

Minutes of the December 1-3, 2014
Meeting of the Ohio State Board of Pharmacy

Monday, December 1, 2014

10:00 a.m. The Ohio State Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Michael A. Moné, R.Ph., *President*; Kilee S. Yarosh, R.Ph., *Vice President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Also present were Steven Schierholt, *Executive Director*; Eric Griffin, *Compliance and Enforcement Supervisor*; David Gallagher, *Regional Compliance Supervisor*; Chad Garner, *Director of OARRS*; Cameron McNamee, *Legislative Affairs Liaison*; Tracy Nave, *Director of Legal Affairs*; Kevin Mitchell, *Assistant Executive Director*.

Ms. Ferris provided the Nursing Board CPG meeting report.

Ms. Huwer provided the PAPC meeting report.

Mr. Mitchell provided the Licensing update.

Mr. Gallagher provided the Compliance and Enforcement update.

Mr. Garner provided the OARRS/I.T. report.

10:15 a.m. A request for approval for the ScriptCenter system at Miami Valley Hospital was presented to the Board by **Paul J. Mosko**, *Premier Health Partners*.

10:37 a.m. Dr. Neil MacKinnon, *University of Cincinnati*, gave a presentation to the Board regarding CQI and patient safety in community pharmacy.

11:03 a.m. Ms. Huwer led a discussion regarding Health Systems Pharmacy; repackaging and compounding practices.

11:16 a.m. The Board recessed briefly.

11:25 a.m. The meeting reconvened in Room South B&C.

Mr. McNamee provided the proposed amendment of Rule 4729-16-04.

R-2015-158 Ms. Huwer moved to approve the amendment of Rule 4729-16-04. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 7.

11:29 a.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 Ms. Marchal and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

12:33 p.m. The meeting reconvened in Room South B&C.

The Board recessed for lunch.

1:35 p.m. The meeting reconvened in Room South B&C.

R-2015-159 The Board received an application for the Continuing Education Provider Status of **Cindy Puffer, R.Ph.** (03-2-14030) Bowling Green, Ohio. Ms. Marchal moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 7.

R-2015-160 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **William Carroll, R.Ph.** (03-3-11842) Amelia, Ohio, be the responsible person for the following pharmacies:

Mercy Health Anderson Hospital (hospital), Cincinnati (02-0384850)
Mercy Health Clermont Hospital (hospital), Batavia (02-0034050)

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/Nay– 2.

R-2015-161 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Raymond Fankell, R.Ph.** (03-2-13152) Wheelersburg, Ohio, be the responsible person for the following pharmacies:

Genesis Pharmacy (specialty), Portsmouth (02-1255900)
Medi-Mart Pharmacy (retail), Portsmouth (02-0589200)

After discussion, Ms. Yarosh moved that the Board approve the request for a period of one year. The motion was seconded by Ms. Huwer and approved by the Board: Aye –7.

R-2015-162 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Sachida Manocha, M.D.** (35.082815) Worthington, Ohio, be the responsible person for the following pain management clinics:

Ohio State Pain Management Center, LLC (PMC), Worthington (02-1683050)
Interventional Pain Center (PMC), Newark (02-2141450)

After discussion, Ms. Huwer moved that the Board approve the specific request for a period of three months with an inspection by the Ohio State Board of Pharmacy. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 7.

R-2015-163 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Sarah Blake, M.D.** (35.082586) Columbus, Ohio, be the responsible person for the following pain management clinics:

Capital City Pain Care (PMC), Mansfield (02-2147000)
Capital City Pain Care (PMC), Columbus (02-2248050)

After discussion, Ms. Marchal moved that the Board approve the specific request for a period of three months with an inspection by the Ohio State Board of Pharmacy. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 7.

R-2015-164 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Adam Wade, R.Ph.** (03-2-30320) Mansfield, Ohio, be the responsible person for the following pharmacies:

Avita Ontario Pharmacy (clinic), Mansfield (pending)
Avita Ontario Pharmacy (retail), Mansfield (pending)

After discussion, Ms. Marchal moved that the Board approve the request for a period of six months from the license issue date. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 7.

R-2015-165 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Fares Raslan, M.D.** (35.067207) Broadview Heights, Ohio, be the responsible person for the following pain management clinics:

NorthCoast Pain Management Associates, Inc. (PMC), Westlake (02-2144950)
NorthCoast Pain Management Associates, Inc. (PMC), Middleburg Heights (02-2144952)

Ms. Marchal moved that the Board table the discussion until such time as additional information is received. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 7.

R-2015-166 The Board received a request to withdraw the Pain Management Clinic application of **Rudolph J. Vela, M.D.**, Tiffin, Ohio. Ms. Ferris moved that the request to withdraw the application be tabled until such time additional information is received. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 7.

R-2015-167 Mr. Moné announced that the request for settlement presented by **Justin Edward Campbell, R.Ph.** (03-3-31029) Cincinnati, Ohio, be accepted allowing for sufficient time for the preparation and approval of settlement documentation.

R-2015-168 Mr. Moné announced that the request for settlement presented by **Piszel Pain Management Systems** (02-2146650) Geneva, Ohio, be accepted allowing for sufficient time for the preparation and approval of settlement documentation.

