

Minutes of the January 6-8, 2014
Meeting of the Ohio State Board of Pharmacy

Monday, January 6, 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:

Kevin J. Mitchell, R.Ph., *President*; Michael A. Moné, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph. and Kilee S. Yarosh, R.Ph.

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

Ms. Huwer left to attend the Nursing Board CPG meeting.

Mr. Griffin introduced Mr. Michael Poe, *Compliance Agent*, to the Board.

Mr. Griffin provided the Compliance Report.

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

Mr. McNamee presented the Legislative Report.

Mr. Parker provided the Licensing Update.

10:33 a.m. 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 Ms. Marchal and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes and Yarosh – yes.

11:17 a.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed briefly.

11:22 a.m. The meeting reconvened in Room South B&C.

- R-2014-111** Mr. Paul Mosko, R.Ph., Premier Health corporate office, Dayton, Ohio, presented a request to install a Script Center employee prescription dispensing machine at **Premier Health corporate office**, for a six month trial with monthly reports sent to the Board, after the site's Terminal Distributor of Dangerous Drugs (TDDD) license is approved, allowing for prescriptions to be loaded from the front of the unit with Hospital Security staff present. After discussion, Mr. Moné moved that the Board approve the request's procedure, the individual pharmacists presented, and that one of the three pharmacists presented shall be the Responsible Person on the site's TDDD license. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.
- 11:42 a.m.** The Board recessed briefly.
- 11:46 a.m.** The meeting reconvened in Room South B&C.
- The Board received a request for settlement from Douglas Graff, Esq., on behalf of Allied Pain Treatment Center, Inc. c/o Thomas A. Ranieri, M.D., Youngstown, Ohio.
- 12:03 p.m.** Mr. Moné 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 Mitchell as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; Yarosh – yes.
- 12:12 p.m.** The recess ended and the meeting was opened to the public.
- R-2014-112** Mr. Moné moved that the settlement offer in the matter of **Allied Pain Treatment Center, Inc. c/o Thomas Ranieri**, M.D., Youngstown, Ohio be accepted. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.
- R-2014-113** Mr. Moné moved that the six month pilot project for a ScriptCenter machine to be installed in the **Premier Health Dayton corporate office** be approved per the modification brought forward, including the need for a TDDD license with the Responsible Pharmacist on site. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.
- The Board recessed for lunch.
- 1:38 p.m.** The meeting reconvened in Room South B&C, and Ms. Huwer returned from the Nursing Board CPG meeting.
- R-2014-114** President Mitchell administered the oath for a new Board member to Melinda J. Ferris, R.Ph.

OATH OF NEW MEMBER

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

R-2014-115 President Mitchell administered the oath for a new Board member to Megan E. Marchal, R.Ph.

OATH OF NEW MEMBER

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

1:43 p.m. 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 **Medaus Pharmacy c/o Larry D. Stephens**, R.Ph. (02-1357250) Birmingham, Alabama.

Mr. Mitchell granted **H. Hube Dodd, Esq.** privileges to represent Medaus in this matter as Mr. Dodd is a licensed attorney in Alabama.

2:55 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; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

3:24 p.m. The recess ended and the hearing was opened to the public.

R-2014-116 After votes were taken in public session, the Board adopted the following order in the matter of **Medaus Pharmacy c/o Larry D. Stephens**, R.Ph. (02-1357250) Birmingham, Alabama.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1008)

In The Matter Of:

MEDAUS PHARMACY
c/o LARRY STEPHENS, R.Ph.
6801 Cahaba Valley Road, Suite 116
Birmingham, Alabama 35242
TDDD License No. 02-1357250

INTRODUCTION

The Matter of Medaus Pharmacy came for hearing on January 6, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent.

