

**Minutes of the June 9-10, 2014**  
**Meeting of the Ohio State Board of Pharmacy**

**Monday June 9, 2014**

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

Kevin J. Mitchell, R.Ph., *President*; Michael A. Moné, R.Ph., *Vice-President*; Edward T. Cain, Public Member; 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*; 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. Huwer stated the last Nursing Board CPG meeting occurred on May 19, 2014, and the next committee meeting is scheduled to occur in August 2014.

Ms. Huwer stated the last Medical Board PAPC meeting occurred in May 2014, and the next committee meeting is scheduled to occur on June 10, 2014.

Mr. McNamee presented the Legislative Report.

**R-2014-218** Ms. Marchal moved that the list of individuals for an Ad Hoc Compounding Rule Review Committee, including Tom Kelsey, *Central Admixture Pharmacy Services*, be approved. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.

**R-2014-219** Mr. Moné moved that rules 4729-8-01, 4729-8-02, 4729-8-03, and 4729-8-04 be approved for filing with the Common Sense Initiative. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

**R-2014-220** Ms. Marchal moved that rule 4729-7-02 be approved as amended. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.

Ms. Utterdyke presented the Licensing update.

**R-2014-221** The Board received a request to approve the extension of the intern identification **Sana Farhat** (06-0-11978) Middletown, Ohio. Mr. Moné moved that the extension of the intern identification be approved until September 2015. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

Mr. Griffin provided the Compliance and Enforcement update and introduced Jason Doty, *Compliance Agent*, to the Board.

Mr. Parker gave a supplemental Compliance Report.

Mr. Mitchell led a discussion regarding the July 1, 2014 Opiate Summit.

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

**R-2014-222** The Board received an application for the Continuing Education Provider Status of **Dr. Bella Mehta**, Columbus, Ohio. Ms. Huwer moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.

**10:51 a.m.** The Board recessed briefly.

**11:07 a.m.** The meeting reconvened in Room East B.

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

**12:05 p.m.** The executive session ended and the meeting was opened to the public.

The Board recessed for lunch.

**1:27 p.m.** The meeting reconvened in Room East B.

Mr. Moné moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Cain 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.

**2:55 p.m.** The executive session ended and the meeting was opened to the public.

**ELECTION of OFFICERS for FISCAL YEAR 2014**

**R-2014-223** Mr. Cain moved that **Michael A. Moné**, R.Ph. be named President of the Board of Pharmacy for fiscal year 2015. Ms. Huwer seconded the motion and it was approved by the Board: Aye – 5; Abstain – Moné.

**R-2014-224** Mr. Cain moved that **Kilee S. Yarosh**, R.Ph. be named Vice-President of the Board of Pharmacy for fiscal year 2015. Ms. Marchal seconded by the motion and it was approved by the Board: Aye – 5; Abstain – Yarosh.

**3:00 p.m.** The Board recessed for the day.

**Tuesday, June 10, 2014**

**9:00 a.m.** The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

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 **Amanda C. Barnett**, R.Ph. (03-3-25622) Willard, Ohio.

**9:32 a.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; and Yarosh – yes.

**9:45 a.m.** The recess ended and the hearing was opened to the public.

**R-2014-225** After votes were taken in public session, the Board adopted the following order in the matter of **Amanda C. Barnett**, R.Ph. (03-3-25622) Willard, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2013-1278)

In The Matter Of:

**AMANDA C. BARNETT, R.Ph.**

1750 Section Line Rd. 30 S  
Willard, OH 44890  
(R.Ph. Number 03-2-25622)

**INTRODUCTION**

The Matter of Amanda C. Barnett came for consideration on June 10, 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.