2:23 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. Weaver and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

3:00 p.m. The meeting reconvened in Room South B&C.

3:07 p.m. Ms. Marchal 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, discuss the employment of a public employee, the purchase of property, 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. Weaver and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

4:10 p.m. The meeting reconvened in Room South B&C.

The Board recessed for the day.

Tuesday, December 2, 2014

8:35 a.m. The Ohio State Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Michael A. Moné, R.Ph., *President*; Kilee S. Yarosh, R.Ph., *Vice President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

R-2015-169 Ms. Ferris moved to approve the request regarding the ScriptCenter system at Miami Valley Hospital presented by Paul J. Mosko with special conditions. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 7.

9:00 a.m. The Board recessed for the Public Rules Hearing.

The public hearing concerning the proposed new and amended rules began in Room South A, 31st Floor of the Riffe Center, with the following members in attendance:

Michael A. Moné, R.Ph., *President*; Kilee S. Yarosh, R.Ph., *Vice President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Also attending were Executive Director, Steven Schierholt; Legislative Affairs Liaison, Cameron McNamee; Director of Legal Affairs, Tracy Nave; and Assistant Attorney General, Charissa Payer.

9:15 a.m. The public rules hearing ended.

9:20 a.m. The meeting reconvened in Room South B&C.

R-2015-170 Ms. Yarosh moved to require that Premier Health Partners provide a summary report, regarding ScriptCenter, combining the statistical data from each location in February, 2015 with no need to appear. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 7.

9:28 a.m. Mr. McNamee provided Legislative Update.

9:50 a.m. Antonio Ciaccia, *Ohio Pharmacist Association*, addressed the Board regarding HB326.

The Board recessed briefly.

10:07 a.m. The meeting reconvened in Room South B&C.

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 **Harvey W. Vollmer, R.Ph.**, Eastlake, Ohio.

10:33 a.m. The hearing ended and the record was closed.

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 **Joseph Scott Mudd, R.Ph.**, Louisville, Kentucky.

10:57 a.m. The hearing ended and the record was closed.

The Board recessed briefly.

11:14 a.m. The meeting reconvened in Room South B&C.

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 **Concierge Compounding Pharmaceuticals**, Henderson, Nevada.

12:15 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. Kolezynski and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

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

R-2015-171 After votes were taken in public session, the Board adopted the following order in the matter of **Concierge Compounding Pharmaceuticals**, Henderson, Nevada.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1308)

In The Matter Of:

Concierge Compounding Pharmaceuticals
c/o Hootan Melamed, R.Ph.
1887 Whitney Mesa Drive
Henderson, NV 89014

INTRODUCTION

The Matter of Concierge Compounding Pharmaceuticals came for hearing on December 2, 2014, before the following members of the Board: Michael A. Moné, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph.; Fred M. Weaver, R.Ph. and Kilee S. Yarosh, R.Ph.

Concierge Compounding Pharmaceuticals was represented by Johnathan A. Secret. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Hootan Melamed, R.Ph., Respondent
2. Sheri Zapadka, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Hootan Melamed, R.Ph., Respondent

State's Exhibits:

- | | | |
|--------|---|----------|
| 1. | Proposal to Deny/Notice of Opportunity for Hearing | 07-11-14 |
| 1A-1C. | Procedurals | |
| 2. | Terminal Distributor of Dangerous Drugs Application | 04-24-13 |
| 2A. | Terminal Distributor of Dangerous Drugs Application | 04-15-14 |
| 3. | United States District Court, Central District of California
Judgment and Probation/Commitment Order | 01-19-01 |
| 4. | Nevada State Board of Pharmacy Correspondence | 07-02-13 |
| 4A. | Nevada State Board of Pharmacy Notice of Intended Action
and Accusation | 12-14-11 |
| 4B. | Nevada Board of Pharmacy Order Ratifying Oral Stipulation | 08-13-06 |

Respondent's Exhibits:

- | | | |
|----|---|----------|
| A. | Attachments to Terminal Distributor of
Dangerous Drugs Application | 04-24-13 |
| B. | Compliance Training Power Point | 01-01-14 |

FINDINGS OF FACT

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

(1) Records of the Board of Pharmacy indicate that on or about April 24, 2013, Hootan Melamed was the President for Concierge Compounding Pharmaceuticals, 1887 Whitney Mesa Drive, Henderson, Nevada 89014 and that on April 24, 2013, Concierge Compounding Pharmaceuticals submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or about April 24, 2013, applicant did knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: the application shows a negative answer to the following question: "[h]as the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed, or any officer of the corporation, ever been the subject of disciplinary action by any state or federal agency?" On two separate occasions, employee-pharmacist, Michelle Lynn Badten, was

