

Minutes of the May 6, 2014
Meeting of the Ohio State Board of Pharmacy

Tuesday, May 6, 2014**9:03 a.m.**

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

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*; Mark Keeley, *Assistant Executive Director*; Tracy Nave, *Director of Legal Affairs*; Chad Garner, *Director of OARRS*; Eric Griffin, *Compliance Supervisor*; Jennifer Utterdyke, *Director of Internship and Licensing*; Cameron McNamee, *Legislative Affairs Liaison* and Charissa Payer, *Assistant Attorney General*.

Ms. Ferris stated there was no Nursing Board CPG report, and the next committee meeting is scheduled to occur in May 2014.

Ms. Huwer stated there was no Medical Board PAPC meeting in March or April.

Mr. McNamee presented the Legislative Report.

R-2014-194

After discussion Mr. Moné moved that the adoption of the Rules packet be approved for CSI. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.

R-2014-195

After discussion Mr. Moné moved that emergency rule 4729-5-38 be filed as presented. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.

Ms. Utterdyke presented the Licensing update.

Michael Clark, *Software Developer*, provided a demonstration of a new licensing department process.

Ms. Utterdyke recognized Board employees Debbie Gatto, *Intern Coordinator*, Susan King, *Pharmacist and C.E. Coordinator*, and Emily Maggard, *Certification and Licensing Examiner*, for completing the Pharmacist Continuing Education Audit.

Mr. Griffin provided the Compliance and Enforcement update.

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

- R-2014-196** The Board received a request to withdraw the Pain Management Clinic application of **Unity Health Network, LLC**, Stow, Ohio. Ms. Yarosh moved that the request to withdraw the application be accepted. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.
- R-2014-197** The Board received a request to withdraw the Pain Management Clinic application of **Unity Health Network, LLC**, Akron, Ohio. Ms. Yarosh moved that the request to withdraw the application be accepted. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.
- R-2014-198** The Board received a request to withdraw the Pain Management Clinic application of **Marion Pain Clinic, Inc.**, Marion, Ohio. Ms. Ferris moved that the request to withdraw the application be accepted. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 6.
- R-2014-199** The Board received an application for the Continuing Education Provider Status of **Alissa Lee**, R.Ph. (03-2-25013) Cleves, Ohio. Mr. Moné moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.
- R-2014-200** The Board received an application for the Continuing Education Provider Status of **Cathy Rosenbaum**, R.Ph. (03-3-11798) Loveland, 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 – 6.
- 10:05 a.m.** Ms. Huwer 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; and Yarosh – yes.
- 10:12 a.m.** The executive session ended and the meeting was opened to the public.

The Board recessed briefly.
- 10:23 a.m.** The meeting reconvened in room East B.

Kevin Fearon, R.Ph., *Absolute Pharmacy, Inc.*, gave a presentation to the Board regarding Remote Dispensing and the use of Pharmacy Technicians to replenish controlled substances in dispensing machines.
- 11:05 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:

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 attending were Legislative Affairs Liaison, Cameron McNamee; Executive Director, Kyle Parker; and Assistant Attorney General, Charissa Payer.

11:17 a.m. The public rules hearing ended.

The meeting reconvened in Room East B.

The presentation by *Absolute Pharmacy* completed, and Mr. Parker will notify Mr. Fearon of the Board's decision regarding the requested use of Pharmacy Technicians to replenish controlled substances in the dispensing machine.

Neal S. Watson, *NABP*, gave a presentation to the Board regarding an overview of VPP and CPE Monitor.

11:53 a.m. The Board discussed the presentation and request from Absolute Pharmacy.

12:20 p.m. The Board recessed for lunch, and Ms. Huwer left to attend the Medical Board PAPC meeting.

1:15 p.m. The meeting reconvened in Room East B.

R-2014-201 Mr. Moné moved that the Board Conference Call Minutes of March 20, 2014, be approved as written. Ms. Ferris seconded the motion and it was approved by the Board: Aye – 5.

R-2014-202 Mr. Cain moved that the Board Minutes of April 7-9, 2014, be approved as amended. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 5.

R-2014-203 Mr. Moné moved that the Board Conference Call Minutes of April 22, 2014, be approved as amended. Ms. Ferris seconded the motion and it was approved by the Board: Aye – 5.