Amanda C. Barnett was not present nor was she represented by counsel. 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. Notice of Opportunity for Hearing [02-7-14]
  - 1A. Procedural

**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 State Board of Pharmacy indicate that Amanda C. Barnett was originally licensed in the State of Ohio on July 2, 2003, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Amanda C. Barnett did, on or about January 21, 2013, prior to dispensing RX # 1813636, fail to identify an incorrect drug dosage when performing a prospective drug utilization review, to wit: patient was prescribed dexamethasone 2mg with directions that read: "3 PO FOR 3 DAYS, 2 PO FOR 3 DAYS, 1 PO FOR 3 DAYS." After speaking with a Medical Assistant at the prescriber's office about the frequency of dosing and substituting dexamethasone 1mg for dexamethasone 2mg Amanda C. Barnett proceeded to dispense dexamethasone 1mg with directions that read: "6 TABS 3 TIMES DAILY X3 DAYS 4 TABS 3 TIMES DAILY X3 DAYS, 2 TABS 3 TIMES DAILY X3 DAYS." Such dosing tripled the dose and quantity dispensed to the patient, the patient ingested the medication, and was subsequently harmed. Such conduct is in violation of Section 4729.16 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

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

#### DECISION OF THE BOARD

After consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Amanda C. Barnett for her actions in this matter.

Further, the Board confirms the importance of appropriate patient counseling and of careful prospective drug utilization review by the use of current patient profiles for every prescription filled.

Amanda C. Barnett must obtain, within 30 days from the effective date of this Order, six (0.6CEUs) of approved continuing pharmacy education in medication error prevention, which may not also be used for license renewal.

Michael Moné moved for Findings of Fact; Kilee Yarosh 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).

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

- R-2014-226** Ms. Ferris moved that the Board Minutes of May 6, 2014, be approved as amended. The motion was seconded by Ms. Yarosh and approved by the Board: Aye – 6.
- R-2014-227** Ms. Ferris moved that the Board Conference Call Minutes of May 30, 2014, be approved as written. Ms. Yarosh seconded the motion and it was approved by the Board: Aye – 6.
- R-2014-228** 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. 2012-1695

In The Matter Of:

**CHRISTOPHER TOLLIVER, R.Ph.**

234 Quentin Road North

Newark, Ohio 43055

(R.Ph. No. 03-2-13940)

This Settlement Agreement is entered into by and between Christopher Tolliver 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.

Christopher Tolliver 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. Christopher Tolliver acknowledges that by entering into this Agreement he has waived his 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, Christopher Tolliver 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, Christopher Tolliver 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. Christopher Tolliver 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 Christopher Tolliver was originally licensed in the State of Ohio on August 01, 1980, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Christopher Tolliver did, on or about October 17, 2012, misbrand a drug, to wit: when Christopher Tolliver received RX #6937103, for Topamax 200mg, he dispensed Lamictal 200mg, which had not been specifically prescribed by the physician. 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, and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) Christopher Tolliver did, on or about October 17, 2012, fail to confirm the accuracy of the information that the pharmacy technician who Christopher Tolliver was responsible for supervising had entered into the pharmacy's computer system regarding a transferred prescription, to wit: Dr. Seth Devries from Children's Hospital called in RX #6937103, for Topamax 200mg, to WalMart Pharmacy #2209 for a patient. The patient's father went to WalMart Pharmacy #3581 to pick up RX #6937103 and discovered the prescription was at another store. Christopher Tolliver contacted WalMart Pharmacy #2209 and had RX #6937103, for Topamax 200mg, transferred to WalMart pharmacy #3581 where Christopher Tolliver was working. Although RX #6937103, for Topamax 200mg, was transferred correctly, the pharmacy technician, who Christopher Tolliver was responsible for supervising, incorrectly entered RX #6937103, for Topamax 200mg, into the pharmacy's computer system as Lamictal 200mg. Christopher Tolliver admitted to a Board Specialist that he did not catch this error prior to the prescription being dispensed to the patient's father. Such conduct is in violation of Rule 4729-5-21 of the Ohio Administrative Code.

