

Minutes of the August 5, 2014
Meeting of the Ohio State Board of Pharmacy

Tuesday August 5, 2014

9:00 a.m.

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

Michael A. Moné, R.Ph., *President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Kevin J. Mitchell, R.Ph.

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

Ms. Ferris stated there was no new Nursing Board CPG meeting report, and the next meeting is scheduled for September 22.

Ms. Huwer stated the July Medical Board PAPC meeting was canceled.

Ms. Utterdyke presented the Licensing update.

Mr. McNamee presented the Legislative Report and announced that the next Rules Review Committee is scheduled to meet on August 14.

Mr. Griffin provided the Compliance and Enforcement update.

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

R-2015-025

The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Stephanie M. Parrott**, R.Ph. (03-3-31083) Cincinnati, Ohio, be the responsible person for the following pharmacies:

Omnicare Pharmacy, Dayton (02-1189350)
Omnicare Pharmacy, Cincinnati (02-0565600)

After discussion, Mr. Kolezynski moved that the Board approve the request for six weeks. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 5/Nay – 0/Recused - 1.

R-2015-026 The Board received a request to withdraw the Pain Management Clinic application of **Cleveland Migraine Center, LTD/American Migraine Center**, Lyndhurst, Ohio. Ms. Marchal moved that the request to withdraw the application be accepted. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.

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

10:02 a.m. The meeting reconvened in Room South B&C.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Louis Schimenti**, R.Ph., Fort Wayne, Indiana.

11:21 a.m. The hearing ended and the record was closed.

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

11:40 a.m. The recess ended and the hearing was opened to the public.

R-2015-027 After votes were taken in public session, the Board adopted the following order in the matter of **Louis Schimenti**, R.Ph., Fort Wayne, Indiana.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2013-1810)

In The Matter Of:

LOUIS SCHIMENTI, R.Ph.

11826 Dorsay Court
Fort Wayne, Indiana 46845

INTRODUCTION

The Matter of Louis Schimenti came for hearing on August 5, 2014, before the following members of the Board: Michael A. Moné, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Kevin J. Mitchell, R.Ph.

Kilee S. Yarosh, R.Ph., Absent

Louis Schimenti was not represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witness:

1. Louis Schimenti, Respondent

Respondent's Witnesses:

1. Louis Schimenti, R.Ph., Respondent
2. Dennis Mock, R.Ph.

State's Exhibits:

1. Proposal to Deny/Notice of Opportunity for Hearing 05-02-14
- 1A-B. Procedurals
2. NABP Application for Reciprocity 08-22-13
3. State of Wisconsin Disciplinary Proceedings (Final Decision and Order) 03-12-92
- 3A. State of Wisconsin Disciplinary Proceedings (Stipulation) 03-13-92
4. Indiana State Board of Pharmacy Emergency Suspension Order 11-28-90
- 4A. State of Indiana Complaint 01-11-91
- 4B. Indiana Board of Pharmacy Order 04-16-91
- 4C. Indiana Board of Pharmacy Findings of Fact and Order 07-31-91
- 4D. Indiana Board of Pharmacy Findings of Fact and Order 01-23-92
- 4E. State of Illinois Consent Order 04-03-92
- 4F. Indiana State Board of Pharmacy Complaint 02-16-11
- 4G. Indiana Board of Pharmacy Findings of Fact, Ultimate Findings of Fact, Conclusions of Law, and Order 05-02-11
- 4H. Indiana Board of Pharmacy Findings of Fact, Conclusions of Law and Order 10-03-12
- 4I. Indiana Board of Pharmacy Findings of Fact, Conclusions of Law and Order 07-15-13
5. State of Indiana Case Summary Allen Superior Court 4 10-17-91
- 5A. State of Indiana FD-Class D. Felony 07-21-10
6. State of Illinois Consent Order 04-03-92
- 6A. State of Illinois Order 05-25-12
- 6B. State of Illinois Notice of Intent to Refuse to License 02-12-13
7. Resurrection Behavioral Health Addictions Service Program 06-10-10

Respondent's Exhibits:

- A. My future plans and letter to the Board 08-05-14
- B. Documentation of completion of 9 weeks treatment at Resurrection Behavioral Health in Chicago, IL 08/06/10
- C. Six hours of Professional Ethics CE. 07/06/11

- D. Letter from Carol Dunham, Liaison for PRNIndiana (Pharmacists Recovery Network), with attachments. 05/21/13
- E. Quarterly reports submitted to the Indiana Board of Pharmacy 07/07/11
- F. Monthly reports submitted by me to the Indiana Board of Pharmacy with attachments Various Dates
- G. Email from Ron Maze RPh. 07/02/13
- H. Letter from Dr. Richard L. Hinchman, Addictionologist with attachments 05/17/13
- I. Official document from the Indiana Board of Pharmacy 07/15/13
- J. Official document showing completion of 18mo Allen County, IN Drug Court program 03/26/12.
- K. Result of Ohio Criminal background check 03/04/14
- L. Official document from Illinois Dept. of Financial and Professional Regulation reactivating and restoring my IL license 11/25/13
- M. Document from Michigan Board of Pharmacy granting eligibility to take MI MPJE 12/16/13
- N. Letter of Character reference, Jon Ottinger, RPh, Pharmacy Manager 07/20/14
- O. Character Reference letter from Rebecca Bell 07/17/14
- P. Letter of Character Reference from Elaine Slipetz 07/14/14
- Q. Letter of Character Reference from Dawn Rizwan 07/13/14
- R. Letter of Character reference from Dennis Mock, RPh 07/14/14
- S. Letter of Character reference from Shalonda Rencher 07/23/14
- T. Letter of Character reference from Marcy Cox, CPhT 07/27/14
- U. Letter of Character reference from Julie Rasler, CPhT 08/01/14
- V. My recovery plan presented to the Indiana Board of Pharmacy Not Dated

FINDINGS OF FACT

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

- (1) Louis Schimenti is a registered pharmacist in the state of Indiana and on or about August 29, 2013 Mr. Schimenti applied for reciprocal registration into the State of Ohio.
- (2) Louis Schimenti was, in fact, charged and/or convicted on two (2) separate occasions between 1991 and 2010, with and/or convicted of theft of drug crimes for which he received criminal diversion. Such charges include: a charge for diversion of narcotics, which charge was later dismissed after completion of a one-year probationary period (State of Indiana vs. Louis A. Schimenti, Allen Superior Court Case No. 02D04-9110-CM-031489, filed 10/17/1991); and a charge for theft of 2,559 tablets of hydrocodone/APAP 7.5/750 mg., 898 tablets of hydrocodone/APAP 10/650 mg., 1,995 tablets of hydrocodone/APAP 10/500 mg., and 2,535 ml. of Tussionex syrup, which charge was later dismissed after completion of a drug diversion program (State of Indiana vs. Louis A. Schimenti, Allen Superior Court Case No. 02D04-1007-FD-000697,

filed 7/21/2010). Such conduct constitutes being guilty of 4729.16(A)(1)(2)(3) and (5) and 4729.08(B) and Ohio Administrative Code 4719-5-04, not being of good moral character.