R-2014-204 Ms. Yarosh moved that the Board Conference Call Minutes of April 30, 2014, be approved as written. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 5.

R-2014-205 Mr. Mitchell announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2012-1383)

In the Matter of:

SYNERGISTIC HEALTH CENTERS

c/o JOHN P. MOORE, III, M.D.

1940 Lakeman Drive

Bellbrook, Ohio 45305

This Settlement Agreement is entered into by and between Synergistic Health Centers c/o John P. Moore, III, 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.

Synergistic Health Centers enter into this Agreement being fully informed of their 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. Synergistic Health Centers acknowledges that by entering into this Agreement they have waived their rights under Chapter 119. of the Revised Code.

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

WHEREAS, on or about June 17, 2011, pursuant to Chapter 119. of the Ohio Revised Code, Synergistic Health Centers c/o John P. Moore, III, M.D., was notified of the allegations or charges against them, their right to a hearing, their rights in such hearing, and their right to submit contentions in writing. A hearing was scheduled for December 3, 2013. The Proposal to Deny/Notice of Opportunity for Hearing letter contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about June 17, 2011, John P. Moore, III, M.D. was the owner of Synergistic Health Centers, and that on that date, Dr. Moore submit-*ted* an Application for Registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification.

(2) Synergistic Health Centers has failed to furnish satisfactory proof to the Board that they comply with the requirements for the operation of a pain management clinic established by Section 4729.552 of the Revised Code. Specifically, Section 4729.552(B)(4)(a) of the Revised Code bars any person who has previously been

convicted of or plead guilty to a theft offense as described in Section 2913.01(K)(3) from employment at any licensed pain clinic. On September 25, 2000, John P. Moore, III, M.D., the owner and responsible person for Synergistic Health Centers, plead guilty in U.S. District Court to one count of Aiding & Abetting False Claims Relating to Health Care Matters, U.S.A. v. John P. Moore, III, Case N. CR 3-00-080, U.S. District Court, Southern District, Western Division. Dr. Moore was subsequently convicted on October 7, 2002, and was sentenced to 100 hours of community service and three years' probation. He was also fined \$5,000.00, and ordered to pay restitution in the amount of \$67,900.00. Such criminal history is contrary to Section 4729.552(B)(4)(a) of the Ohio Revised Code and constitutes a failure to meet the minimum requirements for licensure as a category III Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification. Further, such conduct is within the purview of Rule 4729-9-19 of the Ohio Administrative Code to the extent that you have been convicted of a felony and may not be of good moral character and habits.

Synergistic Health Centers c/o John P. Moore, Inc., M.D., neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 15, 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, Synergistic Health Centers c/o John P. Moore, Inc., M.D., knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) John P. Moore, M.D.'s request to withdraw the application submitted on or about June 17, 2011 for Registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification is hereby approved.
- (B) John P. Moore, 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.

Synergistic Health Centers c/o John P. Moore, III, M.D., 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.

Synergistic Health Centers c/o John P. Moore, III, 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. Synergistic Health Centers c/o John P. Moore, III, M.D., waives any rights of appeal pursuant to Chapter 119. of the Ohio Re-vised Code.

R-2014-206 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
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING
PERMANENT SURRENDER
(Case No. 2014-1069)

In The Matter Of:

ANDREA LYNN HOLSTEIN, R.Ph.
5771E Heathstead Drive
Dublin, Ohio 43016
(R.Ph. Number 03-3-25659)

This Settlement Agreement is entered into by and between Andrea Lynn Holstein 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.

Andrea Lynn Holstein 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 and the right to a formal adjudication hearing on the issues contained herein, and the right to appeal.

Andrea Lynn Holstein knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against her and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Andrea Lynn Holstein's license to practice pharmacy 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 4729.16 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) Andrea Lynn Holstein neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated January 17, 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, Andrea Lynn Holstein knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(1) Records of the Board of Pharmacy indicate that Andrea Lynn Holstein was originally licensed in the State of Ohio on May 13, 2003, pursuant to reciprocity, and her license to practice pharmacy in the State of Ohio was summarily suspended effective January 17, 2014. During the relevant time period stated herein Andrea Lynn Holstein was the Responsible Pharmacist at Phillip's Pharmacy pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Section 4729-5-11 of the Ohio Administrative Code. Records further reflect that Andrea Lynn Holstein was previously disciplined by this Board on November 9, 2005.