(4) Christopher Tolliver did, on or about October 17, 2012, fail to perform patient counseling, to wit: The patient's father was not provided with counseling when he picked up RX #6937103 even though the medication that was dispensed, Lamictal 200mg, was not the medication that was prescribed by the physician, Topamax, 200mg. Further, that same evening after Christopher Tolliver dispensed RX #6937103, for Lamictal 200mg, to the patient's father, the patient's mother called the pharmacy to inquire about RX #6937103 because she noticed the pharmacy dispensed Lamictal 200mg instead of Topamax 200mg. The patient's mother explained to the pharmacy employee who answered the phone that Lamictal was not her son's correct medication. Instead of providing counseling to the patient's mother regarding the dispensed prescription, Christopher Tolliver was overheard by the patient's mother, who was holding on the phone, telling the store employee that the patient received the medication that insurance would cover and that it was the correct medication. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

Christopher Tolliver 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, Christopher Tolliver knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Christopher Tolliver agrees to the imposition of a monetary penalty of five hundred dollars (\$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, Christopher Tolliver must obtain, within 90 days from the effective date of this Agreement, 12 hours of approved continuing pharmacy education (1.2 CEUs) in medication errors/patient safety, which may not also be used for license renewal.

Christopher Tolliver 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.

Christopher Tolliver 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. Christopher Tolliver waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-229**

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. 2012-1595

In The Matter Of:

**BERHANE BAHTA, R.Ph.**

4616 Burkshire Drive  
Columbus, Ohio 43232  
(R.Ph. No. 03-2-24923)



This Settlement Agreement is entered into by and between Berhane Bahta 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.

Berhane Bahta 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. Berhane Bahta acknowledges that by entering into this Agreement he has waived his 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, Berhane Bahta 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, Berhane Bahta 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. Berhane Bahta 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 Berhane Bahta was originally licensed in the State of Ohio on June 12, 2002, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Berhane Bahta did, on or about September 23, 2012, misbrand a drug within the meaning of Section 3715.64 of the Revised Code, to wit: when Berhane Bahta received a prescription for Norvasc 5 mg, RX# 0594924, he dispensed Hydrocodone/Acetaminophen 5/325mg (generic for Norco 5/325mg), which had not been specifically prescribed by the physician. The patient ingested 1 dose and was subsequently harmed. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

(3) Berhane Bahta did, on or about September 23, 2012, fail to perform patient counseling, to wit: when dispensing medication to a patient pursuant to RX # 0594924, Berhane Bahta failed to offer patient counseling. Such conduct is in violation of Rule 4729-5-22 of the Ohio Administrative Code.

Berhane Bahta 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, Berhane Bahta knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Berhane Bahta agrees to the imposition of a monetary penalty of five hundred dollars (\$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, Berhane Bahta must obtain, within 90 days from the effective date of this Agreement, 12 hours of approved continuing pharmacy education (1.2 CEUs) in patient safety/medication errors, which may not also be used for license renewal.

Berhane Bahta 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.

Berhane Bahta 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. Berhane Bahta waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-230**

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. 2013-2054)

In The Matter Of:

**VICTORIA LUBARSKY, R.Ph.**  
421 Augustus Drive  
Highland Heights, Ohio 44143  
(R.Ph. No. 03-1-27673)

This Settlement Agreement is entered into by and between Victoria Lubarsky 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.

Victoria Lubarsky 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. Victoria Lubarsky 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, Victoria Lubarsky 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, Victoria Lubarsky 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. Victoria Lubarsky 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 Victoria Lubarsky was originally licensed in the State of Ohio on January 04, 2007, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Victoria Lubarsky did, on or about September 5, 2013, knowingly swear or affirm the truth of a false statement. The statement was made with purpose to secure the issuance by a governmental agency of a license or registration, to wit: Victoria Lubarsky declared under penalties of falsification on her 2013 Continuing Pharmacy Education Report Form (C.P.E.), which she signed and dated on August 28, 2013, that she had completed and received certificates of completion or attendance for at least 6.0 C.E.U.s (60 hours) including at least 0.3 CEUs (3.0 hours) of Ohio Board approved jurisprudence between the dates of March 1, 2010 and May 15, 2013, when in fact Victoria Lubarsky had only completed 12 hours of CEUs. Such conduct constitutes falsification in violation of Section 2921.13(A) of the Ohio Revised Code.