Medaus Pharmacy was represented by H. Hube Dodd. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Sheri Zapadka, R.Ph., Ohio State Board of Pharmacy

Respondent's Witness:

1. H. Hube Dodd, Esq.

State's Exhibits:

1. Copy of Notice of Opportunity for Hearing letter [07-01-13]
1A-1D. Procedurals
2. Ohio Terminal Distributor of Dangerous Drugs License [Signed 10/26/12]
Renewal Form
3. Correspondence from H. Hube Dodd [10-24-12]

Respondent's Exhibits:

- A. Ohio Terminal Distributor of Dangerous Drugs License [Signed 10/26/12]
Renewal Form
- B. Correspondence from Larry D. Stephens, R.Ph., C.O.O. [01/02/14]
Medaus Pharmacy

C. Log of Scripts

[01-01-13 thru 12-31-13]

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 Medaus 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, Larry D. Stephens, 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) On three separate occasions between August 2011 and April 2012, Medaus Pharmacy was disciplined twice by the Colorado State Board of Pharmacy and once by the Alabama Board of Pharmacy. Specifically, on or around August 15, 2011, Medaus Pharmacy entered into a Consent Order with the Alabama State Board of Pharmacy for wherein Medaus Pharmacy and Responsible Person, Steve Russell, agreed to pay an administrative fine of \$50,000. The parties further agreed to only engage in the export of drugs and medications under specific conditions, that all drugs compounded by Medaus Pharmacy shall contain only approved pharmaceutical ingredients, and that the call center operated in the State of Arizona shall not engage in the practice of pharmacy and must operate under other restrictions. In the Matter of: Medaus Pharmacy and Steve Russell, Before the Alabama State Board of Pharmacy. On or around January 24, 2011, Medaus Pharmacy entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy in which it agreed to a fine of \$5,000 with a 10% surcharge for PDMP violations. Before the State Board of Pharmacy, State of Colorado, Case No. 2011-2293. On or about April 2, 2012, Medaus Pharmacy entered into a Stipulation and Final Agency Order with the Colorado Board of Pharmacy in which it agreed to a fine of \$10,000 with a 10% surcharge for a second PDMP violation. Before the State Board of Pharmacy, State of Colorado, Case No. 2012-001831. Such conduct, if proven, constitutes discipline by a professional licensing board pursuant to Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

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 provisions of the Chapter as provided in Division (A)(3) of Section 4729.57 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 violating any provisions of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or

Chapter 3715. of the Revised Code as provided in Division (A)(4) of Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.57 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 dollars (\$1,000.00) on Medaus Pharmacy and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

Pursuant to Section 4729.56 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby places on probation for a period of two years the Terminal Distributor License, License No. 02-1357250, held by Medaus Pharmacy effective as of the date of the mailing of this Order. The terms of probation are as follows:

- (A) Medaus Pharmacy must submit to this Board a list of all drugs dispensed, sold or shipped into Ohio monthly beginning effective within 30 days from the date of this Order.
- (B) Medaus Pharmacy must not violate the drug laws of Ohio, any other state, or the federal government.
- (C) Medaus Pharmacy Inc. must abide by the rules of the State Board of Pharmacy.
- (D) Medaus Pharmacy must comply with the terms of this Order.
- (E) Medaus Pharmacy's license is deemed to be not in good standing until successful completion of the probationary period.
- (F) 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.

Medaus Pharmacy 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; Melinda Ferris seconded the motion. Motion passed (Aye-6/Nay-0).

Michael Moné moved for Conclusions of Law; Margaret Huwer seconded the motion. Motion passed (Aye-6/Nay-0).

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

3:27 p.m. 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 Ms. Yarosh and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

4:29 p.m. The Executive Session ended and the meeting was opened to the public.

R-2014-117 Mr. Moné moved that the settlement agreement for **Carepoint Pharmacy c/o Bhavesh R. Patel, Pharm.D.**, Schaumburg, Illinois, be accepted and TDDD license be granted. The motion was seconded by Mr. Cain and approved by the Board: Aye – 6.

R-2014-119 Mr. Moné moved that the Board accept the settlement and issue the license to **Florence Pharmacy**, Florence, Alabama. The motion was seconded by Mr. Cain and approved by the Board: Aye 6.

4:31 p.m. Mr. Moné 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; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

4:57 p.m. The Executive Session ended and the meeting was opened to the public.