disciplined by the Nevada Board of Pharmacy. On November 8, 2009, Pharmacist Badten's license to practice pharmacy in Nevada was revoked for falsifying prescriptions to obtain Oxycontin to support her addiction to narcotic pain medications. Pharmacist Badten admitted that she had been addicted to Oxycontin for approximately five years and had filled, purchased and falsified as many as 50 prescriptions to support her drug addiction. Pharmacist Badten's license to practice pharmacy was later reinstated. Nevada State Board of Pharmacy v. Michelle Badten, R.Ph., Nevada Board of Pharmacy Case No. 09-051-RPH-S. On April 18, 2012, Pharmacist Badten's license to practice pharmacy in Nevada was again disciplined for failing to batch test compounded products for which she was responsible and for failing to verify the correctness of the compounding of a product for which she was responsible. Pharmacist Badten's Nevada license was placed on one year of probation, which included a prohibition against compounding until there was successful completion of a pharmacist remediation program Nevada State Board of Pharmacy v. Michelle Badten, R.Ph., et al., Nevada Board of Pharmacy Case Nos. 11-092A-RPH-S, 11-092B-RPH-S, 11-092C-RPH-S, 11-092-PH-S.

(3) On or about January 19, 2001, Pharmacist and President of Concierge Compounding Pharmaceuticals, Hootan Melamed, was convicted of Conspiracy to Commit Securities Fraud, a Class D Felony. He was sentenced to the custody of the Bureau of Prisons for a term of 10 months, five months of which was to be completed in a home detention program with electronic monitoring, and five months of which was to be completed in a community correctional facility. He was ordered to pay restitution and interest. United States of America v. Hootan Melamed, U.S. Dist. Ct. No. CR00-7-GAF.

CONCLUSIONS OF LAW

(1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitute a violation of 4729.57(A)(1) of the Ohio Revised Code.

(2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes a violation of 4729-9-19 (A)(3) and (A)(6) of the Ohio Administrative Code.

(3) The State Board of Pharmacy concludes that paragraph (3) of the Findings of Fact constitutes a violation of 4729-9-19 (A)(1) of the Ohio Administrative Code.

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register Concierge Compounding Pharmaceuticals. and, therefore, denies the Application for a Terminal Distributor of Dangerous Drugs license submitted by Concierge Compounding Pharmaceuticals on April 24, 2013 and April 15, 2014.

Ms. Marchal moved for Findings of Fact; Ms. Huwer seconded the motion. Motion passed (Aye-7/Nay-0).

Ms. Ferris moved for Conclusions of Law; Ms. Yarosh seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Cain moved for Action of the Board; Ms. Ferris seconded the motion. Motion passed (Aye-7/Nay-0).

12:34 p.m. Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matters 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 Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

1:08 p.m. The recess ended and the hearing was opened to the public.

R-2015-172 After votes were taken in public session, the Board adopted the following order in the matter of **Joseph Scott Mudd, R.Ph.**, Louisville, Kentucky.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1306)

In The Matter Of:

JOSEPH SCOTT MUDD, R.Ph.

59 Highway Place
Louisville, KY 40206
(R.Ph. Number 03-1-32661)

INTRODUCTION

The Matter of Joseph Scott Mudd came for consideration on December 1, 2014, before the following members of the Board: Michael A. Moné, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph.; Fred M. Weaver, R.Ph.; and Kilee S. Yarosh, R.Ph.

Joseph Scott Mudd 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. Chandra Galante, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Notice of Opportunity for Hearing 10-24-13
1A-1B. Procedurals
2. NABP Application for Transfer of Ohio License 03-26-13
3. Commonwealth of Kentucky/Kentucky Board of Pharmacy
Order with attachments 11-15-12
4. Lexington Metro Police Department Uniform Citation 08-31-07
- 4A. Lexington Fayette UC Police Uniform Citation 02-21-09
5. KYPRN Monitoring Agreement for Joseph Scott Mudd 04-02-10

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) Joseph Scott Mudd is a registered pharmacist in the state of Kentucky, and on or about March 25, 2013 he applied for reciprocal registration into the State of Ohio.

(2) Joseph Scott Mudd did, on or about March 25, 2013, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Joseph Scott Mudd answered "No" to the question, "Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?" In fact, Joseph Scott Mudd is currently on probation with the Kentucky Board of Pharmacy. Such probation stems from Joseph Scott Mudd's August 31, 2007 arrest for Public Intoxication" by Lexington Metro Police in Lexington, Kentucky and his February 21, 2009 arrest for "DUI" by the Lexington Fayette UC Police in Lexington, Kentucky. Agreed Order of Probation with Restrictions RE: Joseph Scott Mudd, Commonwealth of Kentucky, Kentucky Board of Pharmacy, Case No. 11-0133. There are multiple terms and conditions of Joseph Scott Mudd's probation with the Kentucky Board, which will not be removed for at least five (5) years from the November 15, 2012 effective date of his Agreed Order of Probation with Restrictions.

CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes not being of good moral character and habits as provided in paragraph (C) of Rule 4729-5-04(C) of the Ohio Administrative Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing alcohol or drugs as provided in paragraph (D) of Rule 4729-5-04(D) of the Ohio Administrative Code.
- (3) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes having been disciplined by a state board of pharmacy pursuant to Section 4729.16 of the Revised Code as provided in paragraph (F) of Rule 4729-5-04(F) of the Ohio Administrative Code.
- (4) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (5) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.
- (6) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes committing fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised 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 Official Application for Transfer of Pharmaceutic Licensure submitted by Joseph Scott Mudd on or about March 25, 2013.

