

**Minutes of the August 3-5, 2015**  
**Meeting of the Ohio State Board of Pharmacy**

**Monday, August 3, 2015**

**10:04 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:

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

Also present were Steven Schierholt, *Executive Director*; Kevin Mitchell, *Assistant Executive Director*; Eric Griffin, *Director of Compliance and Enforcement*; Nicole Dehner, *Chief Legal Counsel*; David Ingram, *Associate Legal Counsel*; Chad Garner, *Director of OARRS*; and Cameron McNamee, *Director of Policies and Communications*.

**10:05 a.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. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; and Weaver – yes.

**10:23 a.m.** The meeting reconvened in 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 **Hughes Pharmacy and John Pipemeier, R.Ph.**, Hamilton, Ohio.

**11:44 a.m.** The hearing ended and the record was closed.

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

**12:12 p.m.** The recess ended and the hearing was opened to the public. The matter of Hughes Pharmacy and John Pipemeier, R.Ph. was continued to September 1, 2015.

**12:18 p.m.** The Board recessed for lunch.

**1:34 p.m.**      The meeting reconvened in Room South B&C.

Mr. McNamee provided the Legislative Report.

**R-2016-032**      After discussion Mr. Moné moved that the adoption of Rule 4729-5-39 be approved as amended for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 5.

**R-2016-033**      After discussion Mr. Weaver moved that the adoption of Rule 4729-16-102 be approved as amended for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.

**1:46 p.m.**      BioFusion Pharmacy addressed the Board with a request to modify their current terms of probation. The Board tabled the discussion and will inform BioFusion in writing of their decision.

**1:58.p.m.**      Phillip Burgess and David Medvedeff, *VUCAHealth*, gave a presentation to the Board regarding paperless medication information.

**2:20 p.m.**      The Board recessed briefly.

**2:31 p.m.**      The meeting reconvened in Room South B&C.

The Board was joined by Assistant Attorney General Charissa Payer to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jamie Lynn Morton, R.Ph.**, Bellvue, Kentucky.

**3:04 p.m.**      The hearing ended and the record was closed.

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

**3:15 p.m.**      The recess ended and the hearing was opened to the public.

**R-2016-034**      After votes were taken in public session, the Board adopted the following order in the matter of **Jamie Lynn Morton, R.Ph.**, Bellvue, Kentucky.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2010-1469)

In The Matter Of:

**Jamie Lynn Morton, R.Ph.**

308 West 4<sup>th</sup> Street, Apt. C

Falmouth, KY 41040

(R.Ph. No. 03-1-27731)

**INTRODUCTION**

The Matter of Jamie Morton came for hearing on August 3, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph. and Fred Weaver, R.Ph. This hearing was a continuation of the hearing which began November 3, 2010.

Jamie Morton was not present nor represented by Counsel. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witnesses:**

1. Rick Haun, Ohio State Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

- |       |   |            |
|-------|---|------------|
| 1.    | Summary Suspension/Notice of Opportunity for Hearing                      | 08-11-2010 |
| 1A-K. | Procedurals   |            |
| 2.    | Statement of Pamela Hughes  | 08-05-2010 |
| 3.    | Statement of Cathy McKee  | 08-05-2010 |
| 4.    | Email Statement of Jennifer Uhl, R.Ph.                                    | 08-03-2010 |
| 5.    | Statement of Heather Perrin   | 08-11-2010 |
| 6.    | Statement of Steve Williams   | 10-28-2010 |
| 7.    | Statement of Tiffany Hamilton   | 10-28-2010 |
| 8.    | Statement of Yvonne Johnson   | 07-30-2010 |
| 9.    | Statement of Jacquelyn Helmes, Intern                                     | 07-30-2010 |
| 10.   | Statement of Alison Foster, Intern  | 07-30-2010 |
| 11.   | Minutes of the November 1-3, 2010<br>Ohio State Board of Pharmacy Meeting | 11-03-2010 |
| 12.   | Excerpts of Proceeding  | 11-03-2010 |

State's Aggravating Exhibits:

13.     Hamilton County Municipal Court Journal Entry,                      12-01-2014  
         RE: Jamie Lynn Morton

Respondent's Exhibits:

None

FINDINGS OF FACT

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

(1)     Records of the Board of Pharmacy indicate that Jamie Morton was originally licensed in the State of Ohio on March 6, 2007, pursuant to reciprocity, and is not currently licensed to practice pharmacy in the State of Ohio as her license expired on September 15, 2010.

