

Minutes of the January 11-12, 2016
Meeting of the Ohio State Board of Pharmacy

Monday, January 11, 2016

10:07 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

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

R-2016-156 Mr. Moné moved that the Board approve the request for Pro Have Vice filed by Brenda M. Maloney. The motion was seconded by Mr. Cain and approved by the Board: Aye -5.

10:08 a.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Apotheca, Inc.**, Phoenix, Arizona.

10:46 a.m. The hearing ended and the record was closed.

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

11:22 a.m. The recess ended and the hearing was opened to the public.

R-2016-157 After votes were taken in public session, the Board adopted the following order in the matter of **Apotheca, Inc.**, Phoenix, Arizona.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1443)

In The Matter Of:

Apotheca, Inc.
1622 North 16th Street
Phoenix, Arizona 85006
(License Number 01-2517600)

INTRODUCTION

The Matter of Apotheca, Inc. came for hearing on January 11, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Apotheca, Inc. was represented by Brenda Shafer. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Mitchell Herseth, Owner

Respondent's Witnesses:

1. Dustin Robison, State of Ohio Board of Pharmacy

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Notice of Opportunity for Hearing | 08-10-2015 |
| 2. | Request for Hearing | 09-09-2015 |
| 3. | Notice of Hearing | 09-10-2015 |
| 4. | Credential View Screen | 09-23-2015 |
| 5. | Application for Wholesale Distributor of Dangerous Drugs | 05-18-2015 |
| 6. | Apotheca Letter with Record of Adjudication and Fines | 05-19-2015 |

Respondent's Exhibits:

- | | | |
|----|---|---------|
| A. | 42 Year Disciplinary Action History of Apotheca, Inc. | No Date |
|----|---|---------|

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. On the application, submitted on or about May 18, 2015, Apotheca, Inc. falsely answered "No" to the question inquiring whether the responsible person or owner(s), or any agent or employee of the responsible person/owner(s), or any officer of the corporation has been the subject of disciplinary action by any state or federal agency.
2. Upon further investigation by an agent of the Board, it was discovered:
 - a. On or about August 25, 1986, Apotheca, Inc. was disciplined by the Drug Enforcement Administration for poor record keeping and placed on one year probation.
 - b. On or about December 21, 2009, Apotheca, Inc. entered into a consent agreement with the Arizona State Board of Pharmacy under case number 10-0040-PHR for the misbranding of six (6) boxes of Nystatin cream. Apotheca, Inc. was assessed a \$3,000 fine as discipline.
 - c. On or about September 2, 2008, Apotheca, Inc. was fined \$30,000 by the Drug Enforcement Administration for not having computerized readily retrievable reports.
 - d. On or about June 23, 2009, Apotheca, Inc. was issued a warning letter by the Department of Health and Human Services for improperly repackaging penicillin at their facility.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 1, 2, and 2(a) through 2(d) of the Allegations Section constitutes the following violations of the ORC: making any material false statements in an application for registration as a wholesale distributor of dangerous drugs, ORC Section 4729.56(A)(1); and/or
2. Finally, such conduct as set forth in paragraphs 1, 2, and 2(a) through 2(d) of the Allegations Section constitutes each of the following violations of the OAC: having been disciplined by any professional licensing board, OAC Section 4729-9-19(A)(6).

DECISION OF THE BOARD

Pursuant to Sections 4729.52 and 4729.53 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby approves the Application for Registration as a Wholesale Distributor of Dangerous Drugs submitted by Apotheca, Inc. on or about May 18, 2015.

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. Wilt seconded the motion. Motion passed (Aye-5/Nay-0).

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

SO ORDERED.

11:32 a.m. Ms. Marchal provided the PAPC update.

Mr. Griffin provided the Compliance and Enforcement update.

Mr. Garner provided the OARRS update.

Ms. Dehner provided the Legal update.

11:46 a.m. Mr. Moné moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.

12:34 p.m. The meeting reconvened in Room East B.

The Board recessed for lunch.

1:32 p.m. The meeting reconvened in Room East B. Mr. Passafume joined the meeting; Mr. Wilt left the meeting.

Mr. Mitchell provided the Licensing update.

R-2016-158 Mr. Moné moved to approve the 4729-3-06(B)(1)(a) exemption request of **Joanna Baker**. The motion was seconded by Ms. Marchal and approved by the Board: Aye –5.