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

Ms. Marchal moved for Conclusions of Law; Mr. Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Cain moved for Action of the Board; Ms. Huwer seconded the motion. Motion passed (Aye-7/Nay-0).

R-2015-173 Ms. Yarosh moved to dismiss the Notice of Opportunity for Hearing issued on March 12, 2014 against **Harvey W. Vollmer, R.Ph.** The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.

R-2015-174 Mr. Moné 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. 2014-1328)

In The Matter Of:

CHARLES JOHN KANDRAC, R.PH.
5335 Chickadee Lane
Lyndhurst, OH 44124
License No. 03-1-20824

This Settlement Agreement is entered into by and between Charles John Kandrac 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.

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

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, 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, respondent is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 13, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Charles John Kandrac 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. Charles John Kandrac's opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Charles John Kandrac was originally licensed in the State of Ohio on November 2, 1994, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) On or around May 15, 2013, Charles John Kandrac did fail to complete and report the required number of C.E.U.s for the reporting period of March 1, 2010 through May 15, 2013, to wit: Charles John Kandrac failed to complete and report six C.E.U.s of continuing education by May 15, 2013, as required. Charles John Kandrac sent an email to the Ohio State Board of Pharmacy's Licensing Administrator on January 8, 2014, asking about an audit request he received. Charles John Kandrac told the OSBP Licensing Administrator that he could not find his C.E.U. certificates and may have discarded them by accident. Then, during an interview with an Agent from the OSBP held on April 14, 2014, Charles John Kandrac stated that the hours he completed were expired and he was unable to print them. Such conduct is in violation of Rule 4729-7-07 of the Ohio Administrative Code. Such conduct, if proven, constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of Chapter 4729 of the Revised Code, Sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions. A provision of Chapter 4729. of the Ohio Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

Charles John Kandrac admits the allegations stated in the Notice of Opportunity for Hearing letter dated August 13, 2014; further, 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, Charles John Kandrac knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Charles John Kandrac herewith submits a monetary penalty of Two Hundred Fifty Dollars (\$250.00).

(B) Charles John Kandrac will submit additional documentation to show compliance with continuing education requirements within 30 days from the effective date of this Agreement, else Charles John Kandrac's license to practice pharmacy will not be renewed pursuant to the provisions of Section 4729.12 of the Ohio Revised Code.

If, in the judgment of the Board, Charles John Kandrac appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke the Agreement and may institute formal disciplinary proceedings for any and all possible violations or breaches, including but

not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Charles John Kandrac 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.

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

R-2015-175

Mr. Moné 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. 2012-1324)

In the Matter of:

ADIL Y. YAMOUR, M.D.

4 Commercial Ave.

Washington Court House, Ohio 43160

This Settlement Agreement is entered into by and between Adil Y. Yamour, M.D. 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.

Adil Y. Yamour, M.D 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, the right to appeal. Adil Y. Yamour, M.D 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.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth,

and in lieu of a formal hearing at this time, Adil Y. Yamour, M.D, knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Adil Y. Yamour, M.D.'s request to withdraw the application submitted on or about June 15, 2011 for Registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification is hereby approved.

(B) Adil Y. Yamour, M.D. agrees to never reapply in the state of Ohio for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification as defined under Chapter 119. of the Ohio Revised Code until and unless the legal requirements for such licensure in Ohio change.

(C) Adil Y. Yamour, M.D. agrees to never be named as Responsible Person at a Pain Management Clinic in Ohio.

Adil Y. Yamour, M.D 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.

Adil Y. Yamour, M.D, 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. Adil Y. Yamour, M.D, waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-176

Mr. Moné 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.2013-1696)

In the Matter of:

Heritage Healthcare
DBA Heritage Pharmaceutical & Medical Supplies
c/o John L. Hunter, R.Ph.
622 West Fair Avenue
Lancaster, Ohio 43130
(Terminal Distributor Number 01-1613150)

This Settlement Agreement is entered into by and between Heritage Pharmaceutical & Medical Supplies 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.

Heritage Pharmaceutical & Medical Supplies 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. Heritage Pharmaceutical & Medical Supplies 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, Heritage Pharmaceutical & Medical Supplies is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about June 5, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Heritage Pharmaceutical & Medical Supplies 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. Further, a hearing was scheduled and continued by the Board. The June 5, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that John L. Hunter is the responsible pharmacist at Heritage Pharmaceutical & Medical Supplies; Ohio Wholesale Distributor of Dangerous Drugs License No. 01-1613150, pursuant to Sections 4729. of the Ohio Revised Code within the meaning of Section 4729.56 of the Ohio Revised Code.