(2)     The Board has determined there is clear and convincing evidence that the continuation of Jamie Morton's professional practice presents a danger of immediate and serious harm to others, to wit: she was observed practicing pharmacy while impaired; she was observed to have slurred speech and acting confused and she had trouble looking at the computer screen. Jamie Morton observed spending an inordinate amount of time loitering around the alprazolam shelf. Jamie Morton fell asleep while on duty. In her personal affects she was carrying stock bottles of Xanax 1mg and 2mg as well as 2 amber vials filled with an assortment of colored pills. Jamie Morton's eyes were glassy and she was not able to type on the computer keyboard. An unknown quantity of Triazolam was found to be missing.

(3)     The Board also finds that Jamie Morton failed to comply with the terms of the Board Order dated January 12, 2011, which required her to undergo a mental and physical examination by a board certified addictionologist to be provided to the Board Monday, February 7, 2011.

CONCLUSIONS OF LAW

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

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

(3) The Board concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

(4) The Board concludes that paragraph (2) of the Findings of Fact constitutes having been convicted of a misdemeanor related to, or committed in, the practice of pharmacy as provided in Division (A)(4) of Section 4729.16 of the Ohio Revised Code.

(5) Further, as a result of the evidence and testimony presented, the Board concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating provisions of Chapters 4729., 2925., and 3719. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

#### 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 Jamie Morton on August 11, 2010.

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

(1) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-27731, held by Jamie Morton effective as of the date of the mailing of this Order.

(2) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-27731, held by Jamie Morton effective as of the date of the mailing of this Order.

(3) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-27731, held by Jamie Morton effective as of the date of the mailing of this Order.

(4) On the basis of the Findings of Fact and paragraph (4) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-27731, held by Jamie Morton effective as of the date of the mailing of this Order.

(5) On the basis of the Findings of Fact and paragraph (5) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-1-27731, held by Jamie Morton effective as of the date of the mailing of this Order.

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

Mr. Moné moved for Findings of Fact; Mr. Cain seconded the motion. Motion passed (Aye-5/Nay-0).

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

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

SO ORDERED.

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**3:19 p.m.** Mr. Mitchell provided the licensing report and gave a presentation to the Board regarding the recent Kaizen event.

**3:39 p.m.** Mr. Garner provided the OARRS update.

**3:47 p.m.** The Board recessed for the day.

### **Tuesday, August 4, 2015**

**8:45 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:

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

**8:46 a.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. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by

President Yarosh as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; and Weaver – yes.

**8:54 a.m.**      The meeting reconvened in Room South B&C.

**9:04 a.m.**      The Board was joined by Assistant Attorney General Melissa Wilburn to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Joshua Keslar, R.Ph.**, Westerville, Ohio.

**10:20 a.m.**      The hearing ended and the record was closed.

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

**10:41 a.m.**      The recess ended and the hearing was opened to the public.

**R-2016-035**      After votes were taken in public session, the Board adopted the following order in the matter of **Joshua Keslar, R.Ph.**, Westerville, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2012-1826)

In The Matter Of:

**Joshua Keslar, R.Ph.**  
174 Buckeye Court  
Westerville, OH 43081  
(R.Ph. License No. 03-1-24460)

**INTRODUCTION**

The Matter of Joshua Keslar came for hearing on August 4, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph. and Fred Weaver, R.Ph.

Joshua Keslar was represented by Christopher Connor. The State of Ohio was represented by Melissa Wilburn, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Joshua Keslar, R.Ph.

State's Exhibits:

- |                              |            |
|------------------------------|------------|
| 1. Request for Reinstatement | 05-28-2015 |
| 1A-B. Procedurals            |            |
| 2. Order of the Board        | 07-12-2013 |

Respondent's Exhibits:

- |  |            |
|--|------------|
| A. PRO Contract  | 07-16-2013 |
| B. Letter of Jarrod Grossman                                 | 07-12-2015 |
| C. Urine Screens   | Various    |
| D. Meeting Attendance Sheets                                 | Various    |
| E. Meeting Attendance Calendar                               | Various    |
| F. Letter of Timothy Miller, The Woods at Parkside           | 07-08-2015 |
| G. Entry of Dismissal, Franklin County Court of Common Pleas | 11-14-2014 |
| H. Continuing Education                                      | Various    |
| I. Letters of Support  | Various    |

FINDING OF FACTS

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Joshua Keslar has complied with the terms set forth in the Order with the State Board of Pharmacy, Case No. 2012-1826, effective July 12, 2013.