R-2016-159 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Jon Keeley, R.Ph.** (03-1-14983) Curtice, Ohio, be the responsible person for the following pharmacies:

H.B. Magruder Hospital Pharmacy, Port Clinton (02-2563050)
Magruder Hospital Outpatient Pharmacy, Port Clinton (02-2576750)

After discussion, Ms. Marchal moved that the Board approve the request for a period of one year. The motion was seconded by Mr. Moné and approved by the Board: Aye –5.

R-2016-160 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Christina Lin Bell, R.Ph.** (03-2-30065) Findlay, Ohio, be the responsible person for the following pharmacies:

Elmwood Pharmacy at The Springs, Green Springs (02-2167450)
Elmwood Pharmacy at The Springs, Green Springs (02-2572750)

After discussion, Mr. Weaver moved that the Board approve the request for a period of one year. The motion was seconded by Mr. Passafume and approved by the Board:
Aye –5.

R-2016-161 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Rao K. Ali, M.D.** (35.095398) Mansfield, Ohio, be the responsible person for the following pain management clinics:

Mansfield Pain Clinic, Mansfield (02-2443400)
Premier Pain Clinic, Marion (02-2472500)

After discussion, Ms. Marchal moved that the Board approve the specific request and business model presented. If there are any changes to the business model and new request must be submitted. The motion was seconded by Mr. Passafume and approved by the Board: Aye –5.

R-2016-162 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Cyril Marshall, M.D.** (35.034440) Independence, Ohio, be the responsible person for the following pain management clinics:

Cleveland Orthopedic Associates, Inc., Garfield Heights (02-2144150)
Cleveland Orthopedic Associates, Inc., Garfield Heights (02-2144151)

After discussion, Mr. Moné moved that the Board table the request to obtain additional information. The motion was seconded by Mr. Passafume and approved by the Board:
Aye –5.

R-2016-163 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **John H. Nickels, M.D.** (35.051581) Highland Heights, Ohio, be the responsible person for the following pain management clinics:

Cleveland Back & Pain Management Center, Cleveland (02-2138750)
Cleveland Back & Pain Management Center, Parma (02-2141650)

After discussion, Ms. Marchal moved that the Board deny the request. The motion was seconded by Mr. Cain and approved by the Board: Aye –5.

R-2016-164 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Gulam Jeelami Mukhdomi, M.D.** (35.083053) Columbus, Ohio, be the responsible person for the following pain management clinics:

Chronic Pain Resources, Grove City (02-2138950)
Chronic Pain Resources, Columbus (02-2344200)

After discussion, Ms. Marchal moved that the Board table the request. The motion was seconded by Mr. Moné and approved by the Board: Aye –5.

R-2016-165 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Ashraf S. Nassef, M.D.** (35.074125) Cincinnati, Ohio, be the responsible person for the following pain management clinics:

Ashraf S. Nassef, MD, Inc., Cincinnati (02-2139350)
Ashraf S. Nassef, MD, Inc., Cincinnati (02-2141750)

After discussion, Mr. Moné moved that the Board approve the specific request and business model presented. The motion was seconded by Mr. Passafume and approved by the Board: Aye –5.

R-2016-166 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Kamel S. Abraham, M.D.** (35.054847) Springfield, Ohio, be the responsible person for the following pain management clinics:

Associate Pain Medicine, London (02-2139150)
Associate Pain Medicine, London (02-2339250)

After discussion, Mr. Passafume moved that the Board table the request. The motion was seconded by Ms. Marchal and approved by the Board: Aye –5.

2:33 p.m. Mr. McNamee provided the Legislative update.

R-2016-167 Ms. Marchal moved that the Board approve Rule 4729-9-11, as amended, for filing with JCARR. The motion was seconded by Mr. Passafume and approved by the Board: Aye –5.

R-2016-168 Mr. Passafume moved that the Board approve Rule 4729-5-17, as amended, for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye –5.

R-2016-169 Mr. Passafume moved that the Board approve Rule 4729-16-12, as amended, for filing with JCARR. The motion was seconded by Mr. Moné and approved by the Board: Aye–5.