(3) On multiple occasions between 1991 and the present, Louis Schimenti was disciplined by the Indiana Board of Pharmacy, the Illinois Board of Pharmacy and the Wisconsin Board of Pharmacy for addiction and charges related to his criminal history. State of Indiana v. Louis A. Schimenti, R.Ph., Before the Indiana State Board of Pharmacy, Cause No. 90 IBP 022 (license emergency suspended and subsequently placed on indefinite probation of no less than five years). In the matter of Disciplinary Proceedings Against Louis A. Schimenti, R.Ph., Before the State of Wisconsin Pharmacy Examining Board, Case No. 91 PHM 47 (voluntary surrender of pharmacy license accepted in connection with impairment and addiction proceeding in Indiana). Department of Professional Regulation v. Louis A. Schimenti, State of Illinois Department of Professional Regulation Case No. 91-5273-LEG (pharmacy license placed on five year probation in connection with impairment and addiction proceeding in Indiana). In the matter of the Indiana Pharmacist License of Louis A. Schimenti, R.Ph., Before the Indiana Board of Pharmacy Cause No. 2011 IBP 0005 (pharmacy license placed on indefinite probation in connection with criminal theft charges and participation in drug court diversion program). Department of Professional Regulation v. Louis A. Schimenti, State of Illinois Department of Professional Regulation case No. 2011-04074 (refusal to renew pharmacy license as a result of 2011 disciplinary proceeding in Indiana). On at least two occasions, Louis Schimenti was required to participate in drug treatment monitoring contracts as a result of this discipline. Such discipline constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

DECISION OF THE BOARD

On the basis of the Findings of Fact set for above and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the application for reciprocity submitted by Louis Schimenti, and directs Louis Schimenti to attend the Reciprocity Review session.

Further, the Board places Louis Schimenti on probation for two years beginning on the effective date of this Order, with the following conditions:

(A) Louis Schimenti 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 Louis Schimenti's pharmacist identification card is issued. The contract must provide that:

- (1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.
 - (a) The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - (b) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - (2) The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - (3) Attendance is required a minimum of three times per calendar week (Sunday through Saturday), at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - (4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- (B) Louis Schimenti 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 Louis Schimenti's progress towards recovery and what Louis Schimenti 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 Louis Schimenti'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) Louis Schimenti may not serve as a responsible pharmacist.
 - (3) Louis Schimenti may not destroy, assist in, or witness the destruction of controlled substances.

- (4) Louis Schimenti must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.
 - (5) Louis Schimenti must not violate the drug laws of Ohio, any other state, or the federal government.
 - (6) Louis Schimenti must abide by the rules of the State Board of Pharmacy.
 - (7) Louis Schimenti must comply with the terms of this Order.
 - (8) Louis Schimenti'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.

Louis Schimenti 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.

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

Melinda Ferris moved for Action of the Board; Megan Marchal seconded the motion. Motion passed (Aye-4/Nay-2).

10:18 a.m. Mr. Kolezynski moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Huwer and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes; Mitchell – yes.

12:10 p.m. The executive session ended and the meeting was opened to the public.

R-2015-028 Mr. Mitchell moved that the request for settlement presented by **Daniel Kane Cherry**, R.Ph. be accepted allowing for sufficient time for the preparation and approval of settlement documentation. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5/Nay – 0/Abstain - 1.

12:15 p.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*:

David Barnes	Alabama
Michelle Hurrell Bradley	Alabama
Jenny Bute	New York
Lynnsey Ann Cohn	Indiana
Nicholas E. Campbell	Pennsylvania
Leanna Kay Darland	Louisiana
John Douglas Galle	Missouri
Dustin Tyler Getz	Indiana
Chelsea May Harrison	Pennsylvania
Donald Richard Kelleher	New Jersey
Hillary Lauren Kostecki	Pennsylvania
Alex Luli	Illinois
Lisa Ann Nocera	North Carolina
Andrew North	Wisconsin
Ami Patel	Illinois
Avani Vasant Patel	Florida
Ngoc Phung	Texas
Jennifer Yendell Seiling	Pennsylvania
Jeff Stone	Kentucky
Annie Tran	Illinois
Rohit Tahiliani	Florida
Mansi Harenkumar Upadhyaya	Kansas
Rosa Maria Voyten	Pennsylvania
Leslie C. Wells	North Carolina
Joshua Jon Willey	North Carolina
Heather Wood	West Virginia

1:55 p.m. The meeting reconvened in Room South B&C.

R-2015-029 After discussion, Mr. Cain moved that the 2015 Board Meeting dates be approved as presented. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5/Nay – 0/Abstain – 1.

R-2015-030 The Board received an application for the Continuing Education Provider Status of **Mandy Leonard**, Painesville Township, Ohio. Mr. Kolezynski moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Mitchell and approved by the Board: Aye – 6.

- R-2015-031** The Board received an application for the Continuing Education Provider Status of **Michael Leifheit**, Van Buren, Ohio. Ms. Huwer moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.
- R-2015-032** The Board received an application for the Continuing Education Provider Status of **Mary Petrea Cober**, Independence, Ohio. Ms. Ferris moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.
- R-2015-033** The Board received an application for the Continuing Education Provider Status of **Ryan Garst**, Stow, Ohio. Mr. Kolezynski moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 6.
- 2:03 p.m.** The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Davis Drug Compounding & Infusion c/o Daniel Lee Sidwell, R.Ph.** (02-2242050) Caldwell, Ohio.
- 3:54 p.m.** The hearing ended and the record was closed.
- Mr. Mitchell moved that the Board recess in order to consider this quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes; Mitchell – yes.
- 4:34 p.m.** The recess ended and the hearing was opened to the public.
- R-2015-034** After votes were taken in public session, the Board adopted the following order in the matter of **Davis Drug Compounding & Infusion c/o Daniel Lee Sidwell, R.Ph.** (02-2242050) Caldwell, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number 2014-1292)

In The Matter Of:

DAVIS DRUG COMPOUNDING & INFUSION
c/o Daniel Lee Sidwell, R.Ph.
109 West Street, Suite A
Caldwell, OH 43724
(TDD License Number 02-2242050)

INTRODUCTION

The Matter of Davis Drug Compounding & Infusion came for hearing on August 5, 2014, before the following members of the Board: Michael A. Moné, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Kevin J. Mitchell, R.Ph.