Victoria Lubarsky 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, Victoria Lubarsky knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Victoria Lubarsky 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, Victoria Lubarsky must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs) in Jurisprudence, which may not also be used for license renewal.

(C) Further Victoria Lubarsky will be audited at her next continuing education reporting cycle.

Victoria Lubarsky 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.

Victoria Lubarsky 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. Victoria Lubarsky waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-231**

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. 2012-1918)

In the Matter of:

**PHARMACY CREATIONS  
c/o SCOTT KAROLYCHYK, R.Ph.**

540 Route 10 West  
Randolph, New Jersey 07869

This Settlement Agreement is entered into by and between Pharmacy Creations 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.

Pharmacy Creations 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. Pharmacy Creations 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 October 15, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Pharmacy Creations 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 October 15, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about March 1, 2013, Scott Karolchyk was the responsible pharmacist for Pharmacy Creations, 540 Route 10 West, Randolph, New Jersey, and that on said date, Pharmacy Creations submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) The applicant has failed to furnish satisfactory proof to the Board that adequate safeguards are in place to assure that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner. To wit: the applicant did, on or before October 10, 2012, illegally compound and sell dangerous drugs to Valley Surgery Center in Ohio without being licensed as a terminal distributor of dangerous drugs. Specifically, Pharmacy Creations compounded and sold Tropicamide1%/phenylephrine10%/Timolol 0.5% drops and Trimacinolone/moxiflovaicin/vancomycin intravitreal powder without valid patient specific prescriptions, nor was there any other permissible reason to legally compound and sell the drugs as required by Chapter 21, Section 353a of the United States Code, Section 4729.01 of the Ohio Revised Code, and Sections 4729-9-21 and 4729-9-25 of the Ohio Administrative Code. Such conditions violate, or allow the violation of, Sections 3715.65(A) and 4729.57 of the Ohio Revised Code, and Sections 4729-9-21 and 4729-9-25 of the Ohio Administrative Code.

(3) The applicant has failed to furnish satisfactory proof to the Board that adequate safeguards are in place to assure that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner. To wit: the applicant did, on or before October 10, 2012, sell compounded drugs to Valley Surgery Center in a quantity exceeding a seventy-two (72) hour supply. To wit: It was admitted to a Board Agent that compounded dangerous drugs were ordered to be placed in office stock for procedures. Quantities of 10 vials tropicamide 1%/phenylephrine10%/timolol 0.5% drops were compounded and 120 vials

of triamcinolone/moxifloxacin/vancomycin intravitreal powder was compounded in violation of Section 4729-9-25 of the Ohio Administrative Code. Such conditions violate, or allow the violation of, Sections 4729-9-25, 4729-9-21 and 4729-9-25 of the Ohio Administrative Code.

Pharmacy Creations 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, Pharmacy Creations knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Pharmacy Creations agrees to the imposition of a monetary penalty of two thousand dollars (\$2,000.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) Pharmacy Creations 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) Pharmacy Creations Pharmacy must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(2) Pharmacy Creations Pharmacy must abide by the rules of the Ohio State Board of Pharmacy.

(3) Pharmacy Creations Pharmacy must comply with the terms of this Agreement.

Pharmacy Creations 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.

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

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**R-2014-232** 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. 2012-1361)

In The Matter Of:

**MICHAEL DAVID CONNELL, R.Ph.**

13870 Donald Drive  
Brook Park, Ohio 44142  
(R.Ph. No. 03-2-10223)

This Settlement Agreement is entered into by and between Michael David Connell 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.

Michael David Connell 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. Michael David Connell acknowledges that by entering into this Agreement he has waived his 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, Michael David Connell is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 30, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Michael David Connell 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. Michael David Connell requested a hearing; it was scheduled and continued. The January 30, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Michael David Connell was originally licensed in the State of Ohio on July 20, 1972, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Michael David Connell was previously disciplined by this Board on January 14, 1998.