The Board recessed for the day.

Tuesday, January 7, 2014

9:08 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:

Kevin J. Mitchell, R.Ph., *President*; Michael A. Moné, R.Ph., *Vice-President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph. and Kilee S. Yarosh, R.Ph.

Mr. Mitchell announced that today is Tuesday, January 07, 2014. This is a public meeting of the Ohio State Board of Pharmacy. Due to an unforeseen weather emergency and emergency closure of the Verne Riffe building, it is unclear whether the public will

be able to attend this public meeting. If anyone is denied access to this public meeting, the Pharmacy Board will provide a transcript or recording of the proceeding at no cost. A copy of this statement will be posted on the Board's website to advise all members of the public of their rights.

- R-2014-120** Ms. Yarosh moved that the Board Minutes of December 11, 2013, be approved as written. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 6.
- R-2014-121** Ms. Marchal moved that the Board Minutes of December 2-4, 2013, be approved as amended. Ms. Yarosh seconded the motion and it was approved by the Board: Aye – 6.
- R-2014-122** 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 2012-1002)

In The Matter Of:

Paul H. Zipp, R.Ph.
612 Sartell Dr.
Fairborn, OH 45324
(R.Ph. No. 03-3-11647)

This Settlement Agreement is entered into by and between Paul H. Zipp 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.

Paul H. Zipp 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. Paul H. Zipp 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, 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, Paul H. Zipp is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about July 10, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Paul H. Zipp 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. Paul

H. Zipp requested a hearing; it was scheduled and continued. The July 10, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Paul H. Zipp was originally licensed in the State of Ohio on August 4, 1976, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Paul H. Zipp did, on or around May 11, 2011, intentionally create and/or knowingly possess a false or forged prescription, to wit: Paul H. Zipp created a forged prescription for RX #6095636 for 90 butalbital/APAP/caffeine 50/325/40mg tablets, a dangerous drug, at Kroger Pharmacy #14830.

(3) Paul H. Zipp did, on or around May 29, 2011, intentionally create and/or knowingly possess a false or forged prescription, to wit: Paul H. Zipp created a forged prescription for RX #6612599 for 90 butalbital/APAP/caffeine 50/325/40mg tablets with 1 refill, a dangerous drug, at Kroger Pharmacy #14830.

(4) Paul H. Zipp did, on or around July 21, 2011, intentionally create and/or knowingly possess a false or forged prescription, to wit: Paul H. Zipp created a forged prescription for RX #6618221 for 90 butalbital/APAP/caffeine 50/325/40mg tablets with 1 refill, a dangerous drug, at Kroger Pharmacy #14830.

(5) Paul H. Zipp did, on or around August 23, 2011, intentionally create and/or knowingly possess a false or forged prescription, to wit: Paul H. Zipp created a forged prescription for RX #6612598 for 90 butalbital/APAP/caffeine 50/325/40mg tablets with 1 refill, a dangerous drug, at Kroger Pharmacy #14830.

(6) Paul H. Zipp did, on or around December 3, 2011, intentionally create and/or knowingly possess a false or forged prescription, to wit: Paul H. Zipp created a forged prescription for RX #6132507 for 90 butalbital/APAP/caffeine 50/325/40mg tablets, a dangerous drug, at Kroger Pharmacy #14830.

Paul H. Zipp neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 19, 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, Paul H. Zipp knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Paul H. Zipp agrees to the imposition of a monetary penalty of one thousand, five hundred dollars (\$1,500.00) 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, Paul H. Zipp must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in jurisprudence, which may not also be used for license renewal.

(C) Paul H. Zipp's pharmacist identification card, No. 03-3-11647, is considered in good standing but will be placed on probation, effective from the date of this Agreement, for five years, or until such time as he can demonstrate successful termination from the Montgomery County diversion program for Case No. 12-CR-1409, whichever time period is longer. The terms of probation are as follows:

(1) Paul H. Zipp's practice of pharmacy is limited in that he may not dispense prescriptions for himself or for any member of his family during his period of probation.