DECISION OF THE BOARD

On the basis of the Finding of Facts set forth above, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-1-24460, held by Joshua Keslar to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

- (A) Joshua Keslar 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) treatment provider or a treatment provider acceptable to the Board



for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

(1) Random, **observed** urine drug screens shall be conducted at least once each month.

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

(b) Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.

(c) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Respondent no later than 12 hours from receipt of the negative result.

(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) on separate days, 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) Joshua Keslar shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Orders and request Joshua Keslar reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Joshua Keslar shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Orders and request Joshua Keslar reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Joshua Keslar must immediately report any violation of the terms of this probation to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

(E) Joshua Keslar 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 Joshua Keslar's progress towards recovery and what he has been doing during the previous three months.

(F) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Joshua Keslar'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) Joshua Keslar may not serve as a responsible pharmacist.

(3) Joshua Keslar may not destroy, assist in, or witness the destruction of controlled substances.

(4) Joshua Keslar may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.

(5) Joshua Keslar must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Joshua Keslar must abide by the rules of the State Board of Pharmacy.

(7) Joshua Keslar must comply with the terms of this Order.

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

(G) 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.

Mr. Moné moved for Findings of Fact; Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Mr. Moné moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-4/Nay-1).

SO ORDERED.

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**10:50 a.m.**      The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Charles Bedel, R.Ph.**, Union, Kentucky.

**12:49 a.m.**      The Board recessed for lunch.

**1:30 p.m.**      The following candidates for licensure by reciprocity participated in a discussion of pharmacy laws and rules with Ms. Terri Ghitman, *OARRS Pharmacist*, in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts:

JESTINE NICOLE ALIFF	SOUTH CAROLINA
LINDA ANNOBIL	NEW JERSEY
VASILIOS ATHANS	MICHIGAN
REBECCA ANN BLISS	KANSAS
STEPHEN KYLE BLISS	KANSAS
MICHAEL J. BONOMINI	KENTUCKY
JUSTIN MICHAEL BRAMEL	ALABAMA
SHERRY L. BRODERSON	NORTH CAROLINA
ELIZABETH A. CASSERLY	CONNECTICUT
JOEL CLAYCOMB	PENNSYLVANIA
JEFFERY W. COOK	KENTUCKY
ERIC R. CORNELL	NORTH CAROLINA
CHRISTINA M. DOROSZ	NEW YORK
AHMAD HAMID ELJAROUCH	MASSACHUSETTS
SARAH SUZANNE EVANS	GEORGIA
ALYSSA JO FERRERIO	NEW YORK
BRITTANY FLORCZYKOWSKI	TEXAS
ALEXIS MARIE GAGGINI	MISSOURI
STEFANIE ANN GEORGE	ILLINOIS
NICOLE MARIE GRIMMER	ILLINOIS
TYLER DIETZ HEBERLE	LOUISIANA
PATRICK L. HERVOL	PENNSYLVANIA
ELIZABETH MARY HOHNER	MARYLAND
BELINDA CHANDARA HONG	TEXAS
JEFFREY S. JACKSON	KENTUCKY
AMY L. JENNINGS	INDIANA
INDRANI KAR	PENNSYLVANIA
BARBARA CAROL KEMP	KENTUCKY
PRESTON TYLER KOHARI	KENTUCKY
JOHN FRANK KOHLI	ARIZONA
BETHANY DAWN LAZEAR	NORTH CAROLINA
LAUREN ELIZABETH LEDBETTER	NORTH CAROLINA