(2) On or about November 2012, through September 2013, Heritage Pharmaceutical & Medical Supplies ("Heritage") ceased to satisfy the qualifications of a wholesale distributor of dangerous drugs, to wit: Heritage failed to provide adequate security and control over the processing of dangerous drug orders to any person other than those named in Division (B) of Section 4729.51 of the Revised Code. Specifically, Heritage had no system in place to verify the signature of Life Ambulance's Responsible Person, Dr. Wayne Wheeler. This lack of security and control over the processing of dangerous drug orders allowed Life Ambulance employee, Brian Buckle, an individual with a known history of drug abuse, to sign DEA 222 forms for controlled substances on behalf of Life Ambulance as evidenced by the DEA 222 forms dated June 14, 2013 and July 5, 2013, with attached packing slip invoices. Such conduct constitutes violating any federal, state, or local drug law; any provision of Chapter 4729., or Chapter 2925., 3715., or 3719. of the Revised Code.

(3) On or about November 2012, through September 2013, Heritage Pharmaceutical & Medical Supplies (“Heritage”) ceased to satisfy the qualifications of a wholesale distributor of dangerous drugs, to wit: Heritage had no system or procedure in place to disclose orders for controlled substances and other dangerous drugs subject to abuse, therefore, Heritage failed detect the fraudulent orders for controlled substances and other dangerous drugs that were being placed by Life Ambulance employee, Brian Buckle, for his own self-administration. Such conduct constitutes violating any federal, state, or local drug law; any provision of Chapter 4729., or Chapter 2925., 3715., or 3719. of the Revised Code.

Heritage Pharmaceutical & Medical Supplies neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 5, 2014; 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, Heritage Pharmaceutical & Medical Supplies knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Heritage Pharmaceutical & Medical Supplies agrees to the imposition of a monetary penalty of five thousand dollars (\$5000.00) due and owing within 30 days from the effective date of this Agreement. Checks should be made payable to the “Treasurer, State of Ohio” and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) In addition, Heritage Pharmaceutical & Medical Supplies must, within 30 days from the effective date of this Agreement, have a passing inspection conducted by the Ohio State Board of Pharmacy.

Heritage Pharmaceutical & Medical Supplies 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.

Heritage Pharmaceutical & Medical Supplies 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. Heritage Pharmaceutical & Medical Supplies waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-177

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER

(Case Number 2013-1986)

In The Matter Of:

University Hospitals
730 SOM Center #310
Mayfield Village, Ohio 44143
(TDDD License No. 02-1947800 "License")

This Settlement Agreement is entered into by and between University Primary Care Practices, Inc., "University Hospitals" 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.

University Hospitals 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 and the right to a formal adjudication hearing on the issues contained herein.

University Hospitals is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against University Hospitals and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against University Hospitals' License in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

(A) The Ohio State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.

(B) University Hospitals neither admits nor denies the allegations pending in the Board's investigation; however, the Board has initiated and conducted an investigation pursuant to the mandate of Sections 3719.18 and 4729.25 of the Ohio Revised Code.

(C) University Hospitals acknowledges that it has been made aware of the investigation and has not failed to cooperate in said investigation. University Hospitals further acknowledges that it has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of the filing of formal ADMINISTRATIVE charges and/or holding a 119. hearing at this time:

(1) University Hospitals knowingly and voluntarily **SURRENDERS TO THE STATE BOARD OF PHARMACY IT'S LICENSE AND REGISTRATION FOR TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS USE TO SELL, DELIVER OR DISTRIBUTE DANGEROUS DRUGS.** Pursuant to Rule 4729-9-01(F) for the 730 SOM Center #310, Mayfield Village, OH 44143 Location (TDDD License No. 02-1947800).

(2) The State Board of Pharmacy hereby dismisses the notice letter issued on March 12, 2014 against University Hospitals.

University Hospitals 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.

University Hospitals 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. University Hospitals waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-178 Mr. Cain moved to dismiss the Notice of Opportunity for Hearing issued on October 16, 2014 against **Healthsource of Ohio- Mt. Washington.** The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 7.

R-2015-179 Mr. Kolezynski moved to approve the specific request presented by **Joseph A. Whitrock, Pharm D.** for reduced verification requirements for medications dispensed in the Parata Pass and inspected by the Parata Check Pass with the following limitations: There shall be inspections of 10% of all packages on a random basis, 100% of all packages that have been flagged by Check Pass, 100% of all packages containing controlled substances, Pharmacist Positive ID shall be accomplished in accordance with the Lifeline24 Pharmacy Policy and Procedures provided to the Board. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 6/Nay– 0/Abstain– 1.

1:30 p.m. The Board convened 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*:

Emily Naa Norley Asamoah	Florida
John Joseph Beyer	Missouri
Jamalyn Nicole Casey	Indiana
Brittany T. Clements	Idiana

Hailekiros H. Gebrehiwot	Washington D.C.
Amber Marie Kacsmar	West Virginia
Rebecca Jo Lambert	Indiana
Jessica Cardinal Larson	Louisiana
Robert Leffler	Indiana
Alyssa Ann McLaughlin	Indiana
Molly K. Pawlowicz	Virginia
Fouad G. Zaher	Florida

2:00 p.m. The meeting reconvened in Room South B&C.

The Board recessed for the day.

Wednesday, December 3, 2014

9:30 a.m. The Ohio State Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Michael A. Moné, R.Ph., *President*; Kilee S. Yarosh, R.Ph., *Vice President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Mr. Schierholt gave an update regarding pending legislation.