(2) Andrea Lynn Holstein is addicted to or abusing drugs and/or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy, to wit: Andrea Lynn Holstein has admitted to a Board agent that she is addicted to controlled substances and has been stealing same from the pharmacy where she worked. Andrea Lynn Holstein has admitted to abusing hydrocodone/APAP 10/325 mg. while conducting the practice of pharmacy between December 1, 2013 and January 16, 2014. Andrea Lynn Holstein was further observed stealing hydrocodone products, ingesting them in the pharmacy and later appeared impaired while working. Andrea Lynn Holstein acknowledges that she has an opiate addiction, for which she has been previously disciplined by the Board, and that Andrea Lynn Holstein began stealing and consuming hydrocodone products again in December, 2013. Such conduct indicates that Andrea Lynn Holstein is within the ambit of Sections 3719.121 and/or 4729.16(A)(3) of the Ohio Revised Code.

(3) Andrea Lynn Holstein did, between December 1, 2013 and January 16, 2014, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Phillips Pharmacy, beyond the scope of consent of the owner, to wit: Andrea Lynn Holstein admittedly stole approximately 20-25 hydrocodone 10/325 mg. tablets, a schedule III controlled substance. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall be suspended by the board that authorized the person's license, certificate, or registration..."

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Andrea Lynn Holstein knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HER LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, AND IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

Pursuant to Rule 4729-9-01, Andrea Lynn Holstein may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

Andrea Lynn Holstein 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.

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

Andrea Lynn Holstein must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

R-2014-207

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2013-1236)

In The Matter Of:

CAREPOINT PHARMACY
c/o BHAVESH R. PATEL
911 N. Plum Grove Road, Suite B
Schamburg, Illinois 60173

This Settlement Agreement is entered into by and between Carepoint 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.

Carepoint voluntarily 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, and the right to appeal. Carepoint acknowledges that by entering into this Agreement Carepoint Pharmacy has waived its rights under Chapter 119. of the Ohio Revised Code.

Whereas, the Board is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification

card 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, Carepoint Pharmacy is an unlicensed applicant applying for licensure to be a Terminal Distributor of Dangerous Drugs in the State of Ohio.

Whereas, on or about October 15, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Carepoint 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. Carepoint requested a hearing; it was scheduled and continued. The October 15, 2013, Proposal to Deny/Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about November 2, 2012, Bhavesh R. Patel was the President and CEO of Carepoint Pharmacy, 911 N. Plum Grove Road, Suite B, Schaumburg, Illinois and that on said date, Carepoint Pharmacy submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or around September 27, 2012, President and CEO of Carepoint Pharmacy, Bhavesh Patel, R.Ph., was reprimanded by the Illinois State Board of Pharmacy for numerous violations while employed as Pharmacist-in-charge at Orsini Pharmaceutical Services. Department of Financial and Professional Regulation v. Bhavesh R. Patel, Division of Professional Regulation No. 2010-07314. Such violations included, but were not limited to, dispensing expired intravenous products, failure to separate controlled substance invoices, failure to label stock bottles with lot number and expiration date, and expired products found in the automated dispensing machine. The discipline for these violations was a Reprimand. Such conduct, if proven, constitutes prior discipline by a professional licensing board and or not being of good moral character and habits within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

Carepoint neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 15, 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, Carepoint knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Carepoint Pharmacy has submitted sufficient information to the Board to establish substantial compliance with the required qualifications of a TDDD and are thereby granted a license.

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

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

R-2014-208 Mr. Mitchell announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2013-1424)

In the Matter of:

ENTIRELYPETS PHARMACY
c/o RITU GHUMANN, DVM
34571 Seventh Street
Union City, California 94587