JUSTIN NEIL MARKHAM	DELAWARE
THOMAS WALTER KANE MICHAELS	PENNSYLVANIA
CAROLE MOHSEN	MICHIGAN
KAROLYNN ARLENE MOLLOHAN	MASSACHUSETTS
JOCELYN ALYSE OWUSU-YAW	ILLINOIS
ERIC EMMANUEL PALM	MICHIGAN
JOHN SCOTT PAUL	WEST VIRGINIA
RACHEL SUZANNE PITTMAN	TEXAS
CHRISTOPHER ROBERTS	KENTUCKY
JENNIFER R. ROBERTS	KENTUCKY
BRANDON KURT ROYEK	PENNSYLVANIA
SARAH JANE ROYEK	PENNSYLVANIA
ALAN JOSEPH ROZYCKI	MARYLAND
MYA FLORENTINA SANTOS	COLORADO
ANAND B. SHAH	PENNSYLVANIA
SARAH ELIZABETH SHIELDS	INDIANA
BHANUPRIYA SIRANDAS	ILLINOIS
ANDREW MICHAEL STRAW	SOUTH DAKOTA
NATALIA OLEKSANDRA TARASIUK	PENNSYLVANIA
JACKLYN ANN TIRABASSI	NEW YORK
JESSICA A. WALLE	ILLINOIS
MICHAEL JAMES WEAVER	COLORADO
ELIZABETH WEED	NORTH CAROLINA
TONG GUI YU	FLORIDA

- 2:00 p.m.**                      The meeting reconvened in Room South B&C.
- 3:15 p.m.**                      The hearing ended and the record was closed. The matter of Charles Bedel was continued until November 2, 2015.
- 3:20 p.m.**                      The record was reopened in the matter of **Jamie Lynn Morton, R.Ph.**, for testimony provided by Compliance Agent Rick Haun.
- 3:25 p.m.**                      The record of Jamie Lynn Morton, R.Ph., was closed.
- R-2016-036**                      Mr. Moné moved that the request for the “Mental Health and Recovery Services Board (MHR SB) of Stark County” to conduct a wholesale transaction of an existing supply of naloxone to surrounding law enforcement agencies provided that they facility is accompanied on such transactions by a State of Ohio Board of Pharmacy Compliance Agent or Specialist. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.
- R-2016-037**                      Mr. Moné moved to deny the specific request of BioFusion Pharmacy. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.

3:34 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. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; and Weaver – yes.

3:55 p.m. The meeting reconvened in Room South B&C.

R-2016-038 Mr. Moné moved that the request for settlement presented by **Anthony Gamm, R.Ph.**, Greenwood, Indiana, be accepted allowing for sufficient time for the preparation and approval of settlement documentation. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 5.

R-2016-039 Mr. Weaver moved to approve a 2.5% increase in compensation to the Executive Director, to be effective in the pay period beginning June 28, 2015, subject to approval of the Governor's office. The motion was seconded by Ms. Ferris and approved by the Board: Aye – 5.

4:00 p.m. The Board recessed for the day.

### Wednesday, August 5, 2015

8:38 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:

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

R-2016-040 Mr. Moné moved that the Board Minutes of July 6-8, 2015, be approved as written. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 5.

8:43 a.m. The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Zaid Batayneh, R.Ph.**, Westlake, Ohio.

9:42 a.m. The Board recessed briefly.

9:49 a.m. The meeting reconvened in Room South B&C.

10:38 a.m. The Board recessed briefly.

**10:45 a.m.**      The meeting reconvened in Room South B&C.

**11:17 a.m.**      The hearing ended and the record was closed.

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

**11:39 a.m.**      The recess ended and the hearing was opened to the public.

**R-2016-041**      After votes were taken in public session, the Board adopted the following order in the matter of **Zaid Batayneh, R.Ph.**, Westlake, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2015-1384)

In The Matter Of:

**Zaid Batayneh, R.Ph.**  
25725 Peppercorn Drive  
Westlake, OH 44145  
(R.Ph. No. 03-3-26971)

**INTRODUCTION**

The Matter of Zaid Batayneh came for hearing on August 5, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph. and Fred Weaver, R.Ph.

Zaid Batayneh was represented by James Lindon. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Lt. Gerald Vogel, Westlake Police Department
2. Special Agent Robert Walling, Westshore Enforcement Bureau
3. Zaid Batayneh, R.Ph., Respondent
4. Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witnesses:

1. Zaid Batayneh, R.Ph., Respondent

State's Exhibits:

- |       |   |            |
|-------|---|------------|
| 1.    | Summary Suspension/Notice of Opportunity for Hearing                | 05-04-2015 |
| 1A-D. | Procedurals   |            |
| 2.    | Narcotics/Vice Complaint Form submitted by Lt. G. Vogel             | 04-26-2015 |
| 3.    | Westshore Enforcement Bureau, Supplementary Report                  | 04-27-2015 |
| 4.    | Statement Form, Westshore Enforcement Bureau                        | 04-26-2015 |
| 5.    | Statement of Zaid Batayneh to Lynn Mudra                            | 04-30-2015 |
| 6.    | Statement of Zaid Batayneh to Donna Ferrell                         | 04-20-2015 |
| 7.    | Statement of Elizabeth Rodriguez                                    | 05-01-2015 |
| 8.    | Patient Profile for Zaid Batayneh, CVS Pharmacy #02587              | 04-30-2015 |
| 9.    | Lutheran Hospital Sensitive Alcohol & Drug Recovery Assessment      | 04-28-2015 |
| 10.   | Accountability Statements and Controlled Substance Inventory Sheets | 07-09-2015 |

Respondent's Exhibits:

- |    |                            |            |
|----|----------------------------|------------|
| A. | Letter of Therese Kastelic | 07-27-2015 |
|----|----------------------------|------------|

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 Zaid Batayneh on May 4, 2015. The Board reinstates the pharmacist identification card No. 03-3-26971 effective immediately with the following restrictions:

- A. Mr. Batayneh may not fill prescriptions for himself or any family members nor have them filled at the place where he is employed; and
- B. Mr. Batayneh must continue his current course of treatment with Therese Kastelic and comply with all recommendations made for a minimum of one year of the effective date of this Order. At the end of one year, Mr. Batayneh must have Therese Kastelic submit to the Board a report detailing the course of treatment and successful completion of any recommendations.

Ms. Marchal moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye 5/Nay 0).

SO ORDERED.

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11:45 a.m. The Board recessed briefly.

12:50 p.m. The meeting reconvened in South B&C.

The Board was joined by Assistant Attorney General Melissa Wilburn to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Michael Baker, R.Ph.**, Clinton, Ohio.

2:25 p.m. The Board recessed briefly.

2:30 p.m. The meeting reconvened in Room Room South B&C.

2:54 p.m. The hearing ended and the record was closed.

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

3:05 p.m. The recess ended and the hearing was opened to the public.

R-2016-042 After votes were taken in public session, the Board adopted the following order in the matter of **Michael Baker, R.Ph.**, Clinton, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2015-1055)

In The Matter Of:

**Michael Baker, R.Ph.**

258 W. Comet

Clinton, OH 44216

(R.Ph. License No. 03-1-20498)



INTRODUCTION

The Matter of Michael Baker came for hearing on August 5, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph. and Fred Weaver, R.Ph.

Michael Baker was represented by Robert Tscholl. The State of Ohio was represented by Melissa Wilburn, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Michael Baker, R.Ph., Respondent
2. Greg Whitney, State of Ohio Board of Pharmacy

Respondent's Witnesses:

1. Michelle Cudnik, Sister of Respondent

State's Exhibits:

- |       |  |            |
|-------|--|------------|
| 1.    | Summary Suspension/Notice of Opportunity for Hearing   | 02-13-2015 |
| 1A-C. | Procedurals  |            |
| 2.    | Statement of Michael Baker, R.Ph.  | 02-09-2015 |
| 3.    | Permission for Installation of Video Surveillance for Heritage Square Pharmacy<br>Video Surveillance Footage | 01-25-2015 |
| 4.    | Property Receipt for Evidence  | 02-09-2015 |
| 5.    | Statement of Mark Schuller, R.Ph.  | 07-01-2015 |

Respondent's Exhibits:

- |      |   |                               |
|------|---|-------------------------------|
| A-E. | 12 Step Attendance Verification Sheets        | Various                       |
| F.   | Ignatia Hall IOP Consent Agreement            | 02-11-2015                    |
| G.   | Letter from Summa Health Systems/Ignatia Hall | 06-10-2015                    |
| H.   | 12 Step Attendance Verification Sheet         | 06-30-2015 through 08-04-2015 |

FINDINGS OF FACT

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

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

2. Michael Baker is addicted to the use of controlled substances in violation of Section 3719.121(A) of the Revised Code and/or there is clear and convincing evidence that continuation of his professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others as set forth in Section 3719.121(B) of the Revised Code, to wit:

a. During an investigation by the Ohio State Board of Pharmacy, Michael Baker was recorded by video camera stealing drugs on or about January 28, 2015 on two separate occasions.