- 3:26 p.m.** Ms. Dehner led a discussion regarding FAQ's for license renewal applications.
- 3:29 p.m.** The Board recessed briefly.
- 3:42 p.m.** The meeting reconvened in Room East B.
- R-2016-170** Mr. Moné moved that the citation issued to **Michael Puccini, R.Ph.** be dismissed. The motion was seconded by Mr. Cain and approved by the Board: Aye -5.
- R-2016-171** Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-1430**

Christopher Painchaud
6512 Stones Throw Court
Indianapolis, IN 46227
(License No. 03-2-33922)

**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 Christopher Painchaud, for the purpose of resolving all issues between the parties relating to the OSBP investigation of Christopher Painchaud's positive answer to the legal question on his reciprocity application. Together, OSBP and Christopher Painchaud are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Christopher Painchaud submitted an application for reciprocity on April 15, 2014.

FACTS

1. On or about April 28, 2014, the OSBP initiated an investigation of Christopher Painchaud, related to Christopher Painchaud's positive answer to the legal question on his reciprocity application.

2. On or about November 14, 2014, the OSBP sent a Notice of Opportunity for Hearing to Christopher Painchaud, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

3. On or about November 17, 2014, Christopher Painchaud timely requested an administrative hearing, which was subsequently scheduled for May 5, 2015.

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. Christopher Painchaud's request to withdraw his reciprocity application submitted on April 15, 2014, is hereby approved.

3. Christopher Painchaud agrees he will not apply for reciprocity in the state of Ohio until after February 22, 2019.

4. Christopher Painchaud agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

5. Christopher Painchaud understands that he has the right to be represented by counsel for review and execution of this agreement.

6. 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.

7. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

8. 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.

R-2016-172

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

**IN THE MATTER OF:
CASE NO. 2014-1972**

Maria Murray, RPh.
13938 A Cedar Rd., #193
University Heights, OH 44118
(License No. 03219710)

**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 Maria Murray, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the misbrand of RX#895648. Together, OSBP and Maria Murray are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Maria Murray is a licensed pharmacist under license number 03219710.

FACTS

1. On or about October 10, 2014, the OSBP initiated an investigation of Maria Murray, pharmacist license number 03219710, related to Maria Murray’s misbrand of RX#895648.
2. On or about August 14, 2015, the OSBP sent a Notice of Opportunity for Hearing to Maria Murray, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her 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. Maria Murray neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 12, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
 3. Maria Murray must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs) in medication errors, which may not also be used for license renewal.
 4. Maria Murray agrees to pay to the OSBP the amount of \$250.00, 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. Maria Murray agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. Maria Murray understands that it has the right to be represented by counsel for review and execution of this agreement.
 7. Maria Murray agrees and acknowledges 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 to the OSBP on renewal applications or applications for a new license.
 8. 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.
 9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 10. 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.
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R-2016-173

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

**IN THE MATTER OF:
CASE NO. 2015-1901**

Tiffany Hammersmith
200 ½ Clinton Street, Upper
Defiance, Ohio 43512
(License No. 03-2-32940)

**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 Tiffany Hammersmith for the purpose of resolving all issues between the parties relating to the investigation by OSBP of practicing pharmacy without a valid license. Together, OSBP and Tiffany Hammersmith are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Tiffany Hammersmith is a licensed pharmacist in the state of Ohio under license number 03-2-32940.

FACTS

1. The OSBP records indicate that Tiffany Hammersmith’s pharmacist license expired on September 15, 2015, and she did not renew her license until September 16, 2015.
2. On or about October 15, 2015, the OSBP sent a letter to Tiffany Hammersmith inquiring if she engaged in the practice of pharmacy with a lapsed license. She returned the notarized form indicating that she did engage in the practice of pharmacy with a lapsed license from September 15, 2015 through September 16, 2015.
3. On or about December 15, 2015, the OSBP sent a Notice of Opportunity for Hearing to Tiffany Hammersmith, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her 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. Tiffany Hammersmith neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing dated December 15, 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 Tiffany Hammersmith.
 4. Tiffany Hammersmith agrees to pay to the OSBP the amount of \$250.00, 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, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
 5. Tiffany Hammersmith must obtain, within 90 days from the effective date of this agreement, 6 hours of approved continuing pharmacy education (0.6 CEU's) in law, which may not also be used for license renewal.
 6. Tiffany Hammersmith agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 7. Tiffany Hammersmith understands that she has the right to be represented by counsel for review and execution of this agreement.
 8. Tiffany Hammersmith agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
 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.
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R-2016-174 Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2015-1522**

Frederick Bonchosky
205 Lexington Place
Uniontown, PA 15401
(License No. 03-3-34508)

**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 Frederick Bonchosky, for the purpose of resolving all issues between the parties relating to the OSBP investigation of Frederick Bonchosky's false answer on his reciprocity application. Together, OSBP and Frederick Bonchosky are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Frederick Bonchosky is a licensed pharmacist under license number 03-3-34508.