Kilee S. Yarosh, R.Ph., Absent

Davis Drug Compounding Infusion was represented by Robert G. Angell. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Chandra Galante, R.Ph., Ohio State Board of Pharmacy
2. Daniel Lee Sidwell, R.Ph., Respondent

Respondent's Witness:

1. Daniel Lee Sidwell, R.Ph., Respondent

State's Exhibits:

1. Summary Suspension Order/Notice of Opportunity for Hearing 04-04-14
1A-1D. Procedurals
2. Dangerous Drug Distributor Inspection Report 11-29-12
3. Dangerous Drug Distributor Inspection Report 03-13-14
- 3A. Dangerous Drug Distributor Inspection Report Response 12-17-12
4. Notarized Statement of Dan Sidwell RPh 03-20-14

5. Notarized Statement of Matt Davis 03-20-14
6. Medication Management Instructions Not Dated
7. Photographs of Medications and Packaging Not Dated
8. Davis Drug Compound Sheets Various Dates
9. Dynalabs Certificate of Analysis Various Dates
10. Drug Discard Sheets Various Dates
11. Dangerous Drug Distributor Inspection Report Corrective
Actions 03-31-14

Respondent's Exhibits:

- A. CPE Monitor Activity Transcript 04/08/11 to 05/17/14
- B. Copies of Davis Drug prescription labels 02/27/14
- C. Dangerous Drug Inspection Report Response 12/17/12
- D. Drug Discard Sheet Various Dates
- E. Medication Destruction (Non-Controlled) list March 2014

- F. Notarized Statement of Dan Sidwell about last corrective action 03/20/14
- G. Medisca Network Technical Support 12/15/09
- H. Copy of Suggested Formula for Estradiol 1% 04/28/14
- I. Dynalabs Certificate of Analysis 05/01/14
- J. Infusion Checklist Date illegible
- K-M. Samples of compounding drug containers Not Dated

FINDINGS OF FACT

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

(1) Records of the Board of Pharmacy indicate that David Lee Sidwell is the responsible pharmacist at Davis Drug Compounding & Infusion, 109 West Street, Suite A, Caldwell, OH 43724-1359 terminal distributor license number 02-2242050, pursuant to Sections 4729.27 and 4729.55 of the Ohio Revised Code and Rule [4729-5-11 or 4729-17-02] of the Ohio Administrative Code.

In accordance with Section 4729.571 of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the method of distribution of controlled substances at this location presents a danger of immediate and serious harm to others. The reasons for the Board's action are that Davis Drugs has committed any and/or all of the following acts:

(2) Davis Drug Compounding & Infusion did, on or about March 13, 2014, hold or offer for sale drugs that were adulterated, to wit: Davis Drug held at least thirty-seven (37) prepared, compounded products stored with dispensing stock ready for sale that were either older than the beyond use date stated by the manufacturer, packer or distributor or the beyond use date was not calculated in accordance with relevant rules, regulations and laws. Such product included the following:

Compound/Drug	Beyond Use Date on label
Aquaphor/Malox	09-25-2013
Progesterone 100mg/ml x 7 vials	02-05-2014
Teflaro 600mg/vial	11-2013
Cathflo Activase	11-2013
E2/Test 0.4/0.8% cream	07-12-2013
Progesterone 20% cream	10-01-2013
E2/Test 0.4%/0.8%	06-22-2013
E2/Test 0.2/0.8%	09-29-2013
E2/Test 0.2/0.4% cream	11-02-2013
Pregnenolone 5% cream	09-04-2013
E2/Test 0.1/0.2% cream	09-13-2013

E2/Test 06/0.6% cream	06-21-2013
Frizzum gel	12-07-2013
Estradiol 0.1% vaginal cream	05-01-2013
E2/Test 0.6/0.4% cream	06-01-2013
Progesterone 10% cream	06-30-2013
E2/MP 0.4/0.4 cream	09-31-2013
E2/E3 1:4(1.25mg/g) cream	10/12/2013
Testosterone 0.6% cream	No expiration date
Butt Paste + Lido & Nystatin	No expiration date
Aquaphor/Malox	No expiration date
Acetylcysteine 10% drops x 4 vials	07-16-2013
Promethazine 50mg/ml x 5 vials	04-03-2013
Cyanocobalamin 1000mcg/ml x 2 vials	11-02013
Morphine 50mg/ml x 4 vials	03-01-2014
A-Methapred	03-01-2013
Piperacillin Tazabactam x 3 vials	03-2013
Famotidine 20mg/2ml x 11 vials	08-2013
Gentamicin 80mg/2ml x 3 vials	01-2014
Meperidine 50mg/ml x 9 vials	05-15-2013
Meperidine 100mg/ml x 16vials	02-28-2013
Methylcobalmin 12.5mg	No beyond use date
Promethazine 50mg/ml x 4 vials	09-17-2013
Diazepam 5mg/ml	02-01-2013
Cromoylin Nebulizer Solution X 21 vials	No beyond use date
Unknown Clear liquid in Sterile Vials x 24	No beyond use date
Unknown Red liquid in Sterile Vials x 24	No beyond use date

Such conduct is in violation of Sections 3715.52 and 3715.63 of the Ohio Revised Code and Rule 4729-9-01(B) of the Ohio Administrative Code. Such conduct constitutes a violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code, violation of a provision of Chapter 3715. Of the Revised Code, and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(3) Davis Drug Compounding & Infusion did, on or about March 13, 2014, hold or offer for sale drugs that were adulterated, to wit: Davis Drug held at least five (5) prepared, compounded products stored with dispensing stock ready for sale that had an active or inactive ingredient that would expire prior to the given beyond use date provided by Davis Drug Compounding & Infusion Pharmacy. Such product included the following:

Drug/compound	Beyond use date of compound/drug	Ingredient of product	Expiration Date of ingredient
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Pregnenolone 25mg capsules	01-27-2015	Pregnenolone powder	07-30-2014
T3/T4 50/350mcg capsules	01-29-2015	T3 powder T4 powder	No expiration date 12-30-2014
E2/MP 1/100mg capsules	12-31-2014	Estradiol powder	12-01-2014
Coal Tar Solution	No beyond use date	Coal Tar Salicylic acid Traimcinolone ace.	02-30-2018 12-30-2015 08-30-2018
Pregnenolone 100mg capsules	03-12-2015	Pregnenolone powder	07-01-2014

Such conduct is in violation of Sections 3715.52 and 3715.63 of the Ohio Revised Code and Rule 4729-9-01(B) of the Ohio Administrative Code. Such conduct constitutes a violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code, violation of a provision of Chapter 3715. of the Revised Code, and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(4) Davis Drug Compounding & Infusion did, on or about March 13, 2014, hold or offer for sale compounded drugs bearing labels which did not contain the name, strength and quantity of each drug used in the compounded prescription. This violation occurred despite a previous corrective action plan submitted on or around December 17, 2012 indicating that all compounded prescriptions would be compliant with the labeling requirements found in Ohio law. Such product included the following:

Drug/compound	Missing component from label
Unknown Clear liquid in Sterile Vials x 24	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager
Unknown Red liquid in Sterile Vials x 24	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager
Compound/Drug	Beyond Use Date on label
Pregnenolone 25mg/ml	Quantity and identification of repackager
Testosterone 0.6% cream	Quantity or beyond use dating
Butt Paste + Lido & Nystatin Cream	Quantity or beyond use dating
Compound/Drug	Beyond Use Date on label

Aquaphor/Maloxx	Quantity or beyond use dating
Unlabeled DHE 100ml Vials x3	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager
Unlabeled DHE 100ml vials x85	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager
Progesterone 10% cream	Quantity and identification of repackager
E2/MP 0.4/0.4 cram	Drug name, quantity, and identification of repackager
E2/E3 1:4 (1.25mg/g) cream	Drug name, quantity, and identification of repackager
E2/Test 0.2/0.8% cream	Drug name, quantity, and identification of repackager
E2/Test 0.2/0.4% cream	Drug name, quantity, and identification of repackager
Pregnenolone 5% cream	Quantity and identification of repackager
E2/Test 01/0.2% cream	Drug name, quantity, and identification of repackager
E2/Test 0.6/0.6% cream	Drug name and quantity
Frizzum gel	Quantity
Estradiol 0.1% vaginal cream	Quantity and identification of repackager
E2/Test 0.4/0.8% cream	Drug name, quantity, and identification of repackager
Progesterone 20% cream	Quantity and identification of repackager
E2/Test 0.4%/0.8%	Quantity and identification of repackager
Promethazine 50mg/ml x 4vials	Identification of repackager
Meperidine 100mg/ml x 16 vials	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager on each vial
E2/MP 1/100mg capsules	Drug name, quantity, and identification of repackager
Cromoylin Nebulizer solution x 22 vials	Drug name, strength, beyond use date, pharmacy control number, quantity of each drug used, identification of repackager on each vial
Methylcobalamin 12.5mg/ml	Beyond use date and quantity
Compound/Drug	Beyond Use Date on label
Pain Cream A x2 containers	Drug names, strengths, quantity, and identification of repackager
Aquaphor/maloxx	Quantity and identification of repackager
T3/T4 50/350mcg capsules	Name of drug, quantity, and identification of repackager

Such conduct is in violation of Rule 4729-9-21 of the Ohio Administrative Code. If proven, such conduct constitutes a violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code, and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(5) Davis Drug Compounding & Infusion did, on or about March 13, 2014, fail to meet the minimum standards for compounding parenteral or sterile product prescriptions by failing to maintain a policy and procedure regarding the compounding, dispensing and delivery of sterile product prescriptions. This violation occurred despite a previous corrective action plan submitted on or around December 17, 2012 indicating that such a policy and procedure was complete and in accordance with Ohio law. Such conduct is in violation of Rule 4729-19-04 of the Ohio Administrative Code. If proven, such conduct constitutes violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code., and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(6) Davis Drug Compounding & Infusion did, on or about March 13, 2014, fail to meet the minimum standards for compounding parenteral or sterile product prescriptions by failing to implement a quality assurance program for the purpose of monitoring personnel qualifications, training and performance, product integrity, equipment, facilities and guidelines regarding patient education. This violation occurred despite a previous corrective action plan submitted on or around December 17, 2012 indicating that such a quality assurance program would be implemented in accordance with Ohio law. Such conduct is in violation of Rule 4729-19-04 of the Ohio Administrative Code. Such conduct constitutes violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code., and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(7) Davis Drug Compounding & Infusion did, on or about March 13, 2014, fail to meet the minimum standards for compounding parenteral or sterile product prescriptions by failing to have any supporting reference material, testing, or peer review literature supporting the method used to determine beyond use dating. This violation occurred despite a previous corrective action plan submitted on or around December 17, 2012 indicating that appropriate beyond use dating would be assigned to compounded medication based on USP 797 and USP 795 standards. Such conduct is in violation of Rule 4729-19-04 of the Ohio Administrative Code. Such conduct constitutes violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code, and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

(8) Davis Drug Compounding & Infusion did, on or about March 13, 2014, fail to meet the minimum standards for compounding parenteral or sterile product prescriptions by failing to have adequate reference materials related to sterile products to meet the needs of the facility staff in accordance with Ohio law. Such conduct is in violation of Rule 4729-19-04 of the Ohio Administrative Code. Such conduct constitutes violation of a rule of the board, violation of a provision of Chapter 4729. of the Revised Code, and/or ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code within the meaning of Section 4729.57 of the Ohio Revised Code.

CONCLUSIONS OF LAW

(1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute violating a rule of the Board as provided in Division (A)(2) of Section 4729.57 of the Ohio Revised Code.

(2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), through (8) of the Findings of Fact constitute violating provisions of the this Chapter as provided in Division (A)(3) of Section 4729.57 of the Ohio Revised Code.

(3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2), through (8) of the Findings of Fact constitute violating any provision of the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code as provided in Division (A)(4) of Section 4729.57 of the Ohio Revised Code.

(4) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Revised Code as provided in Division (A)(7) of Section 4729.57 of the Ohio Revised Code.

Division (B)(1) of Section 4729.57 of the Ohio Revised Code provides: "Upon the suspension or revocation of a license issued to a terminal distributor of dangerous drugs or the refusal by the Board to renew such a license, the distributor shall immediately surrender his license to the Board." The license should be forwarded by certified mail, return receipt requested.

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Davis Drug Compounding & Infusion on April 4, 2014.

(A) Further, the Board suspends the terminal distributor of dangerous drug license of Davis Drug Compounding & Infusion for a period of not less than 180 days.

(B) In order to have the license reinstated, Davis Drug must reappear before the Board of Pharmacy and demonstrate the following:

(1) Davis Drug Compounding and Infusion must prepare, complete and submit, within 30 days of any reappearance, a new Policy and Procedure manual.

(2) Davis Drug Compounding must demonstrate compliance with the Ohio Revised Code and Ohio Administrative Code as well as USP 795 and 797 by submitting and passing NABP/VPP compounding pharmacy inspections in conjunction with Ohio State Board of Pharmacy inspection and submit same to this Board 30 days prior to any reappearance.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of two thousand dollars (\$2,000.00) on Davis Drug Compounding & Infusion and payment in full is due and owing within thirty days of the mailing of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

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

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

Melinda Ferris moved for Action of the Board; Kevin Mitchell seconded the motion. Motion passed (Aye-4/Nay-2).

R-2015-035

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2014-1007)

In The Matter Of:

JAMES CHARLES LOCKSCHMIDT, R.Ph.

4406 Middle Urbana Road

Urbana, Ohio 43078

(R.Ph. No. 03-2-26504)

This Settlement Agreement is entered into by and between James Charles Lockschmidt 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.