(2) Michael David Connell did, on or about July 13, 2012, misbrand a drug within the meaning of Section 3715.64 of the Revised Code, to wit: when Michael David Connell received a prescription for DMSA (dimercaptosuccinic acid) 500 mg, prescription #707683, he compounded and dispensed diltiazem 500 mg which had not been specifically prescribed by the physician. The prescription was ingested by the patient and the patient felt lightheaded, dizzy, and vomited. The patient required emergency medical treatment and intravenous fluids. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code.

Michael David Connell neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 30, 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, Michael David Connell knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Michael David Connell agrees to the imposition of a monetary penalty of five hundred dollars (\$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, Michael David Connell must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs) in medication errors and three hours of approved continuing pharmacy education (0.3 CEUs) in compounding, each of which may not also be used for license renewal.

Michael David Connell 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.

Michael David Connell 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. Michael David Connell waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-233**

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. -2013-1786)

In the Matter of:

**NAVARRE PARK FAMILY PRACTICE**

**c/o JOEL LEVITAN, R.Ph.**

1020 Varland Ave.

Toledo, Ohio 43605

This Settlement Agreement is entered into by and between Navarre Park Family Practice 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.

Navarre Park Family Practice 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 hearing on the issues contained herein, the right to appeal. Navarre Park Family Practice 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, Navarre Park Family Practice is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about January 24, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Navarre Park Family Practice 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 January 24, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about July 24, 2013, Joel Levitan was the responsible person for Navarre Park Family Practice, located at 1020 Varland Avenue, Toledo, Ohio 43605 and that on said date, Navarre Park Family Practice submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or about July 24, 2013, applicant Joel L. Levitan, R.Ph., did knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: the application shows a negative answer to the following question: “[h]as the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed,

or any officer of the corporation, ever been the subject of disciplinary action by any state or federal agency?" On or about December 9, 2008, the Ohio Board of Pharmacy found Joel L. Levitan, R.Ph., guilty of Unprofessional Conduct in the Practice of Pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code, for misbranding and causing a drug to be adulterated. Order of the State Board of Pharmacy, Docket No. D-080514-046. As a result of the Board's Order, Pharmacist Levitan was put on probation for two years and subject to certain probationary terms. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes making a false material statement in an application for registration as a terminal distributor of dangerous drugs, not being of good moral character and habits, and 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.

Navarre Park Family Practice neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 24, 2014.

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

(A) After consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Joel Levitan for his actions in this matter.

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 licensure as a Terminal Distributor of Dangerous Drugs submitted by Navarre Park Family Practice on or about January 24, 2014.

Navarre Park Family Practice 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.

Navarre Park Family Practice 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. Navarre Park Family Practice waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-234**

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 2013-1740)

In the Matter of:

**AUXILIUM PHARMACEUTICALS, Inc.**  
**c/o BILL GROFF, Executive Director**  
640 Lee Road  
Chesterbrook, PA 19087  
(Terminal Distributor Number 01-1391400)  
(Wholesaler of Controlled Substance  
License No. 0239)

This Settlement Agreement is entered into by and between Auxilium Pharmaceuticals, Inc. 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.

Auxilium Pharmaceuticals, Inc. 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. Auxilium Pharmaceuticals, Inc. 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, Auxilium Pharmaceuticals, Inc. is a licensed terminal distributor of dangerous drugs in the State of Ohio and wholesaler of controlled substances.

WHEREAS, on or about February 18, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Auxilium Pharmaceuticals, Inc. 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 18, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that Bill Groff is the Executive Director and responsible person at Auxilium Pharmaceuticals, Inc., 640 Lee Road, Chesterbrook, Pennsylvania 19087; Ohio Wholesale Distributor of Dangerous Drugs License No. 01-1391400 and Wholesaler of Controlled Substance License No. 0239,

pursuant to Section 4729. of the Ohio Revised Code within the meaning of Section 4729.56 of the Ohio Revised Code.