FACTS

1. On or about June 15, 2015, the OSBP initiated an investigation of Frederick Bonchosky, pharmacist license number 03-3-34508, related to Frederick Bonchosky's false answer on his reciprocity application.
2. On or about December 11, 2015, the OSBP sent a Notice of Opportunity for Hearing to Frederick Bonchosky, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his 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. Frederick Bonchosky neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 11, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Frederick Bonchosky agrees to pay to the OSBP the amount of \$450.00, 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.
4. Frederick Bonchosky's reciprocity application submitted on February 26, 2015, is hereby approved.
5. Frederick Bonchosky agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Frederick Bonchosky understands that it has the right to be represented by counsel for review and execution of this agreement.
7. Frederick Bonchosky agrees and acknowledges 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 to the OSBP on renewal applications or applications for a new license.
8. 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.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. 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.

R-2016-175

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

**IN THE MATTER OF:
CASE NO. 2014-1858**

Dalal Nassif
5608 Golden Pond Lane
Sylvania, Ohio 43560
(License No. 03-1-25973)

**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 Dalal Nassif, for the purpose of resolving all issues between the parties relating to the OSBP investigation of administering the flu vaccination to a co-worker without prior written consent. Together, OSBP and Dalal Nassif are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Dalal Nassif is a licensed pharmacist under license number 03-1-25973.

FACTS

1. On or about September 8, 2014, the OSBP initiated an investigation of Dalal Nassif, pharmacist license number 03-1-25973, related to Dalal Nassif administering the flu vaccination to a co-worker without prior written consent.
2. On or about August 10, 2015, the OSBP sent a Notice of Opportunity for Hearing to Dalal Nassif, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
3. On or about August 27, 2015, Dalal Nassif timely requested an administrative hearing, which was subsequently scheduled for December 8, 2015.

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. Dalal Nassif neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 10, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Dalal Nassif 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, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Dalal Nassif must obtain, within 90 days from the effective date of this Agreement, 2 hours of approved continuing pharmacy education (0.2 CEUs), which may not also be used for license renewal.
5. Dalal Nassif agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Dalal Nassif understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Dalal Nassif agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
8. 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.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. 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.

R-2016-176

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

**IN THE MATTER OF:
CASE NO. 2015-1235**

Megan Bordone
6015 Kingdom Court
Murrysville, PA 15668
(License No. 03-2-30554)

**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 Megan Bordone, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the misbrand of RX#0779960. Together, OSBP and Megan Bordone are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Megan Bordone is a licensed pharmacist under license number 03-2-30554.

FACTS

1. On or about March 16, 2015, the OSBP initiated an investigation of Megan Bordone, pharmacist license number 03-2-30554, related to Megan Bordone's misbrand of RX#0779960.
2. On or about December 16, 2015, the OSBP sent a Notice of Opportunity for Hearing to Megan Bordone, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her 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. Megan Bordone neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 16, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Megan Bordone agrees to pay to the OSBP the amount of \$750.00, 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, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Megan Bordone must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal.

5. Megan Bordone agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

6. Megan Bordone understands that she has the right to be represented by counsel for review and execution of this agreement.

7. Megan Bordone agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.

8. 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.

9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

10. 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.

R-2016-177

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

**IN THE MATTER OF:
CASE NO. 2015-1376**

Ann Kuttothara
2648 Lynnmore Drive
Columbus, Ohio 43235
(License No. 03-2-34073)

**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 Ann Kuttothara, for the purpose of resolving all issues between

the parties relating to the OSBP investigation of the misbrand of RX6118064. Together, OSBP and Ann Kuttothara are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Ann Kuttothara is a licensed pharmacist under license number 03-2-34073.