James Charles Lockschmidt 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. James Charles Lockschmidt 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, James Charles Lockschmidt is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 11, 2014, pursuant to Chapter 119. of the Ohio Revised Code, James Charles Lockschmidt 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. James Charles Lockschmidt requested a hearing; it was scheduled and continued. The April 11, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that James Charles Lockschmidt was originally licensed in the State of Ohio on August 3, 2004, pursuant to reciprocity, and is currently licensed to practice pharmacy in the State of Ohio. Records further reflect that James Charles Lockschmidt was previously disciplined by this Board effective March 2, 2009.

(2) James Charles Lockschmidt did, on December of 2013, 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, to wit: he answered "no" on his Terminal Distributor Notification of Change of Responsible Person form to the question, "[h]ave you, as the person accepting responsibility by signing this form, ever been the subject of disciplinary action by any state or federal agency?," when in fact James Charles Lockschmidt should have answered "yes" to that question because he entered into a Settlement Agreement with the Ohio State Board of Pharmacy on or about March 2, 2009, for failure to obtain and/or submit to the Board evidence of approved continuing education after it had been determined that he was short one continuing education unit of Board approved Jurisprudence. In the Matter Of: JAMES CHARLES LOCKSHMIDT, R.Ph. Settlement Agreement with the State Board of Pharmacy, Docket

Number D-090123-064, March 2, 2009. James Charles Lockschmidt admitted to a State Board of Pharmacy Agent during an interview held on January 16, 2014, that because he failed to closely review the Terminal Distributor Notification of Change of Responsible Person form questions before he submitted the form to the Board, he failed to report his 2009 State Board of Pharmacy discipline. Such conduct constitutes falsification, and violates Section 2921.13(A)(5) of the Ohio Revised Code.

James Charles Lockschmidt neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 11, 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, James Charles Lockschmidt knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) James Charles Lockschmidt 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, James Charles Lockschmidt must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs), in law and ethics, which may not also be used for license renewal.

(C) Further, James Charles Lockschmidt must attend, within 90 days from the effective date of this agreement, one Reciprocity session held monthly during the Ohio State Board of Pharmacy Meetings.

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

James Charles Lockschmidt 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.

James Charles Lockschmidt 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. James Charles Lockschmidt waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-036 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2013-1681)

In the Matter of:

CVS PHARMACY #3457
415 North Main Street, Suite B
New Carlisle, Ohio 45344
(Terminal Distributor Number 02-0102350)

This Settlement Agreement is entered into by and between CVS Pharmacy #3457 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.

CVS Pharmacy #3457 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. CVS Pharmacy #3457 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, CVS Pharmacy #3457 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about April 15, 2014, pursuant to Chapter 119. of the Ohio Revised Code, CVS Pharmacy #3457 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. The April 15, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that CVS Pharmacy #3457 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Jennifer Jane Simmons, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(2) CVS Pharmacy #3457 has failed to furnish satisfactory proof to the Ohio State Board of Pharmacy that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, to wit: between May 21, 2013 through May 23, 2013, CVS Pharmacy #3457, 415 North Main Street, New Carlisle, Ohio 45344, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodone-Acetaminophen 5-500 on May 23, 2013, while she did not have an Ohio pharmacy intern license. Not until the CVS Regulatory Department requested a copy of Laura Cappa's Ohio intern license was it discovered that she did not have one. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such failure to verify the existence of a required Ohio pharmacy intern license, prior to allowing a person to work in a pharmacy as a pharmacy intern, demonstrates the failure to maintain adequate safeguards to ensure the safe and effective practice of pharmacy. Such conditions violate Section 4729.55(C) of the Ohio Revised Code and constitute a failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs.

(3) CVS Pharmacy #3457 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: between May 21, 2013 through May 23, 2013, CVS Pharmacy #3457, 415 North Main Street, New Carlisle, Ohio 45344, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodone-Acetaminophen 5-500 on May 23, 2013, while she did not have an Ohio pharmacy intern license. At no time prior to the CVS Regulatory Department requesting a copy of Laura Cappa's Ohio intern license, and discovering that she did not have one, was it ever verified that Ms. Cappa was licensed in Ohio to perform duties as a pharmacist intern. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such conduct demonstrates that adequate safeguards are not assured so that the pharmacy will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns to practice in a safe and effective manner, and constitutes a violation of Section 4927.55(D) of the

Ohio Revised Code and a failure to meet the qualification for a Terminal Distributor of Dangerous Drugs.

CVS Pharmacy #3457 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 15, 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, CVS Pharmacy #3457 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) CVS Pharmacy #3457 agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

CVS Pharmacy #3457 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.

CVS Pharmacy #3457 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. CVS Pharmacy #3457 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-037 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Case No. 2013-1681)

In the Matter of:

CVS PHARMACY #5364

2323 Dayton-Germantown Road

Germantown, Ohio 45327

(Terminal Distributor Number 02-0889350)

This Settlement Agreement is entered into by and between CVS Pharmacy #5364 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.

CVS Pharmacy #5364 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. CVS Pharmacy #5364 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, CVS Pharmacy #5364 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about April 15, 2014, pursuant to Chapter 119. of the Ohio Revised Code, CVS Pharmacy #5364 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. The April 15, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that CVS Pharmacy #5364 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Marinna Dural, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(2) CVS Pharmacy #5364 has failed to furnish satisfactory proof to the Ohio State Board of Pharmacy that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, to wit: between June 11, 2013 and June 13, 2013, CVS Pharmacy #5364, 2323 Dayton-Germantown Road, Germantown, Ohio 45327, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX #0840814 for Pravastatin 40mg on June 11, 2013; and RX #0841366 for Amiodaone 200mg on June 13, 2013, while she did not have an Ohio pharmacy intern license. Not until the CVS Regulatory Department requested a copy of Laura Cappa's Ohio intern license was it discovered that she did not have one. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such failure to verify

the existence of a required Ohio pharmacy intern license, prior to allowing a person to work in a pharmacy as a pharmacy intern, demonstrates the failure to maintain adequate safeguards to ensure the safe and effective practice of pharmacy. Such conditions violate Section 4729.55(C) of the Ohio Revised Code, and constitute a failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs.

(3) CVS Pharmacy #5364 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: between June 11, 2013 and June 13, 2013, CVS Pharmacy #5364, 2323 Dayton-Germantown Road, Germantown, Ohio 45327, allowed Laura Cappa, R.Ph., to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX #0840814 for Pravastatin 40mg on June 11, 2013; and RX #0841366 for Amiodaone 200mg on June 13, 2013, while she did not have an Ohio pharmacy intern license. At no time prior to the CVS Regulatory Department requesting a copy of Laura Cappa's Ohio intern license, and discovering that she did not have one, was it ever verified that Ms. Cappa was licensed in Ohio to perform duties as a pharmacist intern. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such conduct demonstrates that adequate safeguards are not assured so that the pharmacy will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns to practice in a safe and effective manner, and constitutes a violation of Section 4927.55(D) of the Ohio Revised Code and failure to meet the qualification for a Terminal Distributor of Dangerous Drugs.