(2) The applicant did, from on or about July 1, 2006 through July 25, 2007, knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, with purpose to secure the issuance of a license or registration by a government agency, To wit: on April 13, 2006 and April 25, 2007, officer's of Auxilium Pharmaceuticals, Inc., answered the legal questions on the back of the WDDD/CS renewal forms in the negative. However, on or about March 23, 2006, Auxilium Pharmaceuticals, Inc., entered into a Consent Order with the Alabama State Board of Pharmacy. In the matter of Auxilium Pharmaceuticals, Inc., before the Alabama State Board of Pharmacy, Consent Order, March 29, 2006. Such discipline resulted from the manufacturing or distributing of controlled substances during 2006 without first having renewed its annual registration to do so in violation of Alabama law. Auxilium Pharmaceuticals, Inc., was required to pay a fine of \$500.00 Such conduct is in violation of Section 2921.13(A)(5) of the Ohio Revised Code.

Auxilium Pharmaceuticals, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 18, 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, Auxilium Pharmaceuticals, Inc. knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Auxilium Pharmaceuticals agrees to the imposition of a monetary penalty of five hundred dollars (\$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.

Auxilium Pharmaceuticals, Inc. 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.

Auxilium Pharmaceuticals, Inc. 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. Auxilium Pharmaceuticals, Inc. waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-235** 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 2012-1214)

In The Matter Of:

**JOSEPH S. BETTMAN, R.Ph.**

5180 Pebblebrook Drive  
Englewood, Ohio 45322  
(R.Ph. No. 03-1-05038)

This Settlement Agreement is entered into by and between Joseph S. Bettman 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.

Joseph S. Bettman 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. Joseph S. Bettman acknowledges that by entering into this Agreement he has waived his 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, Joseph S. Bettman 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, Joseph S. Bettman 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. Joseph S. Bettman requested a hearing; it was scheduled and continued.

Joseph S. Bettman 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, Joseph S. Bettman knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) After consideration of the record as a whole, the State Board of Pharmacy hereby reprimands Joseph S. Bettman for his actions in this matter.

Joseph S. Bettman 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.

Joseph S. Bettman 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. Joseph S. Bettman waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2014-236** 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. 2013-1372)

In The Matter Of:

**MICHAEL G. FARLEY, R.Ph.**  
7210 Pricetown Road  
Berlin Center, Ohio 44401  
(R.Ph. No. 03-1-12333)

This Settlement Agreement is entered into by and between Michael G. Farley 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.

Michael G. Farley 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. Michael G. Farley acknowledges that by entering into this Agreement he has waived his 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, Michael G. Farley 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, Michael G. Farley was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and her right to submit contentions in writing. Michael G. Farley 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 Michael G. Farley was originally licensed in the State of Ohio on August 10, 1977, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Michael G. Farley did, on or about July 18, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Northside Medical Center, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Michael G. Farley stole 30 buspirone 5mg tablets for use by his then wife. Such conduct is in violation of Section 2913.02(A)(1) of the Ohio Revised Code.

Such conduct, if proven, constitutes being guilty of a felony or gross immorality; guilty of dishonesty or unprofessional conduct in the practice of pharmacy; and/or guilty of willfully violating provisions of Chapter 2925. of the Revised Code within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) Michael G. Farley did, on or about July 18, 2012, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Northside Medical Center, beyond the express or implied consent of the owner, to wit: while practicing pharmacy this date, Michael G. Farley stole 20 Cymbalta 60 mg capsules for his then wife. Such conduct is in violation of Section 2913.02(A)(1) of the Ohio Revised Code.

Michael G. Farley 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, Michael G. Farley knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Michael G. Farley agrees to the imposition of a monetary penalty of five hundred dollars (\$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, Michael G. Farley must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in Ethics and Jurisprudence, which may not also be used for license renewal.

(C) Michael G. Farley's pharmacist license is limited in that he may not dispense prescriptions for himself or his family for a period of five years.

Michael G. Farley 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.

Michael G. Farley 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. Michael G. Farley waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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9:56 a.m. The Board recessed briefly.

10:09 a.m. The meeting reconvened in Room East B.

Mr. Mitchell left the meeting for a teleconference regarding the MMR Executive Order.