If, in the judgment of the Board, Paul H. Zipp 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.

Paul H. Zipp 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.

Paul H. Zipp 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. Paul H. Zipp waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

9:23 a.m.

Mr. Parker gave a brief update about the building's closure.

The Board received an email from Mr. Jarrod Grossman, *P.R.O.*, which was presented by Ms. Nave. Ms. Nave also provided an overview of the day's Agenda.

Ms. Huwer presented the 12/10/2013 Medical Board PAPC report. The committee meeting for 1/7/2014 was canceled.

Ms. Huwer provided the CPG meeting update. The next committee meeting is scheduled for 5/19/2014.

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 **CVS Pharmacy #6946 c/o Amin S. Mansaray**, R.Ph. (02-2010600) Whitehall, Ohio.

10:20 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 **CVS Pharmacy #6946 c/o Amin S. Mansaray**, R.Ph. (02-2010600) Whitehall, 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; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

11:17 a.m. The recess ended and the hearing was opened to the public.

R-2014-123 After votes were taken in public session, the Board adopted the following order in the matter of **CVS Pharmacy #6946 c/o Amin S. Mansaray**, R.Ph. (02-2010600) Whitehall, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1860)

In The Matter Of:

CVS PHARMACY #6946

4548 E. Main Street

Whitehall, Ohio 43213

License Number 02-2010600

INTRODUCTION

The Matter of CVS Pharmacy #6946 came for consideration on January 6, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent.

CVS Pharmacy #6946 was not present nor were they 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. | Copy of Notice of Opportunity for Hearing letter | 07-10-13 |
| 1A. | Procedural | |
| 2. | Copy of Notice of Opportunity for Hearing letter | 08-21-13 |
| 3. | Copy of prescription for Jacquelyn Dennis | 10-16-12 |
| 4. | Copy of Prescription for Francisco DeJesus | 11-13-12 |
| 5. | Prescription Pick-Up Log
Not Dated | |
| 6. | CVS Pharmacy #06946 POS Discrepancies | 01-11-13 |
| 7. | CVS Pharmacy #06946 Prescription Register | 11-13-12 |
| 8. | Dangerous Drug Distributor Inspection Report | 01-08-13 |
| 9. | Pink Sheet Response | [Received 01-16-13] |
| 10. | Pink Sheet Response | [Received 02-04-13] |

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 CVS Pharmacy #6946 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, Michael Worth Stewart, 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) CVS Pharmacy #6946 did, on or about November 13, 2012, cease to satisfy the qualifications of a terminal distributor, to wit: adequate safeguards were not in place to assure that CVS Pharmacy #6946 would carry on the business of a terminal distributor of dangerous drugs in a manner that allowed pharmacists and pharmacy interns to practice pharmacy in a safe and effective manner. Specifically, after prescription number 602702 was prepared for a patient, it was dispensed to the incorrect patient. Pharmacy procedures allowed this situation to occur; such situations being hazardous to patients' health.

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 rules of the Board as provided in Division (A)(2) of Section 4729.57 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 violating Chapter 4729. of the Revised Code as provided in Division (A)(3) of Section 4729.57 of the Ohio Revised 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 violating a rule of the Board as provided in Division (A)(7) of Section 4729.57 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of CVS Pharmacy #6946 as follows:

- (A) On the basis of the Findings of Fact and paragraphs (1) and (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes a monetary penalty of one thousand dollars (\$1,000.00) on CVS/pharmacy #6946 and payment of the monetary penalty 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.
- (B) CVS Pharmacy #6946 must make restitution to the patient's family within six (6) months from the date of this Order.
- (C) CVS Pharmacy #6946 must provide proof to the Board that all employees, including technicians, have been trained on point of sale quality assurance within six (6) months from the date of this Order.
- (D) CVS Pharmacy #6946 must provide proof that all pharmacists, assigned to that location, have completed six (6) hours of continuing pharmacy education (0.6 CEUs) in Quality Improvement, which may not also be used for license renewal, within six (6) months from the effective date of this Order.