R-2015-180 Mr. Kolezynski moved that the Board Conference Call Minutes of October 2, 2014, be approved as amended. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6/Nay– 0/Abstain– 1.

R-2015-181 Ms. Marchal moved that the Board Minutes of November 3-4, 2014, be approved as amended. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 5/Nay – 0/Abstain – 2.

10:03 a.m. The Board recessed briefly

11:00a.m. The meeting reconvened in Room South B&C.

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 **Richard Duane Brunst, R.Ph.**, Cincinnati, Ohio.

11:49 a.m. The hearing ended and the record was closed.

Ms. Ferris 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. Marchal and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

12:00 p.m. The recess ended and the hearing was opened to the public.

R-2015-182 After votes were taken in public session, the Board adopted the following order in the matter of **Richard Duane Brunst, R.Ph.**, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-110829-211)

In The Matter Of:

Richard Duane Brunst, R.Ph.

6001 Pineview Lane

Cincinnati, Ohio 45247

(R.Ph. Number 03-3-18429)

INTRODUCTION

The Matter of Richard Duane Brunst came for hearing on December 3, 2014, before the following members of the Board: Michael A. Moné, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph.; Fred M. Weaver, R.Ph. and Kilee S. Yarosh, R.Ph.

Richard Duane Brunst was represented by Harry B. Plotnick. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Richard Duane Brunst, R.Ph., Respondent
2. James Liebetrau, R.Ph.

State's Exhibits:

1. Request for Reinstatement Letter 02-12-02
1A-1F. Procedurals
2. Ohio State Board of Pharmacy Order in RE: Richard Brunst 04-03-12

Respondent's Exhibits:

A.	Contract with PRO, Inc.	04-15-12
B.	Urine Testing Results	01-19-12 through 11-19-14
C1.	AA & NA Attendance Sheets, Part 1	12-30-11 through 05-03-14
C2.	AA & NA Attendance Sheets, Part 2	05-04-14 through 11-04-14
D.	Prescription Records of Respondent	No Date
E.	Records of Substance Abuse Treatment/Evaluations	11-22-11 through 01-09-13
F.	Records of Continued Education	03-26-14 through 04-10-14
G.	Letter of Support from James Liebetrau, R.Ph.	10-23-14

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Richard Duane Brunst has substantially complied with the terms set forth in the Board Order of the State Board of Pharmacy, Docket No. D-110829-211 effective April 3, 2012.

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 immediate reinstatement of the pharmacist identification card, Number 03-3-18429, held by Richard Duane Brunst 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) Richard Duane Brunst 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) 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 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 separate days 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) Richard Duane Brunst 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 Richard Duane Brunst's progress towards recovery and what he 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 Richard Duane Brunst's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) Richard Duane Brunst may not serve as a responsible pharmacist.

(3) Richard Duane Brunst may not destroy, assist in, or witness the destruction of controlled substances.

(4) Richard Duane Brunst must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Richard Duane Brunst must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Richard Duane Brunst must abide by the rules of the State Board of Pharmacy.

(7) Richard Duane Brunst must comply with the terms of this Order.

(8) Richard Duane Brunst's license is deemed not in good standing until successful completion of the probationary period.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Richard Duane Brunst 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.

Ms. Huwer moved for Findings of Fact; Mr. Kolezynski seconded the motion. Motion passed (Aye-7/Nay-0).

Ms. Marchal moved for Decision of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-7/Nay-0).

12:00 p.m.

Ms. Marchal moved that the Board recess in order to consider a 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. Yarosh and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

12:04 p.m.

The recess ended and the hearing was opened to the public.

The Board recessed for lunch.

1:10 p.m.

The meeting reconvened in Room South B&C.

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 **Penny Anne Coons, R.Ph.**, Worthington, Ohio.

2:19 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. Ferris and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; Weaver – yes; and Yarosh – yes.

2:25 p.m. The recess ended and the hearing was opened to the public.

R-2015-183 After votes were taken in public session, the Board adopted the following order in the matter of **Penny Anne Coons, R.Ph.**, Worthington, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Docket Number D-120515-246)

In The Matter Of:

Penny Anne Coons, R.Ph.

866 Loch Lomond
Worthington, Ohio 43085
(R.Ph. Number 03-3-18462)

INTRODUCTION

The Matter of Penny Anne Coons came for hearing on December 3, 2014, before the following members of the Board: Michael A. Moné, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph.; Fred M. Weaver, R.Ph. and Kilee S. Yarosh, R.Ph.

Margaret A. Huwer, R.Ph., Recused.