Mr. Moné presided the meeting.

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 **Douglas Allan Bolden**, R.Ph. (03-2-12756) Zanesville, Ohio.

10:25 a.m. The hearing ended and the record was closed.

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

10:34 a.m. The recess ended and the hearing was opened to the public.

R-2014-237 After votes were taken in public session, the Board adopted the following order in the matter of **Douglas Allan Bolden**, R.Ph. (03-2-12756) Zanesville, Ohio.



**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2013-1164)

In The Matter Of:

**DOUGLAS ALLAN BOLDEN, R.Ph.**

4370 Harrington Drive  
Zanesville, Ohio 43701  
(R.Ph. 03-2-12756)

**INTRODUCTION**

The Matter of Douglas Allan Bolden came for consideration on June 10, 2014, before the following members of the Board: Michael A. Moné, R.Ph., (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph. and Kilee S. Yarosh, R.Ph.

Kevin J. Mitchell, R.Ph., Present, Absent.

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

Douglas Allan Bolden 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. Don Newton, Ohio State Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

1. Notice of Opportunity for Hearing [11-08-13]
  - 1A. Procedural

**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 State Board of Pharmacy indicate that Douglas Allan Bolden was originally licensed in the State of Ohio on February 23, 1979, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that Douglas Allan Bolden was previously disciplined by the Board on December 19, 1991.

(2) Douglas Allan Bolden did, on or about February 8, 2013, plead guilty in the United States District Court for the Northern District of Ohio, to Obstruction of an Official Proceeding, Conspiracy to Obstruct a Criminal Investigation of a Health Care Offense, and Obstruction of a Criminal Investigation of a Health Care Offense – all felonies. The charges to which Douglas Allan Bolden plead guilty resulted from his involvement with B. Elise Miller and acts surrounding the billing practices at Three Rivers Infusion Pharmacy. As part of Douglas Allan Bolden’s guilty plea, he agreed to “relinquish, forfeit, and/or resign permanently any right to [his] license to practice pharmacy in the State of Ohio and elsewhere within the territorial boundaries of the United States.” Douglas Allan Bolden further agreed not to ever reapply for such licensure. Such plea, is within the meaning of Section 4729.16 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

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

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State Board of Pharmacy adjudicates the matter of Douglas Allan Bolden as follows:

On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-12756, held by Douglas Allan Bolden effective as of the date of the mailing of this Order.

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

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

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

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

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**10:36 a.m.**      The Board recessed briefly.

**10:49 a.m.**      The meeting reconvened in Room East B.

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

**11:40 a.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 Vice-President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Marchal – yes; Yarosh – yes.

**11:50 a.m.**      The recess ended and the hearing was opened to the public.

**R-2014-238**      After votes were taken in public session, the Board adopted the following order in the matter of **John Casale**, R.Ph. (03-2-13741) Warren, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2012-1594)

In The Matter Of:

**JOHN M. CASALE, R.Ph.**  
1885 Brittainy Oaks Trail NE  
Warren, Ohio 44484  
(R.Ph. Number 03-213741)

**INTRODUCTION**

The Matter of John M. Casale came for hearing on June 10, 2014, before the following members of the Board: Michael A. Moné, R.Ph.; (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Megan E. Marchal, R.Ph.; and Kilee S. Yarosh, R.Ph.

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

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

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witness:

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

State's Exhibits:

1. Reinstatement hearing request letter 05-08-14  
1A-1B. Procedurals
2. Order of the Board of Pharmacy 01-09-14

Respondent's Exhibits:

- A. Current PRO Contract 01-20-14
- B. Completion of chemical dependency treatment documentation 01-20-14
- C. 12 Step meeting attendance verification 12-02-13 to 06-09-14
- D. Urine drug screen results 12-18-12 to 05-21-14
- E. Continuing education certificates 03-01-11 to 05-15-14
- F. YSU grades and schedule Spring and Fall 2014
- G. Resume Not Dated
- H. Letters of Support 05-27-14 and 06-05-14

FINDING 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 that John M. Casale has complied with the terms set forth in the Order of the State Board of Pharmacy, Case Number 2012-1594 dated January 9, 2014.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, Number 03-213741, held by John M. Casale to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

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

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

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

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

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

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

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

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

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

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

(2) A written description of John M. Casale's progress towards recovery and what he has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that John M. Casale's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

(2) John M. Casale may not serve as a responsible pharmacist.