Michael Moné moved for Findings of Fact; Margaret Huwer seconded the motion. Motion passed (Aye-6/Nay-0).

Michael Moné moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Michael Moné moved for Action of the Board; Edward Cain seconded the motion. Motion passed (Aye-5/Nay-1).

11:24 a.m. 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 **Jennifer Lynn Meyers** (06-0-08848) Sylvania, Ohio.

12:20 p.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 **Jennifer Lynn Meyers** (06-0-08848) Sylvania, 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; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

12:28 p.m. The recess ended and the hearing was opened to the public.

R-2014-124 After votes were taken in public session, the Board adopted the following order in the matter of **Jennifer Lynn Meyers** (06-0-08848) Sylvania, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1554)

In The Matter Of:

JENNIFER LYNN MEYERS

4640 Tradition Way

Sylvania, Ohio 43560

(Intern Number 06-0-08848)

INTRODUCTION

The Matter of Jennifer Lynn Meyers came for hearing on January 7, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent.

Jennifer Lynn Meyers was not represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Jennifer Lynn Meyers, Respondent

Respondent's Witnesses:

None

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing letter [11-08-13]
1A-1C. Procedurals
2. Application for Examination As A Pharmacist [06-03-13]
3. Intern Renewal Application with Attachments [09-20-11]
4. Correspondence from Jennifer Meyers with Attachments [05-03-13]
5. Correspondence from Jennifer L. Meyers with Attachments [08-14-13]

Respondent's Exhibits:

None

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Jennifer Lynn Meyers submitted an application for examination as a pharmacist on or about May 20, 2013.
- (2) Records further indicate that Jennifer Lynn Meyers was originally licensed to practice pharmacy as an intern in the state of Ohio on January 29, 2010, and is currently licensed.
- (3) Jennifer Lynn Meyers was, on or about May 27, 2011, while registered as a Pharmacy Intern, arrested for Operating a Vehicle Impaired (O.V.I.). This charge was later amended to Reckless Operation 2nd Offense. Sylvania Municipal Court Case Nos. TRC-1102945-A and TRC-1102945-B. On January 24, 2013, while registered as a Pharmacy Intern, Jennifer Lynn Meyers was arrested for, and subsequently plead guilty to, Operating a Vehicle Impaired (O.V.I.). Sylvania Municipal Court Case Nos. TRC-1300446-A and TRC-1300446-B. Such conduct is in violation of Section 4729-5-04 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Examination as a Pharmacist submitted by Jennifer Lynn Meyers.

Michael Moné moved for Findings of Fact; Kilee Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

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

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*:

Caroline Marie Allen	Indiana
Chintan Brahmhatt	Wisconsin
Diana Stephanie Buch	New Jersey
Robert Chad Burkett	Pennsylvania
Annalee E. Burton	Kentucky
Lauren Butterbaugh	Indiana
Lindsay Shay Crowley	West Virginia
Christopher Michael Ditomaso	Florida
Diane Nicole Drollinger	Virginia
Brady Joel Ellis	Pennsylvania
Joseph P. Flowers	West Virginia
James Thomas Harmon	Illinois
Lindsey L. Kraeer	West Virginia
Kathy Ann Kunselman	Pennsylvania
Anita Gertrude Lorenzo	Texas
Angela Dionne Mcclung	Florida
Stephen Thomas Meyer	Arizona
Shahmina Rahman	New York
Annette M. Sanford	Pennsylvania
Ian Shull	Pennsylvania
Bruce Strike	Iowa
Charles Taylor	Alabama
Christopher Andrew Weeks	Michigan
Kevin Alan Zak	Kansas

1:58 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 **Biofusion, LLC, c/o Sherri Cherman**, R.Ph., Torrance, California.

2:25 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 Mitchell as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

2:55 p.m. The recess ended and the hearing was opened to the public.

R-2014-125 After votes were taken in public session, the Board adopted the following order in the matter of **Biofusion, LLC, c/o Sherri Cherman**, R.Ph., Torrance, California.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1421)

In The Matter Of:

BIOFUSION, LLC
c/o SHERRI CHERMAN, R.Ph.