Penny Anne Coons was represented by E. Scott Shaw. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Penny Anne Coons, R.Ph., Respondent
2. Nicole Disabato, R.Ph., PRO Sponser
3. Jarrod Grossman, R.Ph., Executive Director of PRO

State's Exhibits:

- | | | |
|--------------------|--|----------|
| 1. | Request for Reinstatement Letter | 10-30-14 |
| 1A-1B. Procedurals | | |
| 2. | Ohio State Board of Pharmacy Order in RE: Penny Anne Coons | 05-23-13 |
| 3. | Notarized Statement of Penny A. Coons, R.Ph. | 05-07-12 |
| 4. | Ohio State Board of Pharmacy Order in RE: Penny Anne Coons | 08-04-95 |

Respondent's Exhibits:

- | | | |
|-----|---|---------------------------|
| A1. | AA & NA Meeting Calendars | 08-15-12 through 12-31-12 |
| A2. | AA & NA Meeting Calendars | 01-01-13 through 12-31-13 |
| A3. | AA & NA Meeting Calendars | 01-01-14 through 11-26-14 |
| A4. | AA & NA Meeting Attendance Sheets | 08-21-12 through 01-03-13 |
| A5. | AA & NA Meeting Attendance Sheets | 01-08-13 through 01-17-14 |
| A6. | AA & NA Meeting Attendance Sheets | 01-17-14 through 10-29-14 |
| B. | Urine Screen Payments | 09-28-12 through 10-27-14 |
| B1. | Urine Screens | 09-28-12 through 12-05-12 |
| B2. | Urine Screens | 01-02-13 through 12-16-13 |
| B3. | Urine Screens | 01-02-14 through 10-27-14 |
| C1. | CPE Monitor Transcript | 04-07-13 through 11-06-14 |
| C2. | Continuing Education Certificates | 04-07-13 |
| C3. | Continuing Education Certificates | 09-29-14 through 11-06-14 |
| C4. | Continuing Education Certificates | 04-07-13 through 10-17-14 |
| D. | PRO Contract | 06-18-13 |
| D1. | Certificate of Completion University of Utah
School on Alcoholism & Other Drug Dependencies | 06-20-14 |
| D2. | Entry of Completion of Intervention in Lieu of Conviction
and Entry of Probation Termination | 01-27-14 |
| D3. | Recovery Activities | No Date |
| E1. | Urine Screen Results | 09-28-12 through 11-18-14 |
| E2. | Urine Test Payment | 11-18-14 |
| E3. | Email from Janet Harmer Concerning August 2013
Test Result | 11-26-14 |
| F1. | AA & NA Meeting Calendar | 11-01-14 through 11-30-14 |
| F2. | AA & NA Meeting Attendance Sheet | 11-01-14 through 11-25-14 |
| G. | Letters of Support | 11-07-14 through 11-27-14 |

FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Penny Anne Coons has substantially complied with the terms set forth in the Board Order of the State Board of Pharmacy, Docket No. D-120515-246 effective May 23, 2013.

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 Penny Anne Coons on May 15, 2012.

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 immediately the reinstatement of the pharmacist identification card, Number 03-3-18462, held by Penny Anne Coons 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) Penny Anne Coons 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) 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 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 separate days 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) Penny Anne Coons 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 Penny Anne Coons' progress towards recovery and what she 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 Penny Anne Coons' 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) Penny Anne Coons may not serve as a responsible pharmacist.

(3) Penny Anne Coons may not destroy, assist in, or witness the destruction of controlled substances.

(4) Penny Anne Coons must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Penny Anne Coons must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Penny Anne Coons must abide by the rules of the State Board of Pharmacy.

(7) Penny Anne Coons must comply with the terms of this Order.

(8) Penny Anne Coons' 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.

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

Mr. Weaver moved for Findings of Fact; Mr. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

Ms. Marchal moved for Decision of the Board; Ms. Ferris seconded the motion. Motion passed (Aye-6/Nay-0).

R-2015-184

Mr. Moné 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.2014-1176)

In The Matter Of:

Rebecca Noel Heckman, R.Ph.

21678 Township Rd 68

Forest, OH 45843

(R.Ph. No. 03-2-30561)

This Settlement Agreement is entered into by and between Rebecca Noel Heckman 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.

Rebecca Noel Heckman 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. Rebecca Noel Heckman acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Ohio 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, Rebecca Noel Heckman is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about August 22, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Rebecca Noel Heckman 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. Rebecca Noel Heckman requested a hearing; it was scheduled and continued. The August 22, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Rebecca Noel Heckman was originally licensed in the State of Ohio on July 16, 2010, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that during the relevant time period stated therein that Rebecca Noel Heckman was the Responsible Pharmacist at Wal-Mart Pharmacy 10-5355 pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code.

(2) Rebecca Noel Heckman did, on or about December 31, 2013, fail to use professional judgment and take appropriate steps to avoid or resolve a potential problem while conducting a prospective drug utilization review, to wit: when presented with a prescription for an increased dosage of carvedilol for Patient S, despite the fact that Patient S had been taking sotalol 120mg since March 29, 2011, and carvedilol since June 12, 2013, according to a written statement provided by the patient's family physician to an Ohio State Board of Pharmacy Specialist, Rebecca Noel Heckman did not call the prescriber of the carvedilol to inquire whether the carvedilol dosage had been increased in order to be able to discontinue the sotalol. Such conduct constitutes a violation of Rule 4729-5-20 of the Ohio Administrative Code.

Rebecca Noel Heckman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 22, 2014; 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, Rebecca Noel Heckman knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

After consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Rebecca Noel Heckman for her actions in this matter.