FACTS

1. On or about April 21, 2015, the OSBP initiated an investigation of Ann Kuttothara, pharmacist license number 03-2-34073, related to Ann Kuttothara’s misbrand of RX6118064.
2. On or about December 11, 2015, the OSBP sent a Notice of Opportunity for Hearing to Ann Kuttothara, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her 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:

9. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
10. Ann Kuttothara neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 11, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
11. Ann Kuttothara must obtain, within 90 days from the effective date of this Agreement, 5 hours of approved continuing pharmacy education (0.5 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal.
12. Ann Kuttothara 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.

13. Ann Kuttothara agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 14. Ann Kuttothara understands that it has the right to be represented by counsel for review and execution of this agreement.
 15. Ann Kuttothara agrees and acknowledges 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 to the OSBP on renewal applications or applications for a new license.
 16. 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.
 17. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 18. 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.
-

R-2016-178

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

**IN THE MATTER OF:
CASE NO. 2015-1519**

Steven Perry, R.Ph.
1134 Carriage Valley Drive
Powell, Ohio 43065
(License No. 03-3-23990)

**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 Steven Perry, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the misbrand of RX#117435. Together, OSBP and Steven Perry are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.

2. Steven Perry is a licensed pharmacist under license number 03-3-23990.

FACTS

1. On or about June 15, 2015, the OSBP initiated an investigation of Steven Perry, pharmacist license number 03-3-23990, related to Steven Perry's misbrand of RX#117435.
2. On or about December 16, 2015, the OSBP sent a Notice of Opportunity for Hearing to Steven Perry, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his 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. Steven Perry neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 16, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Steven Perry must obtain, within 90 days from the effective date of this Agreement, 3 hours of approved continuing pharmacy education (0.3 CEUs) in patient safety, which may not also be used for license renewal.
4. Steven Perry agrees to pay to the OSBP the amount of \$750.00, 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, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
5. Steven Perry agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Steven Perry understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Steven Perry agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he

currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.

8. 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.

9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

10. 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.

R-2016-179

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

**IN THE MATTER OF:
Case No. 2015-1184**

Krista Marie Petrolla, R.Ph.
15913 Munn Road
Cleveland, OH 44111
(License No. 03-2-28158)

**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 Krista Marie Petrolla for the purpose of resolving all issues between the parties relating to the audit conducted by OSBP of Krista Marie Petrolla for continuing education units. Together, OSBP and Donald Jon Lawrence are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 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 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.

2. Krista Marie Petrolla is a licensed pharmacist in the state of Ohio. Your renewal is set to expire September 15, 2016.

FACTS

1. The OSBP initiated an audit of continuing education units completed by Krista Marie Petrolla pharmacist license number 03-2-28158. The audit showed you failed to complete the required hours.
2. On or about March 30, 2015, an OSBP Agent conducted an interview where he confirmed that you did not have the sufficient number of law continuing education units for license renewal.

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. Krista Marie Petrolla neither admits nor denies the allegations stated in the notice of opportunity for a hearing dated November 4, 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 Krista Marie Petrolla.
4. Krista Marie Petrolla agrees to pay to the OSBP the amount of \$250.00, 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. Krista Marie Petrolla must obtain six hours of approved continuing pharmacy education (0.6 CEUs) in **law**, which may not also be used for license renewal. These units must be completed no later than 90 days from the effective date of this Agreement.
6. Krista Marie Petrolla agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Krista Marie Petrolla understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Krista Marie Petrolla agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.

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.

3:50 p.m.

Mr. Moné moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Passafume – yes and Weaver – yes.

4:15 p.m.

The meeting reconvened in Room East B.

The Board recessed for the day.

Tuesday, January 12, 2016

10:15 a.m.

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

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Curtis L. Passafume, Jr., R.Ph.; and Fred M. Weaver, R.Ph.

10:17 a.m.

The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Daniel Freeman, Intern**, Cincinnati, Ohio.

11:03 a.m.

The hearing ended and the record was closed.

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

11:13 a.m. The recess ended and the hearing was opened to the public.

R-2016-180 After votes were taken in public session, the Board adopted the following order in the matter of **Daniel Freeman, Intern**, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-2141)

In The Matter Of:

Daniel Freeman

3425 Pape Avenue, Apt. 2

Cincinnati, Ohio 45208

(Intern Number 06-010592)

INTRODUCTION

The Matter of Daniel Freeman came for hearing on January 12, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; and Fred M. Weaver, R.Ph.

Shawn C. Wilt, R.Ph.; Absent.