CVS Pharmacy #5364 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 15, 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, CVS Pharmacy #5364 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) CVS Pharmacy #5364 agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

CVS Pharmacy #5364 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.

CVS Pharmacy #5364 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. CVS Pharmacy #5364 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-038 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2013-1681)

In the Matter of:

CVS PHARMACY #3477
400 Miamisburg-Centerville Road
Centerville, Ohio 45459
(Terminal Distributor Number 02-1031800)

This Settlement Agreement is entered into by and between CVS Pharmacy #3477 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.

CVS Pharmacy #3477 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. CVS Pharmacy #3477 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, CVS Pharmacy #3477 is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about April 15, 2014, pursuant to Chapter 119. of the Ohio Revised Code, CVS Pharmacy #3477 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. The

April 15, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that CVS Pharmacy #3477 is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Elizabeth Anne Stauffer, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(2) CVS Pharmacy #3477 has failed to furnish satisfactory proof to the Ohio State Board of Pharmacy that adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, to wit: between May 28, 2013 through June 7, 2013, CVS Pharmacy #3477, 400 Miamisburg-Centerville Road, Centerville, Ohio 45459, allowed Laura Cappa to engage in the practice of pharmacy and performed duties as a pharmacist intern while on duty without an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX# 0266959 for Azithromycin 250mg dose pack on June 2, 2013; RX #0265571 for Viorele 28 Day Tablet on May 28, 2013; RX # 0265787 for Furosemide 40mg on May 29, 2013; RX #0266110 for Orsythia-28 Tablet on May 31, 2013; RX #0266429 for Lantus Solostar 100 units/ml on June 3, 2013; RX #0266747 for Levothyroxine 175mcg Tablet on June 5, 2013; and RX #0266900 for Amoxicillin 400mg/5ml Susp on June 6, 2013, while she did not have an Ohio pharmacy intern license. Not until the CVS Regulatory Department requested a copy of Laura Cappa's Ohio intern license was it discovered that she did not have one. The CVS Pharmacy District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such failure to verify the existence of a required Ohio pharmacy intern license, prior to allowing a person to work in a pharmacy as a pharmacy intern, demonstrates the failure to maintain adequate safeguards to ensure the safe and effective practice of pharmacy. Such conditions violate Section 4729.55(C) of the Ohio Revised Code, and constitute a failure to meet the qualifications for a Terminal Distributor of Dangerous Drugs.

(3) CVS Pharmacy #3477 has ceased to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in Section 4729.55 of the Ohio Revised Code, to wit: between May 28, 2013 through June 7, 2013, CVS Pharmacy #3477, 400 Miamisburg-Centerville Road, Centerville, Ohio 45459, to engage in the practice of pharmacy and perform duties as a pharmacist intern while on duty despite the fact that she did not have an Ohio pharmacy intern license. Specifically, Laura Cappa dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodone-Acetaminophen 5-500 on May 23, 2013, while she did not have an Ohio pharmacy intern license. At no time prior to the CVS Regulatory Department requesting a copy of Laura Cappa's Ohio intern license, and discovering that she did not have one, was it ever verified that Ms. Cappa was licensed in Ohio to perform duties as a pharmacist intern. The CVS Pharmacy

District Manager admitted to a Board Agent in a telephone interview on August 7, 2013, that he failed to verify that Laura Cappa had a valid Ohio intern license when he hired her. Such conduct demonstrates that adequate safeguards are not assured so that the pharmacy will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns to practice in a safe and effective manner, and constitutes a violation of Section 4927.55(D) of the Ohio Revised Code and failure to meet the qualification for a Terminal Distributor of Dangerous Drugs.

CVS Pharmacy #3477 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 15, 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, CVS Pharmacy #3477 knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) CVS Pharmacy #3477 agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

CVS Pharmacy #3477 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.

CVS Pharmacy #3477 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. CVS Pharmacy #3477 waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-039

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Case No. 2013-1681)

In The Matter Of:

LAURA BETH CAPPA, R.Ph.

8295 Misty Shore Drive
West Chester, Ohio 45069

(R.Ph. No. 03-2-33044)

This Settlement Agreement is entered into by and between Laura Beth Cappa 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.

Laura Beth Cappa 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. Laura Beth Cappa 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, Laura Beth Cappa is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 15, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Laura Beth Cappa 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. Laura Beth Cappa requested a hearing; it was scheduled and continued. The April 15, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Laura Beth Cappa was originally licensed in the State of Ohio on July 16, 2013, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Laura Beth Cappa did, between on or about May 21, 2013 through May 23, 2013, when not registered as a pharmacist or pharmacy intern in Ohio, engage in the practice of pharmacy, to wit: without an Ohio pharmacy intern license Laura Beth Cappa engaged in the practice of pharmacy and performed duties as a pharmacist intern while on duty at CVS Pharmacy #3457, 415 North Main Street, New Carlisle, Ohio 45344. Specifically, she dispensed RX#C0485265 for Lorazepam 1mg tablet on May 21, 2013; RX# 0485623 for Diovan 320mg tablet on May 22, 2013; and RX# C048505 for Hydrocodon-Acetaminophen 5-500 on May 23, 2013. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

(3) Laura Beth Cappa did, between on or about May 28, 2013 through June 7, 2013, when not registered as a pharmacist or pharmacy intern in Ohio, engage in the practice of pharmacy, to wit: without an Ohio pharmacy intern license Laura Beth Cappa engaged in the practice of pharmacy and performed duties as a pharmacist intern while

on duty at CVS Pharmacy #3477, 400 Miamisburg-Centerville Road, Centerville, Ohio 45459. Specifically, she dispensed RX# 0266959 for Azithromycin 250mg dose pack on June 2, 2013; RX #0265571 for Viorele 28 Day Tablet on May 28, 2013; RX # 0265787 for Furosemide 40mg on May 29, 2013; RX #0266110 for Orsythia-28 Tablet on May 31, 2013; RX #0266429 for Lantus Solostar 100 units/ml on June 3, 2013; RX #0266747 for Levothyroxine 175mcg Tablet on June 5, 2013; and RX #0266900 for Amoxicillin 400mg/5ml Susp on June 6, 2013. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.

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

(A) Laura Beth Cappa 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, Laura Beth Cappa must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs) in law and ethics, which may not also be used for license renewal.

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

Laura Beth Cappa 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.

Laura Beth Cappa 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. Laura Beth Cappa waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-040 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2013-1405)

In The Matter Of:

JOEL MICHAEL DANZIG, R.Ph.

9276 Helen Lane
Twinsburg, OH 44087
(R.Ph. No. 03-1-29550)

This Settlement Agreement is entered into by and between Joel Michael Danzig 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.