b. When confronted by Agents of the State Board of Pharmacy on February 9, 2015, Michael Baker eventually admitted to theft of drugs from the pharmacy and had on or about his person an unlabeled pharmacy prescription bottle containing 49 oxycodone 30 mg tablets and 33 oxycodone 15 mg tablets that had not been legally prescribed. He indicated to Agents that he began stealing drugs from the pharmacy approximately one to one and a half years ago. He also indicated that he is addicted to the drugs and consumes up to 8 tablets of oxycodone on his "worst day." Michael Baker reported he had also stolen various strengths of hydrocodone. He apologized and indicated he would get drug treatment as soon as possible.

#### CONCLUSIONS OF LAW

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

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

(3) The Board concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) of Section 4729.16 of the Ohio Revised Code.

(5) Further, as a result of the evidence and testimony presented, the Board concludes that paragraph (2) of the Findings of Fact constitutes being guilty of willfully violating, provisions of Chapter 4729., 3719. and 2925. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

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 Michael Baker on February 13, 2015.

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 suspends indefinitely the pharmacist identification card, No. 03-1-20498, held by Michael Baker and such suspension is effective as of the date of the mailing of this Order.

(A) Michael Baker, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

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

Further, after 2 years from the effective date of this Order, the Board will consider any petition filed by Michael Baker for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(A) Michael Baker 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) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

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

(b) Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.

(c) Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Respondent no later than 12 hours from receipt of the negative result.

(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) on separate days, 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) Michael Baker shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Orders and request Michael Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Michael Baker shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Orders and request Michael Baker reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Michael Baker must immediately report any violation of the terms of this probation to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

(E) Michael Baker must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy.

(F) Michael Baker must provide, in the reinstatement petition, documentation of the following:

(1) Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

(2) Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;

(3) Compliance with the terms of this Order.

(G) If reinstatement is not accomplished within three years of the effective date of this Order, Michael Baker must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

(H) Should Respondent be subject to criminal action, any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

Mr. Moné moved for Findings of Fact; Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Ms. Marchal moved for Conclusions of Law; Mr. Moné seconded the motion. Motion passed (Aye-5/Nay-0).

Mr. Moné moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-4/Nay-1).

SO ORDERED.

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**R-2016-043** Mr. McNamee presented a waiver request from the Northeast Ohio Medical University regarding the preceptor to intern ratio as provided in Rule "4729-3-01". Mr. Moné moved to approve the specific request. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 5.

**R-2016-044** Mr. McNamee led a discussion regarding Rule 4729-5-28. Mr. Moné moved to place the Rule in "TBR" status. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.

**3:31 p.m.** The Board was joined by Assistant Attorney General Melissa Wilburn to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **NEO Men's Health**, Fairlawn, Ohio.

**3:54 p.m.** The hearing ended and the record was closed.

Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded

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

**3:57 p.m.** The recess ended and the hearing was opened to the public.

**R-2016-045** After votes were taken in public session, the Board adopted the following order in the matter of **NEO Men’s Health**, Fairlawn, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2013-1423)

In The Matter Of:

**NEO Men’s Health & Wellness Clinic**

**c/o Amanuel A. Daniachew, MD**

89 Marwyck Drive

Northfield Center, OH 44067

**INTRODUCTION**

The Matter of NEO Men’s Health & Wellness Clinic came for hearing on August 5, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph. and Fred Weaver, R.Ph.

NEO Men’s Health & Wellness Clinic was not present nor represented by Counsel. The State of Ohio was represented by Melissa Wilburn, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State’s Witnesses:**

1. John West, state of Ohio Board of Pharmacy

**Respondent's Witnesses:**

None

**State's Exhibits:**

- |     |   |            |
|-----|---|------------|
| 1.  | Proposal to Deny/Notice of Opportunity for Hearing                              | 11-08-2013 |
|     | 1A-1D. Procedurals  |            |
| 2.  | Terminal Distributor of Dangerous Drugs Application                             | 04-15-2013 |
| 2A. | Amended TDDD Application  | 04-25-2013 |
| 3.  | State Medical Board of Ohio Consent Agreement<br>RE: Anthony Emmanuel Daniachew | 01-27-2004 |
| 4.  | E-mail from Dr. Daniachew to the state of<br>Ohio Board of Pharmacy             | 06-30-2015 |

Respondent's Exhibits:

None

DECISION OF THE BOARD

Pursuant to Sections 3719.03 and 4729.55 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby refuses to license or register NEO Men's Health & Wellness Clinic and, therefore, denies the Application for a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification license submitted by NEO Men's Health & Wellness Clinic on April 15, 2013.