1910 Van Ness Ave.
Torrance, CA 9501

INTRODUCTION

The Matter of Biofusion, LLC came for hearing on January 7, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent.

Biofusion, LLC was not present and Biofusion, LLC. is represented by Stacie K. Neroni, who also was not present. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Sheri Zapadka, R.Ph., Ohio State Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for hearing letter[10-15-13]
1A-1C. Procedurals
2. Correspondence from Staci K. Neroni; Application for Out of State[04-19-13]
Terminal Distributor of Dangerous Drugs License

Respondent's Exhibits:

- A. Contentions [11-14-13]

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 April 2, 2013, Sherri Cherman was the President of Biofusion, 19110 Van Ness Ave., Torrance, California and that on said date, Biofusion submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or around October 10, 2011, Modern Healthcare, Inc. D.B.A AD-Rx Pharmacy entered into a Stipulated Settlement and Disciplinary Order with the California State Board of Pharmacy concerning the loss of approximately 470,000 tablets of hydrocodone/APAP 10/325 mg tablets due to employee pilferage. In the Matter of the Accusation Against: Modern Healthcare, Inc., d.b.a., AD-Rx Pharmacy and Robert Antoine Charles, Case No. 3539. Modern Healthcare, Inc. is listed as an owner of Biofusion, the applicant. Such conduct, if proven, constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

(3) The applicant has failed to furnish satisfactory proof to the Board that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs as required by Ohio Revised Code Section 4729.55(C). To wit: another pharmacy owned by the same company did, on or before May 17, 2012, experience

Mr. Mitchell and Mr. Parker led a discussion on the auto-filling of prescriptions.

3:40 p.m. 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 **Advantage Pharmacy, LLC, c/o Glenn Doyle Beach, Jr.**, Hattiesburg, Mississippi.

4:43 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. Marchal and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes; Moné – yes; Yarosh – yes.

5:04 p.m. The recess ended and the hearing was opened to the public.

R-2014-126 After votes were taken in public session, the Board adopted the following order in the matter of **Advantage Pharmacy, LLC, c/o Glenn Doyle Beach, Jr.**, Hattiesburg, Mississippi.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1045)

In The Matter Of:

ADVANTAGE PHARMACY
C/O Glenn Doyle Beach, Jr.
6375 US Hwy 98, Suite 50
Hattiesburg, Mississippi 39402

INTRODUCTION

The Matter of Advantage Pharmacy came for hearing on January 7, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent
Michael A. Moné, R.Ph., Absent

Advantage Pharmacy was represented by Jason P. Grable. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Glenn Doyle Beach, Jr., Advantage Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter[10-16-13] 1A-1D. Procedurals
2. Copy of Terminal Distributor of Dangerous Drugs Application for [10-03-12] Advantage Pharmacy, LLC.
3. Correspondence from Doyle Beach TO WHOM IT MAY CONCERN [01-09-13]

Respondent's Exhibits:

- A. Advantage Pharmacy letter to Ohio State Board of Pharmacy addressing Allegations contained with October 16, 2013 Notice of Opportunity letter [not dated]
- B. Advantage Pharmacy steps to increase security after employee theft.[not dated]
- C. Minutes of the Mississippi Board of Pharmacy meeting of January [05-23-13] 26, 2012.
- D. Letter from Mississippi Board of Pharmacy regarding probationary [01-06-14] period.

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 October 3, 2012, Doyle Beach submitted an application on behalf of Advantage Pharmacy, LLC, 6375 US Hwy 98, Suite 50, Hattiesburg, Mississippi as a Terminal Distributor of Dangerous Drugs.