Joel Michael Danzig 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. Joel Michael Danzig 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, Joel Michael Danzig is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 24, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Joel Michael Danzig was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. The January 24, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Joel Michael Danzig was originally licensed in the State of Ohio on July 23, 2009, pursuant to examination, and Joel Michael Danzig is currently licensed to practice pharmacy in the State of Ohio.

(2) Joel Michael Danzig did, on or about August 13, 2013 enter a plea of No Contest in Bedford Municipal Court case #13CRB00669A to the charge of Telephone Harassment. The charges that Joel Michael Danzig pled No Contest to resulted from his conduct on or about March 8-9, 2013 between the hours of 11:52 p.m. and 1:49 a.m., that involved Joel Michael Danzig sending a series of sexually explicit text messages to a female patient of CVS/pharmacy #3359. As part of his No Contest plea, Joel Michael Danzig agreed to be placed on six months of active probation. Joel Michael Danzig was fined \$250.00 plus costs, and was ordered to serve 30 days in jail with 30 days suspended. Such plea, is within the meaning of Section 4729.16 of the Ohio Revised Code.

Joel Michael Danzig neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 24, 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, Joel Michael Danzig knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Joel Michael Danzig 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, Joel Michael Danzig must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) on ethics, which may not also be used for license renewal.

(C) Joel Michael Danzig's pharmacist identification card, No. 03-1-29550, will be placed on probation for a period of one (1) year from the date of the Agreement. The terms of probation are as follows:

(1) Joel Michael Danzig must not violate the drug laws of the state of Ohio, any other state, or the federal government.

(2) Joel Michael Danzig must abide by the rules of the Ohio State Board of Pharmacy.

(3) Joel Michael Danzig must comply with the terms of this Agreement.

(4) Joel Michael Danzig agrees to cause a monthly report, attached hereto as attachment A, to be submitted to the Board office, by the 10th of each month, by his current counselor John Ropar, Ph.D. that provides the following information:

(a) Dates of appointment since the last report submitted.

- (b) That Joel Michael Danzig is compliant with his current treatment plan.
- (c) That Joel Michael Danzig is making satisfactory progress towards his treatment.

(5) Joel Michael Danzig agrees to cause a monthly report, attached hereto as attachment B, to be submitted to the Board office, by the 10th of each month, by his current marriage counselor Melissa Coan that provides the following information:

- (a) Dates of appointment since the last report submitted.
- (b) That Joel Michael Danzig is compliant with his current counseling plan.
- (c) That Joel Michael Danzig is making satisfactory progress towards successful completion of his counseling.

(6) Joel Michael Danzig agrees to begin counseling with Rabbi Stephen Weiss as of the effective date of this signed agreement and agrees to cause a monthly report, attached hereto as attachment C, to be submitted to the Board office, by the 10th of each month, by Rabbi Stephen Weiss that provides the following information:

- (a) Dates of appointment since the last report submitted.
- (b) That Joel Michael Danzig is compliant with his current counseling plan.
- (c) That Joel Michael Danzig is making satisfactory progress towards successful completion of his counseling.

(D) Joel Michael Danzig agrees that the terms of this agreement will remain in effect for a period of one (1) year from the effective date of this agreement.

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

Joel Michael Danzig 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.

Joel Michael Danzig 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. Joel Michael Danzig waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-041 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case No. 2013-1823)

In The Matter Of:

CHRISTOPHER KENT CURRIN, R.Ph.

12230 Iron Bridge Road, Suite C

Chester, VA 23831

(R.Ph. No. 03-1-32469)

This Settlement Agreement is entered into by and between Christopher Kent Currin 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 Kent Currin 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 Kent Currin 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 Kent Currin is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about April 11, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Christopher Kent Currin was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. The April 11, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

Records of the State Board of Pharmacy indicate that Christopher Kent Currin was originally licensed in the State of Ohio on January 24, 2013, pursuant to reciprocity, and Christopher Kent Currin is currently licensed to practice pharmacy in the State of Ohio.

On or about May 8, 2013, Christopher Kent Currin did, as co-owner and pharmacist-in-charge of RX3, enter into a Consent Order with the Virginia Board of Pharmacy in which he agreed to pay a fine of \$10,500.00. In Re: RX3, Before the Virginia Board of Pharmacy, (May 2013). The above-mentioned Consent Order was based on violations of the Code of Virginia found during four inspections at RX3, Chester, Virginia, that occurred between November 5, 2012 and November 14, 2012. The violations included: 1) using an unregistered person as a pharmacy technician to prepare prescriptions for the pharmacist to check, 2) failure to provide a perpetual inventory of Schedule II drugs, 3) compounding sterile products with beyond use dates exceeding that allowed, 4) no sterility testing performed, 5) preparation of large quantities of two compounded sterile injectable products for Medi-Weightloss Clinics (across the country), and 6) improper labeling for a compounded sterile injectable sold to Medi-Weightloss Clinics that did not include the name and strength of the ingredients. On January 17, 2013 the Virginia Board of Pharmacy issued an Order of Summary Restriction on January 17, 2013, that summarily restricted Christopher Kent Currin from performing any sterile compounding or, as pharmacist-in-charge at RX3 Compounding Pharmacy, from supervising or allowing any sterile compounding to be done. In Re: Christopher K. Currin, Pharmacist, Before the Virginia Board of Pharmacy, (January 17, 2013). That Order was stayed when Christopher Kent Currin entered into a Consent Order with the Virginia Board of Pharmacy on January 24, 2013, to follow terms and conditions. In Re: Christopher K. Currin, Pharmacist, Before the Virginia Board of Pharmacy, (January 24, 2013). On April 30, 2013, the Virginia Board of Pharmacy ordered that no further action would be taken due to his compliance with the terms and conditions of the Consent Order. Such conduct constitutes prior discipline by a professional licensing board within the meaning of Rule 4719-9-19 of the Ohio Administrative Code. Further, such conduct constitutes unprofessional conduct in the practice of pharmacy, and is a violation of Section 4729.16(C)(4) of the Ohio Revised Code within the meaning of Section 4729.16(A)(1) of the Ohio Revised Code.

Christopher Kent Currin neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 11, 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 Kent Currin knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Christopher Kent Currin agrees that he shall not practice pharmacy in Ohio from the effective date of this agreement until such time that his license lapses on September 14, 2014.

(B) Christopher Kent Currin agrees that he shall allow his Ohio pharmacist license No. 03-1-32469 to lapse on September 14, 2014.

(C) Christopher Kent Currin agrees that, in the event he desires to obtain an Ohio pharmacist license, he is required to repeat the entire application process.

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

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

R-2015-042

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY

(Case No. 2014-1094)

In The Matter Of:

PETER JOSEPH HART, R.Ph.

4525 Hampton Pointe Drive

Cincinnati, OH 45248
(R.Ph. No. 03-1-17426)

This Settlement Agreement is entered into by and between Peter Joseph Hart 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.