Ms. Marchal moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2016-046** The Board received an application for the Continuing Education Provider Status of **Sarah Hemker, R.Ph.** (03-3-26728) Columbus, Ohio. Ms. Ferris moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.

**4:07 p.m.** Ms. Dehner provided the Legal Report.

**R-2016-047** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY  
(Case No. 2013-2054)

In The Matter Of:

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

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

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

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

Whereas, Victoria Lubarsky is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 12, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Victoria Lubarsky was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Victoria Lubarsky requested a hearing; it was scheduled and continued. The March 12, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Victoria Lubarsky was originally licensed in the State of Ohio on January 04, 2007, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

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

Victoria Lubarsky neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 12, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

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

(A) Victoria Lubarsky agrees to the imposition of a monetary penalty of two hundred and fifty dollars (\$250.00) due and owing within 30 days from the effective date



of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

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

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

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

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

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**R-2016-048**

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

**IN THE MATTER OF:  
CASE NO. 2015-1223**

**Good Family Pharmacy, Inc.**  
TDDD Application No. **022349900**  
c/o Patrick Good, R.Ph.  
242 South Pinch Road  
Elkview, WV 25071

AND

**Don Radcliff**  
242 South Pinch Road  
Elkview, WV 25071

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY**

This Settlement Agreement (Agreement) is entered into by the Ohio State Board of Pharmacy (OSBP) and Good Family Pharmacy, Inc., for the purpose of resolving all issues between the parties relating to the OSBP investigation of falsification on change of

responsible person application. Together, OSBP and Good Family Pharmacy, Inc. are referred to hereinafter as "the parties."

### **JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Good Family Pharmacy, Inc. is a licensed Terminal Distributor of Dangerous Drugs under license number 022349900.

### **FACTS**

1. On or about March 9, 2015, the OSBP initiated an investigation of Good Family Pharmacy, Inc., Terminal Distributor of Dangerous Drugs license number 022349900, related to Good Family Pharmacy, Inc.'s falsification on change of responsible person application.
2. On or about June 25, 2015, the OSBP sent a Notice of Opportunity for Hearing to Good Family Pharmacy, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

### **TERMS**

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Good Family Pharmacy, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 25, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. The Ohio State Board of Pharmacy hereby reprimands Good Family Pharmacy, Inc.
4. Good Family Pharmacy, Inc. agrees to pay to the OSBP the amount of \$1,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with

the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

5. Good Family Pharmacy, Inc. must resubmit a Terminal Distributor of Dangerous Drugs application naming a new Responsible Person.
6. Don Radcliff may not serve as a Responsible Person on a Terminal Distributor of Dangerous Drugs license, licensed with the state of Ohio, for a period of 3 years.
7. Good Family Pharmacy, Inc. and Patrick Good agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
8. Good Family Pharmacy, Inc. agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Good Family Pharmacy, Inc. of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Good Family Pharmacy, Inc. by the OSBP and will NOT discharge Good Family Pharmacy, Inc. from any obligation under the terms of this Agreement.
9. Good Family Pharmacy, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. Good Family Pharmacy, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.
11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Good Family Pharmacy, Inc. will operate.
12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

15. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2016-049**

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

**IN THE MATTER OF:  
CASE NO. 2014-1997**

**Walgreens Pharmacy #06273  
TDDD License No. 021242300  
c/o Jeremy Ross Peters, R.Ph.  
3015 E. Livingston Ave.  
Columbus, OH 43209**

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY**

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Walgreens Pharmacy #06273, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the pharmacies records, security and control over dangerous drugs. Together, OSBP and Walgreens Pharmacy #06273 are referred to hereinafter as "the parties."

**JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Walgreens Pharmacy #06273 is a licensed Terminal Distributor of Dangerous Drugs under license number 021242300.