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

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

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

WHEREAS, on or about February 7, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Entirelypets Pharmacy was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. Further, a hearing was scheduled/continued by the Board. The February 7, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about March 26, 2013, Entirelypets Pharmacy, 34571 Seventh Street, Union City, submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or around June 21, 2012, Entirelypets Pharmacy was issued a pharmacy permit by the California Board of Pharmacy that was immediately revoked. Such revocation was stayed, and the license was placed on probation for five (5) years. In the Matter of the Statement of Issues Against: Entirelypets Pharmacy, Stipulated Settlement and Disciplinary Order, Before the Board of Pharmacy, Department of Consumer Affairs, State of California. The actions forming the basis for the above-cited Stipulated Settlement and Disciplinary Order included actions between on or about May 15, 2009 and on or about March 4, 2010 including: acting as a pharmacy without appropriate licensure in California; failing to include prescriber name, pharmacy name and address and/or correct directions for use on prescription container labels; dispensing prescriptions via the internet without evidence of a legitimate doctor/patient relationship or a legitimate medical purpose; acting as a wholesaler without a wholesaler license in California; the commission of acts of dishonesty, fraud or deceit with the intent to substantially benefit itself or another, resulting in unprofessional conduct.

Entirelypets Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 7, 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, Entirelypets Pharmacy knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Entirelypets Pharmacy agrees to the imposition of a monetary penalty of one thousand dollars (\$1,000.00) 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) Entirelypets Pharmacy is hereby granted a license as a Terminal Distributor of Dangerous Drugs and that license will be placed on probation for one year from the date the license is issued. The terms of probation are as follows:

- (1) Entirelypets Pharmacy must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (2) Entirelypets Pharmacy must abide by the rules of the Ohio State Board of Pharmacy.
- (3) Entirelypets Pharmacy must comply with the terms of this Agreement.

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

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

R-2014-209

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2013-1042)

In The Matter Of:
CARYN L. HOFFMAN, R.Ph.
5212 Oakbrooke Drive
Kettering, Ohio 45440
(R.Ph. No. 03-3-31149)

This Settlement Agreement is entered into by and between Caryn L. Hoffman 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.

Caryn L. Hoffman 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. Caryn L. Hoffman 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, Caryn L. Hoffman is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about February 7, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Caryn L. Hoffman 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. Caryn L. Hoffman requested a hearing; it was scheduled and continued. The February 7, 2014 Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Caryn L. Hoffman was originally licensed in the State of Ohio on July 1, 2011, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Caryn L. Hoffman did, on or about December 28, 2012, misbrand a drug, to wit: Caryn L. Hoffman dispensed Rx #6974742, twenty-eight (28), levetiracetam 500mg (generic for Keppra), with directions to take one (1) tablet by mouth every six (6) hours, when the medication dispensed should have been cephalexin 500mg (generic for Keflex). The patient ingested the medication and was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code (relating to Section 3715.64 of the Ohio Revised Code.

Caryn L. Hoffman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 7, 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, Caryn L. Hoffman knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Caryn L. Hoffman agrees to the imposition of a monetary penalty of two hundred and fifty dollars (\$250.00) 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, Caryn L. Hoffman must obtain, within 90 days from the effective date of this Agreement, three (0.3 CEU) hours of approved continuing pharmacy education in medication errors and/or patient safety, which may not also be used for license renewal.

Caryn L. Hoffman 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.

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

R-2014-210 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
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING
PERMANENT SURRENDER
(Case Number 2013-1922)

In The Matter Of:

PHILIP DAVID ROCCI, Intern
3934 Rennas Drive
Columbus, Ohio 43221
(Intern Number 06-0-10721)

This Settlement Agreement is entered into by and between Philip David Rocci 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.

Philip David Rocci 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 and the right to a formal adjudication hearing on the issues contained herein.

Philip David Rocci is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Philip David Rocci's license to practice pharmacy 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 4729.16 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) Philip David Rocci 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) Philip David Rocci acknowledges that he has been made aware of the investigation and has not failed to cooperate in said investigation. Philip David Rocci further acknowledges that he 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, Philip David Rocci knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY AS AN INTERN, WITH DISCIPLINARY ACTION PENDING.** Pursuant to Rule 4729-9-01(F),

Philip David Rocci may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Philip David Rocci 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.

Philip David Rocci 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. Philip David Rocci waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

Philip David Rocci must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

R-2014-211

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2013-1705)

In The Matter Of:
JENNIFER LYNN SMITH, R.Ph.
1486 Slate Ridge
Canal Winchester, Ohio 43110
(R.Ph. No. 03-3-19845)

This Settlement Agreement is entered into by and between Jennifer Lynn Smith 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.