Peter Joseph Hart 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. Peter Joseph Hart 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, Peter Joseph Hart is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 23, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Peter Joseph Hart 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. Peter Joseph Hart requested a hearing; it was scheduled and continued. The May 23, 2014 Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Peter Joseph Hart was originally licensed in the State of Ohio on July 29, 1988, pursuant to examination, and are currently licensed to practice pharmacy in the State of Ohio.

(2) You did, on or about January 8, 2014, misbrand a drug, to wit: when you received a prescription for Roxanal 5-10mg Q2 hrs prn #30ml, Rx#2484139, you dispensed Oxyfast 20 mg/ml, a drug which had not been prescribed by the physician. When asked about the mistake, you indicated that when you went to the C-II safe at Kroger Pharmacy #908 you did not see Roxanol so you substituted Oxyfast20 mg/ml with the same administration directions; rather than contacting the prescriber. Such conduct constitutes dispensing a drug that is not the brand or drug specifically prescribed or ordered, in violation of Section 3715.64(A)(10)(d) of the Ohio Revised Code, within the meaning of Sections 3715.52 and 3715.64 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.

Peter Joseph Hart neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 23, 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, Peter Joseph Hart knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Peter Joseph Hart 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, Peter Joseph Hart must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in medication error and patient safety, which may not also be used for license renewal.

Peter Joseph Hart 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.

Peter Joseph Hart 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. Peter Joseph Hart waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-043 Mr. Moné announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Case Number 2012-1063)

In The Matter Of:

AUDREY CHO, R.Ph.
10497 Brentmoor Drive
Loveland, OH, 45140
(R.Ph. No. 03-3-21665)

This Settlement Agreement is entered into by and between Audrey Cho 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.

Audrey Cho 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. Audrey Cho acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Audrey Cho is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about January 22, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Audrey Cho 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. Audrey Cho requested a hearing; it was scheduled and continued. The January 22, 2013, Notice of Opportunity for Hearing contains the following relevant allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Audrey Cho was originally licensed in the State of Ohio on October 16, 1996, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Audrey Cho did, on or about January 4, 2010, by deception, procure a prescription for a dangerous drug, to wit: a NuvaRing, Rx #473817, knowing the prescription was not for her own use, but for the use of a pharmacy intern. Audrey Cho further submitted the false prescription to Walgreens Insurance Company for reimbursement. Such conduct is in violation of Section 2925.22 of the Ohio Revised Code.

(3) Audrey Cho did, on or around August 14, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens Pharmacy #4733, beyond the express or implied consent of the owner, to wit: she admitted to removing four amoxicillin 500mg capsules from the pharmacy stock and providing them to a pharmacy technician without a legitimate prescription and without payment to the pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(4) Audrey Cho did, on or around September 2, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens

Pharmacy #4733, beyond the express or implied consent of the owner, to wit: she admitted to removing one Pristiq 50mg tablet from the pharmacy stock and providing it to a pharmacy technician without payment to the pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

(5) Audrey Cho did, on or around July 20, 2011, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Walgreens Pharmacy #4733, beyond the express or implied consent of the owner, to wit: she admitted to removing promethazine from the pharmacy stock and providing it to a pharmacy technician without a legitimate prescription or payment to the pharmacy. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

Audrey Cho neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 22, 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, Audrey Cho knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Audrey Cho's pharmacist identification card, No. 03-3-21665, will be placed on probation for one year from the effective date of this agreement. The terms of probation are as follows:

- (1) The State Board of pharmacy hereby declares that Audrey Cho'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) Audrey Cho may not dispense any medications to a co-worker.
- (3) Audrey Cho must not violate the drug laws of the state of Ohio, any other state, or the federal government.
- (4) Audrey Cho must abide by the rules of the Ohio State Board of Pharmacy.
- (5) Audrey Cho must comply with the terms of this Agreement.

(B) Audrey Cho agrees to the imposition of a monetary penalty of three thousand, five hundred dollars (\$3,500.00). The first required payment will be due within 30 days of the effective date of this agreement. All subsequent payments will be due on or before the 25th day of each month with the entire balance of \$3,500.00 to be paid within 18 months of the effective date. 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.

(C) In addition, Audrey Cho must obtain, within 90 days from the effective date of this Agreement, twelve (12) hours of approved continuing pharmacy education in Jurisprudence and/or Ethics (1.2 CEUs), which may not also be used for license renewal.

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

Audrey Cho 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.

Audrey Cho 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. Audrey Cho waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

R-2015-044 The Board received a request to approve the extension of the intern identification for **Nisreen Adel Nusair** (06-0-08269) North Canton, Ohio. Mr. Mitchell moved that the extension of the intern identification be approved for one year (for the 2014-2015 renewal cycle). The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

Mark Keeley, *Pharmacist Field Supervisor*, joined the meeting.

4:42 p.m. Mr. Keeley and Mr. McNamee discussed Ohio Administrative Rules for Approval.

5:02 p.m. Mr. Keeley discussed Rule 4729-16-06 (3)(e) & (5)(c).

R-2015-045 Ms. Marchal moved that rules 4729-08-01, 4729-08-02, 4729-08-4729-08-03, 4729-08-04, and 4729-11-02 be approved for filing with JCARR. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

R-2015-046 Mr. Mitchell moved that rules 4729-16-01, 4729-16-02, 4729-16-03, 4729-16-04, 4729-16-05, 4729-16-06, 4729-16-07, 4729-16-08, 4729-16-09, and 4729-16-10 be filed with CSI and

"notification" language be retained. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

5:22 p.m.

Ms. Ferris 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, to discuss the employment of a public employee and the purchase of property pursuant to Section 121.22(G)(1) & (2). The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by President Moné as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes and Mitchell – yes.

6:15 p.m.

The Board recessed briefly.

6:25 p.m.

The Executive Session resumed in room South B&C.

6:55 p.m.

The Executive Session ended and the meeting was opened to the public.

R-2015-047

Mr. Kolezynski moved that the Board Minutes of July 8, 2014, be approved as amended. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 6.

R-2015-048

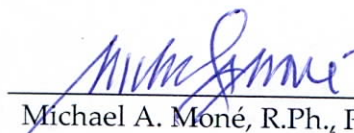
Mr. Kolezynski moved that the Board receive Per Diem as follows:

PER DIEM	8/5	Total
Cain	1	1
Ferris	1	1
Huwer	1	1
Kolezynski	1	1
Mitchell	1	1
Marchal	1	1
Moné	1	1
Yarosh	0	0

Ms. Huwer seconded the motion and it was approved by the Board: Aye – 6.

R-2015-049

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



 Michael A. Moné, R.Ph., President

Date: 7 October 2014



 Eric Griffin, Interim Executive Director

Date: 10/7/2014