If, in the judgment of the Board, Rebecca Noel Heckman appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Rebecca Noel Heckman 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.

The Board recessed briefly

3:01 p.m. The meeting reconvened in Room South B&C.

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 **Kathy A. Bentley, R.Ph.**, Marion, Ohio.

4:18 p.m. The hearing ended and the record was closed.

Ms. Ferris 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 Vice President Yarosh as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski –yes; Marchal – yes; and Weaver – yes.

5:00 p.m. The recess ended and the hearing was opened to the public.

R-2015-185 After votes were taken in public session, the Board adopted the following order in the matter of **Kathy A. Bentley, R.Ph.**, Marion, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1848)

In The Matter Of:

Kathy A. Bentley, R.Ph.

842 Somerlot Hoffman Road West

Marion, Ohio 43302

(R.Ph. Number 03-3-10575)

INTRODUCTION

The Matter of Kathy A. Bentley came for hearing on December 3, 2014, before the following members of the Board: Kilee S. Yarosh, R.Ph.(presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph.; Fred M. Weaver, R.Ph.

Michael A. Moné, Absent.

Kathy A. Bentley was represented by James M. McGovern. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kathy A. Bentley, R.Ph., Respondent
2. Don Newton, Ohio State Board of Pharmacy Agent

Respondent's Witness:

1. Kathy A. Bentley, R.Ph., Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing 08-22-14
1A-1C. Procedurals
2. Correspondence from Danna E. Droz to Don Newton 12-17-12
3. Kroger EasyFill Customer Statement Report 12-01-11 through 12-06-12
in RE: Christine D. Bentley
4. Kroger EasyFill Report in RE: Christine Bentley 01-01-12 through 06-01-12
5. Application for OARRS Account 04-09-08
6. OARRS Acceptable Use Policy No Date

Respondent's Exhibits:

- A. Letter of Support from Raleigh Smith, R.Ph. 09-09-14
- B. Letter of Support from Patrick L. Carey 09-04-14
- C. Letter of Support from Collen Perry Keith, Ph.D. 09-11-14
- D. Letter of Support from Reverend Daniel A. Kiger 09-16-14
- E. Letter of Support from Kathleen M. Frayer No Date
- F. 2012 Kroger Performance Evaluation 02-02-12
- G. 2013 Kroger Performance Evaluation No Date

FINDINGS OF FACT

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

(1) Records of the State Board of Pharmacy indicate that Kathy A. Bentley was originally licensed in the State of Ohio on July 30, 1973, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Kathy A. Bentley did, on or about April 25, 2012, knowingly obtain information from the Ohio Automated Prescription Reporting System (OARRS) on a non-current patient, to wit: while she was working as a pharmacist at Kroger Pharmacy N-880 in Marion, Ohio, she accessed OARRS and obtained a report on her adult daughter without a legitimate prescription.

(3) There are no acceptable reasons to access OARRS other than those prescribed by law, no such legal reasons were present in this matter.

CONCLUSIONS OF LAW

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

(2) Further, as a result of the evidence and testimony presented, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Section 4729.80 of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

(A) Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby suspends the pharmacist license, No. 03-3-10575, held by Kathy A. Bentley for two years, effective on the date of the mailing of this Order. Further, the Board hereby stays the above-stated suspension and places on probation the identification card of Ms. Bentley for the two-year period subject to the following conditions:

- (1) The State Board of Pharmacy hereby declares that Kathy A. Bentley's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- (2) Kathy A. Bentley may not serve as a responsible pharmacist.
- (3) Kathy A. Bentley may not fill prescriptions for herself or her family.
- (4) Kathy A. Bentley must not violate the drug laws of Ohio, any other state, or the federal government.
- (5) Kathy A. Bentley must abide by the rules of the State Board of Pharmacy.
- (6) Kathy A. Bentley must comply with the terms of this Order.
- (7) Kathy A. Bentley's license is deemed not in good standing until successful completion of the probationary period.

(B) Kathy A. Bentley 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.

(C) Kathy A. Bentley must obtain, within thirty (30) days from the effective date of this Order, twelve hours (1.2 CEUs) of approved continuing pharmacy education in law and ethics, which may not also be used for license renewal.

(D) Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand two hundred and fifty dollars (\$1250.00) on Kathy A. Bentley and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Ms. Ferris moved for Findings of Fact; Ms. Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

Ms. Ferris moved for Conclusions of Law; Ms. Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

Ms. Ferris moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

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

PER DIEM	11/15	12/1	12/2	12/3	Total
Cain	0	1	1	1	3
Ferris	1	1	1	1	4
Huwer	1	1	1	1	4
Kolezynski	0	1	1	1	3
Marchal	0	1	1	1	3
Moné	0	1	1	1	3
Weaver	0	1	1	1	3
Yarosh	0	1	1	1	3

Mr. Weaver seconded the motion and it was approved by the Board: Aye – 6.


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



Michael A. Moné, R.Ph., President

Date: 1/7/2015



Steven W. Schierholt, Esq., Executive Director

Date: 1/8/15