(3) John M. Casale may not destroy, assist in, or witness the destruction of controlled substances.

(4) John M. Casale must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) John M. Casale must not violate the drug laws of Ohio, any other state, or the federal government.

(6) John M. Casale must abide by the rules of the State Board of Pharmacy.

(7) John M. Casale must comply with the terms of this Order.

(8) John M. Casale's license is deemed not in good standing until successful completion of the probationary period.

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

John M. Casale 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.

Edward Cain moved for Findings of Fact; Margaret Huwer 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).

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Mr. Mitchell returned to the meeting.

**11:51 a.m.** The Board recessed for lunch.

**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*:

Francis Antwi-Boateng	Missouri
Heather Lynn Carey	North Carolina
Brian Connolly	New Jersey
Abbey Dimarco	Indiana
Barbara Douglas	Arizona
Oluwaseyi Faseemo	Texas
Helen Feinstein	Pennsylvania
Jody Clare Fenelon	Illinois
Judith Fofung	South Carolina
Christopher D. Helmke	Texas
Shannon Leigh Kerns	West Virginia
Desiree Elizabeth Kosmisky	North Carolina
Christine Lam	Pennsylvania
Siyun Liao	Wisconsin
Sharon Denise Mack	Texas
Samantha Maree Mcquaid	West Virginia
Son Thanh Nguyen	Texas
Jeffery Kent Palmer	Tennessee
Caly Thi Person	Kansas
Dominic Pileggi	Kentucky
Dmitry Rabinovich	Arizona
Steven Swank	Indiana
Stuart Elliott Tolman	New York
Amy Khoa Tran	Arizona
Kimberly A. Trobaugh	South Carolina
David Zacharian	Colorado
Jeremy Scott Zisko	Arizona

Ms. Huwer left the meeting to attend the Medical Board PAPC meeting.

**1:54 p.m.**      The meeting reconvened in Room East B.

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 consider the investigation of charges or complaints against a licensee or employee pursuant to Section 121.22(G)(1). The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Mitchell as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; and Yarosh – yes.

**2:08 p.m.** The Executive Session ended and the meeting was opened to the public.

President Mitchell administered the Oath of Office to Vice-President-elect Kilee Yarosh.

**OATH OF THE VICE-PRESIDENT**

I, Kilee S. Yarosh, as Vice-President of the Ohio State 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.

President Mitchell administered the Oath of Office to President-elect, Michael Moné.

**OATH OF THE PRESIDENT**

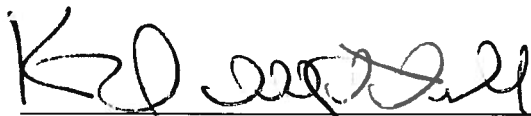
I, Michael A. Moné, as President of the Ohio State Board of Pharmacy, do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the State of Ohio; and carry out the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

**R-2014-239** Mr. Moné moved that the Board receive Per Diem as follows:

PER DIEM	4/21	5/13	6/9	6/10	Total
Cain	0	0	1	1	2
Ferris	0	0	1	1	2
Huwer	1	1	1	1	4
Kolezynski	0	0	0	0	0
Mitchell	0	0	1	1	2
Marchal	0	0	1	1	2
Moné	0	0	1	1	2
Yarosh	1	0	1	1	3

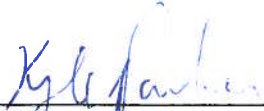
Ms. Yarosh seconded the motion and it was approved by the Board: Aye – 5.

**R-2014-240** Ms. Ferris moved that the meeting be adjourned. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.

  
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 Kevin J. Mitchell, R.Ph., President

Date: 8 July 14



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

Date: 7-8-14