in order to steal them for his own personal abuse. Such conduct is in violation of Sections 2913.02 and 2925.23 of the Ohio Revised Code.

(39) John M. Casale did, between approximately April 23, 2012 and September 27, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Institutional Prescription Service, beyond the express or implied consent of the owner, to wit: John M. Casale stole 928 tablets containing various strengths of oxycodone from stock intended to be destroyed. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

The State Board of Pharmacy concludes that paragraphs (3) through (39) 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.

The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute 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 (A)(3) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to John M. Casale on August 14, 2013.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-13741, held by John Michael Casale and such suspension is effective as of the date of the mailing of this Order.

(A) John Michael Casale, 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) John Michael Casale, 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, on or after June 1, 2014, the Board will consider any petition filed by John Michael Casale for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) John Michael Casale must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

(1) **Random, observed** urine drug screens shall be conducted at least once each month.

(a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

(b) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

(2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.

(3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

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

(B) John Michael Casale must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(C) John Michael Casale must provide, at the reinstatement petition hearing, documentation of the following:

(1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

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

(E) Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

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

Michael Moné moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

Michael Moné moved for Action of the Board; Margaret Huwer seconded the motion. Motion passed (Aye-5/Nay-0).

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The Board recessed for lunch.

**1:35 p.m.** The meeting reconvened in room East B.

The Board was joined by Assistant Attorney General Sana Ahmed to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Bethany Jones** (06-0-08808) Blanchester, Ohio.

**3:11 p.m.** The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes; Yarosh – yes.

**3:36 p.m.** The recess ended and the hearing was opened to the public.

**R-2014-107** After votes were taken in public session, the Board adopted the following order in the matter of **Bethany Jones** (06-0-08808) Blanchester, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2013-1383)

In The Matter Of:

**BETHANY JONES**

417 S. Wright St.

Blanchester, Ohio 45107

(Intern Number 06-0-08808)

**INTRODUCTION**

The Matter of Bethany Jones came for hearing on December 4, 2013, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Bethany Jones was represented by Daniel D. Connor. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Bethany Jones, Respondent
2. Rick Haun, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Bethany Jones, Respondent
2. Melissa Wages

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing [05-10-13]  
1A-1F. Procedurals
2. Notarized Statement of Bethany Jones [04-30-13]
3. Photos of Bethany Jones in the pharmacy [04-20-13]

Respondent's Exhibits:

- A. PRO Pharmacist Rehabilitation Organization Contract in re Bethany Jones [06-29-13]
- B. Cornerstone Documentation [05-04-13 to 08-15-13]
- C. Correspondence from Janet Hicks, DPh of Cornerstone [10-31-13]
- D. Correspondence from Kimberly J. Bonta, MSW, LSW, LICDC of Cornerstone [11-01-13]
- E. FIRSTLAB test history report with attachments [08-01-13 to 10-23-13]
- F. Support group attendance records [06-07-13 to 12-01-13]
- G. Support group attendance calendar [June, 2013 to November, 2013]
- H. Court of Common Pleas Clermont County Ohio Entry Granting Motion For Intervention In Lieu of Conviction, Case No. 2013-CR-0365 [08-21-13]
- I. Correspondence from Teresa M. Anderson, M.D. [10-24-13]
- J. Letters of Support [11-19-13 and 11-22-13]
- K. NAPLEX and MPJE Scores [06-29-13 and 07-12-13]
- L. Restitution Documentation [09-06-13]

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 Bethany Jones was originally licensed as an intern in the State of Ohio on October 20, 2009 and her license to practice pharmacy as an Intern in Ohio was summarily suspended effective May 10, 2013.

(2) Bethany Jones is addicted to or abusing drugs or alcohol and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Bethany Jones has admitted that she is addicted to the use of controlled substances. Bethany Jones has admitted to stealing drugs from her employer for at least over a year. Such conduct indicates that Bethany Jones is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3) Bethany Jones did, on or around April 24, 2013, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of CVS Pharmacy #5431, beyond the express or implied consent of the owner, to wit: Bethany Jones has admitted to stealing 20 hydrocodone/APAP 10/325mg tablets, a 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 paragraph (2) of the Findings of Fact constitutes being guilty of a felony and gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that 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.

(3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Bethany Jones on May 10, 2013.

The Board will not consider an application for licensure as a pharmacist by examination or reciprocity for a period of one year from the date of this Order, at which time Bethany Jones must:

(A) Submit a completed application for licensure.

(B) Bethany Jones must appear before the Board and demonstrate the following:

- (1) Fitness to practice pharmacy within the current standards.
- (2) Bethany Jones must enter into a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Alcohol and Drug Addiction Services (ODADAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
  - (A) Random, observed urine drug screens shall be conducted at least once each month.
    - (1) 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.
    - (2) 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.
  - (B) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
  - (C) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
  - (D) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (3) Bethany Jones must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- (4) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
- (5) Compliance with the terms of this Order.

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

Michael Moné moved for Conclusions of Law; Richard Kolezynski seconded the motion. Motion passed (Aye-5/Nay-0).

Michael Moné moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye5/Nay-0).

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**R-2014-108** Mr. Kolezynski moved that the Board receive Per Diem as follows:

PER DIEM	10/3	10/24	12/2	12/3	12/4	Total
Cain	0	1	1	1	1	4
Huwer	1	0	1	1	1	4
Kolezynski	0	0	1	1	1	3
Mitchell	0	0	1	1	1	3
Moné	0	0	1	1	1	3
Yarosh	0	0	1	1	1	3

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

**R-2014-109** Mr. Kolezynski moved that the meeting be adjourned after the completion of Executive Session. The motion was seconded by Mr. Moné and approved by the Board: Aye – 5.

**3:46 p.m.** Mr. Kolezynski moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Cain and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Huwer – yes; Kolezynski – yes; Moné – yes and Yarosh – yes.


**5:34 p.m.** The Executive Session ended and the meeting was adjourned.



Kevin J. Mitchell, R.Ph., President

Date:

8 Jan 14



Kyle W. Parker, M.B.A., R.Ph., Executive Director

Date:

1-8-14