**FACTS**

1. On or about October 20, 2014, the OSBP initiated an investigation of Walgreens Pharmacy #06273, Terminal Distributor of Dangerous Drugs license number 021242300, related to Walgreens Pharmacy #06273's records, security and control over dangerous drugs.
2. On or about June 23, 2015, the OSBP sent a Notice of Opportunity for Hearing to Walgreens Pharmacy #06273, which outlined the allegations and provided notice of their

right to a hearing, their rights in such hearing, and their right to submit contentions in writing.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

### TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Walgreens Pharmacy #06273 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 23, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. The OSBP hereby reprimands Walgreens Pharmacy #06273.
4. Walgreens Pharmacy #06273 agrees to pay to the OSBP the amount of \$1,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
5. Walgreens Pharmacy #06273 and Jeremy Ross Peters, R.Ph. agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
6. Walgreens Pharmacy #06273 agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Walgreens Pharmacy #06273 of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Walgreens Pharmacy #06273 by the OSBP and will NOT discharge Walgreens Pharmacy #06273 from any obligation under the terms of this Agreement.
7. Walgreens Pharmacy #06273 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Walgreens Pharmacy #06273 understands that it has the right to be represented by counsel for review and execution of this agreement.
  9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Walgreens Pharmacy #06273 will operate.
  10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
  11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
  13. This Agreement shall become effective upon the date of the Board President's signature below.
- 

**R-2016-050**

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

**IN THE MATTER OF:  
CASE NO. 2013-1934**

**Pain Management of Northern Ohio  
TDDD License No. 02-1694900  
c/o Syed Jawed Akhtar-Zaidi, M.D.  
34055 Solon Road, Suite 210  
Solon, Ohio 44139**

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF  
PHARMACY**

This Settlement Agreement (Agreement) is entered into by the Ohio State Board of Pharmacy (OSBP) and Pain Management of Northern Ohio (Pain Management), for the purpose of resolving all issues between the parties relating to the OSBP investigation of the suspension of Dr. Zaidi's DEA license. Together, OSBP and Pain Management of Northern Ohio are referred to hereinafter as "the parties."

**JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Pain Management of Northern Ohio is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1694900.

### FACTS

1. On or about October 29, 2013, the OSBP initiated an investigation of Pain Management, Terminal Distributor of Dangerous Drugs license number 02-1694900, related to Pain Management of Northern Ohio's responsible person, Dr. Zaidi and the suspension of his DEA license.
2. On or about November 22, 2013, the OSBP sent a Summary Suspension Order/Notice of Opportunity for Hearing to Pain Management, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about December 16, 2013, Pain Management timely requested an administrative hearing, which was subsequently scheduled for March 3, 2014 and was ultimately continued to a later date due to the unavailability of Dr. Akhtar-Zaidi.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

### TERMS

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Pain Management neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 22, 2013; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Pain Management's license will be placed on an indefinite suspension until such time as the DEA concludes their investigation and a report and finding is released related to the DEA's October 8, 2013 Order to Show Cause and Immediate Suspension of Registration. Upon the issuance of a report and/or finding in the DEA case, Pain Management may at that time petition to the OSBP for its case to be reopened and the indefinite suspension reviewed.

4. Pain Management and Dr. Syed Jawed Akhtar-Zaidi agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
5. Pain Management agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Pain Management of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Pain Management by the OSBP and will NOT discharge Pain Management from any obligation under the terms of this Agreement.
6. Pain Management agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Pain Management understands that it has the right to be represented by counsel for review and execution of this agreement.
8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Pain Management operates.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

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**4:15 p.m.** Mr. Schierholt provided the Executive Report.

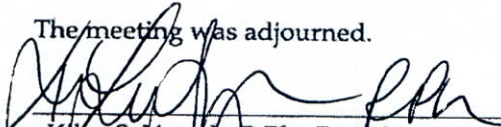
**4:20 p.m.** Ms. Ferris moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a

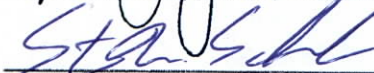


pending or imminent court action and to discuss matters required to be confidential by law. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Ferris – yes; Marchal – yes; Moné – yes; and Weaver – yes.

4:55 p.m. The meeting reconvened in Room South B&C.

5:15 p.m. The meeting was adjourned.

 \_\_\_\_\_ Date: 9/1/15  
Klee S. Yarosh, R.Ph., President

 \_\_\_\_\_ Date: 9/2/15  
Steven W. Schierholt, Esq., Executive Director