(2) On or around May 17, 2012, the Pharmacy Permit issued to Advantage Medical Pharmacy by the Mississippi Board of Pharmacy was placed on probation for two (2) years and the Pharmacy was required to pay \$6,838.35 in associated fees and fines. In the Matter of : Todd Nace, Doyle Beach, Advantage Medical Pharmacy, before the Mississippi Board of Pharmacy. The above-mentioned disciplinary action concerned the loss of 163,300 unit doses of hydrocodone/APAP 10/500 mg tablets, 5,983 unit doses of hydrocodone/APAP 10/650 mg tablets, and 21,622 alprazolam 2 mg tablets. The loss of

10:20 a.m. 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 **Sarah Christine Vandevender** (06-0-08712) Westlake, Ohio.

11:04 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 Mitchell as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes; Yarosh – yes.

11:27 a.m. The recess ended and the hearing was opened to the public.

R-2014-127 After votes were taken in public session, the Board adopted the following order in the matter of **Sarah Christine Vandevender** (06-0-08712) Westlake, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number 2013-1490)

In The Matter Of:

SARAH CHRISTINE VANDEVENDER
1025 Valley Bluff Drive Apt. 11
Perrysburg, Ohio 43551
(Intern Number 06-0-08712)

INTRODUCTION

The Matter of Sara Christine Vandevender came for hearing on January 8, 2014, before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph. and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent.
Michael A. Moné, R.Ph., Absent.

Sarah Christine Vandevende was represented by Douglas E. Graff. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Sarah Vandevender, Respondent

Respondent's Witnesses:

1. Sarah Vandevender, Respondent
2. Jennifer Zenz, PharmD, RPh

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter [10-21-13]
1A-1C. Procedurals
2. Application for Examination as a Pharmacist submitted by Sarah Christine Vandevender [05-12-13]
3. Renewal ID 1581455 [08-19-11]
4. Renewal ID 1792979 [08-11-12]

Respondent's Exhibits:

- A. Withdrawn
- B. Withdrawn
- C. Resume of Sarah Christine Vandevender [not dated]
- D. OVI Citation – City of Findlay [01-21-11]
- E. Driver Intervention Program Completion [02-09-11]
- F. Application for Examination as a Pharmacist [05-12-13]
- G. Ms. Vandevender's May 12, 2013 Letter To The Ohio State Board of Pharmacy [05-12-13]
- H. Letters of Support [12-11-13 and 12-19-13]
- I. Diploma and Transcript [05-14-13]

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 Sarah Christine Vandevender submitted an application for examination as a pharmacist on or about May 12, 2013.
- (2) Records further indicate that Sarah Christine Vandevender was originally licensed to practice pharmacy as an intern in the state of Ohio on October 1, 2009, and is currently licensed.
- (3) Sarah Christine Vandevender did, on or about August 19, 2011 and again on or about August 11, 2012, knowingly make a false statement with purpose to secure the

issuance of a license or registration, to wit: Sarah Christine Vandevender indicated on her Online Renewal Application of her Intern License two years in a row that within the last 18 months, she was not arrested, no charges were pending nor was Sarah Christine Vandevender convicted of a felony or a misdemeanor other than a minor traffic violation (even if expunged or sealed) when in fact Sarah Christine Vandevender had been charged on or about January 21, 2011, with Operating a Vehicle while Intoxicated (OVI). Sarah Christine Vandevender was ultimately convicted of Reckless Operation. State of Ohio v. Sarah C. Vandevender, Findlay Municipal Court Case no. 11 TR C 00400 B. Sarah Christine Vandevender ultimately disclosed this conviction and charge in conjunction with her Application for Examination as a Pharmacist submitted on or around April 29, 2013. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.11 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Examination as a Pharmacist submitted by Sarah Christine Vandevender.

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

Melinda Ferris moved for Action of the Board; Megan Marchal seconded the motion. Motion passed (Aye-5/Nay-0).

11:40 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 **Francis J. Collura**, R.Ph. (03-3-10628) Oswego, Illinois.

12:20 p.m. The hearing ended and the record was closed.

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

12:53 p.m. The recess ended and the hearing was opened to the public.

R-2014-128 After votes were taken in public session, the Board adopted the following order in the matter of **Francis J. Collura**, R.Ph. (03-3-10628) Oswego, Illinois.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2012-1923)

In The Matter Of:

FRANCIS J. COLLURA, R.Ph.