Jennifer Lynn Smith 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. Jennifer Lynn Smith 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, Jennifer Lynn Smith is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 12, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Jennifer Lynn Smith 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. Jennifer Lynn Smith requested a hearing; it was scheduled and continued. The March 12, 2014 Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Jennifer Lynn Smith was originally licensed in the State of Ohio on October 27, 1993, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Jennifer Lynn Smith did, on or about October 1, 2013, misbrand a drug, to wit: when Jennifer Lynn Smith received a prescription for Humulin R500 units/ml V, use 25 units per insulin pump daily, RX #6650371, she dispensed Humulin R100 25 units/ml V, use 25 units per insulin pump once daily, which had not been specifically prescribed by the physician. The patient used the medication and was subsequently harmed. Such conduct constitutes an error in dispensing in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Jennifer Lynn Smith neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 12, 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, Jennifer Lynn Smith knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Jennifer Lynn Smith agrees to the imposition of a monetary penalty of two hundred and fifty dollars (\$250.00) 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, Jennifer Lynn Smith must obtain, within 90 days from the effective date of this Agreement, three (0.3 CEUs) hours of approved continuing pharmacy education in medication errors and/or patient safety, which may not also be used for license renewal.

Jennifer Lynn Smith 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.

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

R-2014-212 Ms. Marchal moved that the Board receive Per Diem as follows:

PER DIEM	4/21	4/22	5/5	5/6	Total
Cain	0	0	0	1	1
Ferris	0	0	0	1	1
Huwer	1	0	0	1	2
Kolezynski	0	0	0	1	1
Mitchell	0	1	1	1	3
Marchal	0	0	0	1	1
Moné	0	0	0	1	1
Yarosh	1	0	0	1	2

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

1:27 p.m. Mr. Parker led a discussion regarding a proposed Fiscal policy.

R-2014-213 Mr. Moné moved that the Fiscal policy be approved as amended. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 5.

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*:

Adebowale Oluwafemi Aremu	Illinois
Kenneth Kochman	Pennsylvania
Amir Labib	Massachusetts
Jenny Xiang Li	Michigan
Anayo T. Ogbonna	Massachusetts
Mark Ogunsusi	Georgia
Craig Richard Petzold	Pennsylvania
Richard Van Zandt	Arkansas
William Alan Webb	Kentucky
Solomon A. Yayehe	Maryland

1:35 p.m. Ms. Huwer returned to meeting.

1:48 p.m. The meeting reconvened in Room East B with Mr. Moné presiding.

Mr. McNamee provided the Board with amended Rules.

R-2014-214 After discussion Mr. Moné moved that the rule regarding medical/fire “emergency declared by the governor” be approved. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

R-2014-215 Mr. Moné moved that the request presented by Absolute Pharmacy be approved provided the system and license requires and provides monthly controlled substance audits, the system and license requires notice to the Board of all dispensing machine locations, electronic video and audio surveillance footage of people replenishing each machine is retained for a minimum of 90 days, Board staff have final approval of each machine’s location, and each TDDD licensee and pharmacist footage-reviewer are jointly and separately responsible for the controlled substances. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 4/Nay – 0/Abstain – 2.

1:55 p.m. Ms. Nave led a discussion regarding the Board’s Jurisprudence continuing education program approval process rule.

2:04 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 and 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). 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; and Yarosh – yes.

3:06 p.m. The executive session ended and the meeting was opened to the public.

The Board recessed briefly.

3:24 p.m. The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Richard D. Brunst**, R.Ph., Cincinnati, Ohio.

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.

4:15 p.m. The recess ended and the hearing was opened to the public.

The hearing was continued until on or after November 1, 2014.

4:16 p.m. The Board recessed briefly.

4:23 p.m. The meeting reconvened in Room East B.

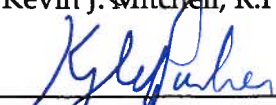
Ms. Huwer moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code and 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). 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; and Yarosh – yes.

6:10 p.m. The executive session ended and the meeting was opened to the public.

R-2014-216 Ms. Yarosh moved that the meeting be adjourned. The motion was seconded by Mr. Moné and approved by the Board: Aye – 6.



Kevin J. Mitchell, R.Ph., President Date: 12 June 14



Kyle W. Parker, M.B.A., R.Ph., Executive Director Date: 6-16-14