575 Sudbury Circle

Oswego, Illinois 60543

(R.Ph. Number 03-3-10628)

INTRODUCTION

The Matter of Francis J. Collura came for consideration on January 8, 2014 before the following members of the Board: Kevin J. Mitchell, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph. and Kilee S. Yarosh, R.Ph.

Richard F. Kolezynski, R.Ph., Absent

Michael A. Moné, R.Ph., Absent

Francis J. Collura 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 Witness:

None

State's Exhibits:

1. Copy of Proposal to Deny/Notice of Opportunity for Hearing letter[07-10-13]
 - 1A. Procedural
2. Correspondence from Mark L. Rotert, Esq., To Whom It May Concern[09-11-12]
3. Correspondence from Francis J. Collura, R.Ph., MS, Respondent [01-26-13]
4. Correspondence from Francis J. Collura; Correspondence from [08-08-13]
Mark L. Rotert, Esq.
5. State of Illinois Department of Financial and Professional Regulation[06-25-09]
Amended Complaint with attachments
6. State of Illinois Department of Financial and Professional Regulation[02-02-12]
7. Illinois Department of Financial and Professional Regulation [01-23-12]
Documents related to Case No. 2008-00689

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 Francis J. Collura was originally licensed in the state of Ohio on July 30, 1973, pursuant to examination, and his license to practice pharmacy in the state of Ohio lapsed on September 15, 2012; however, Francis J. Collura applied for renewal on or about September 24, 2012.

(2) From on or about October 9, 2007, until on or about October 6, 2008, Francis J. Collura served as the pharmacist-in-charge of Essington Pharmacy. During that time, Essington pharmacy sold and dispensed drugs to customers through the mail pursuant to orders made using the internet. Such drugs were prescribed by physicians who had not established a valid physician-patient relationship with Essington Pharmacy customers. On February 2, 2012, Francis J. Collura entered into a Consent Order with the Illinois Department of Financial and Professional Regulation wherein Francis J. Collura's pharmacy license was placed on probation for a period of three (3) years as a result of the illegal dispensing of drugs at Essington Pharmacy. Such discipline 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(C)(E) of the Ohio Administrative Code; further, such conduct 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) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes of not being of good moral character and habits as provided in Division (C) of Section 4729-5-04 of the Ohio Administrative Code.

(2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being disciplined by any professional licensing board as provided in Division (F) of Section 4729-5-04 of the Ohio Administrative Code.

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

DECISION OF THE BOARD

On the basis of the Findings of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Francis J. Collura as follows:

(A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby denies the renewal of and suspends indefinitely the pharmacist identification card, No. 03-3-10628, held by Francis J. Collura and such suspension is effective as of the date of the mailing of this Order.

(B) Francis J. Collura may not reapply to this Board for renewal of his license to practice pharmacy in Ohio until such time as his license to practice as a pharmacist in the state of Illinois is in good standing and his probation in Illinois is complete.

(C) Francis J. Collura must reappear before this Board and prove compliance with this Board Order.

(D) Francis J. Collura must show 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;

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

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

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

12:57 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 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. Ferris and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes and Yarosh – yes.

2:57 p.m. The Executive Session ended and the meeting was opened to the public.

R-2014-129 Ms. Yarosh moved that the Board receive Per Diem as follows:

PER DIEM	12/10	12/17	12/30	1/6	1/7	1/8	Total
Cain	0	0	0	1	1	1	3
Ferris	0	0	1	1	1	1	4
Huwer	1	1	0	1	1	1	5
Kolezynski	0	0	0	0	0	0	0
Mitchell	0	0	0	1	1	1	3
Marchal	0	0	1	1	1	1	4
Moné	0	0	0	1	1	0	2
Yarosh	0	1	0	1	1	1	4

Ms. Huwer seconded the motion and it was approved by the Board: Aye – 5.

R-2014-130 Ms. Ferris moved that the meeting be adjourned. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.



Kevin J. Mitchell, R.Ph., President

Date: 5 Mar 14



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

Date: 3-5-14