Daniel Freeman was represented by Harry Plotnick. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Daniel Freeman, Petitioner

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Request for Reinstatement Hearing | 06-18-2015 |
| 2. | Notice of Hearing | 07-10-2015 |
| 3. | Amended Notice of Hearing | 09-10-2015 |
| 4. | Order of the State of Ohio Board of Pharmacy | 05-05-2015 |

Respondent's Exhibits:

- | | | |
|----|--|--------------------------|
| A. | Summary Suspension/Notice of Opportunity for Hearing | 06-04-2015 |
| B. | PRO Contract | 06-10-2015 |
| C. | AA/NA Attendance Sheets | 02-20-2015 to 12-31-2015 |

- | | | |
|----|---|--------------------------|
| D. | Urine Screens | 03-13-2015 to 12-08-2014 |
| E. | Letter of Shepard Hill | 12-22-2015 |
| F. | Letters of Support | Various |
| G. | Entry Terminating Supervision, Hamilton Co. Court | 11-30-2015 |
| H. | Letters of Support | Various |

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 that Daniel Freeman has complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2014-2141, dated May 5, 2015.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the intern identification card, No. 06-010592, held by Daniel Freeman to practice pharmacy as an intern, in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Daniel Freeman 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:
 - a. **Random, observed** urine drug screens shall be conducted at least once each month.
 - b. 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.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. 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.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Daniel Freeman in a timeframe consistent with

the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

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.

a. 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.

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

3. Daniel Freeman 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 Order and request Daniel Freeman reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Daniel Freeman 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 Order and request Daniel Freeman reappear before the Board for possible additional sanctions, including and up to revocation of license.

5. Daniel Freeman 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:

a. The written report and documentation provided by the treatment program pursuant to the contract, and

b. A written description of Daniel Freeman's progress towards recovery and what Daniel Freeman has been doing during the previous three months.

6. Other terms of probation are as follows:

a. Daniel Freeman may not destroy, assist in, or witness the destruction of controlled substances.

b. Daniel Freeman may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.

c. Daniel Freeman must not violate the drug laws of Ohio, any other state, or the federal government.

d. Daniel Freeman must abide by the rules of the State of Ohio Board of Pharmacy.

e. Daniel Freeman must comply with the terms of this Order.

f. Daniel Freeman's license is deemed not in good standing until successful completion of the probationary period.

7. Daniel Freeman must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Daniel Freeman to possible additional sanctions, including and up to revocation of license.

8. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Daniel Freeman's license.

9. Daniel Freeman, when making application for a pharmacist license in Ohio, will be approved to sit for the NAPLEX examination if no additional disqualifications exist.

10. On successfully obtaining a license to practice pharmacy in the State of Ohio, Daniel Freeman's pharmacist license will be subject to a **new** probation period of five years. The pharmacist probation terms shall include all requirements referenced in paragraphs 1 through 8 above. Daniel Freeman must enter into a **new** contract, signed within thirty days after the effective date of obtaining his license to practice pharmacy, 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.

At the conclusion of the probationary period, the Board will issue a notice of opportunity for hearing to Daniel Freeman regarding the status of Daniel Freeman's probation and whether Daniel Freeman has successfully met all terms of probation and may be considered in good standing.

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

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

SO ORDERED.

11:20 a.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kyle Prusinski, R.Ph.**, Geneva, Ohio.

12:00 p.m. The hearing ended and the record was closed.

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

12:11 p.m. The recess ended and the hearing was opened to the public.

R-2016-181 After votes were taken in public session, the Board adopted the following order in the matter of **Kyle Prusinski, R.Ph.**, Geneva, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1707)

In The Matter Of:

Kyle Prusinski, R.Ph.

625 Timber Lane

Geneva, Ohio 44041

(R.Ph. Number 03-2-32556)

INTRODUCTION

The Matter of Kyle Prusinski came for hearing on December 7, 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; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Kyle Prusinski was represented by Robert Garrity. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kyle Prusinski, Respondent
2. Jarrod Grossman, Executive Director of Pharmacists Rehabilitation Organization

Respondent's Witnesses:

1. Kyle Prusinski, Respondent

State's Exhibits:

- | | | |
|----|---|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 09-25-2015 |
| 2. | Request for Hearing | 09-28-2015 |
| 3. | Notice of Hearing | 10-09-2015 |
| 4. | Credential View Screen | 10-19-2015 |
| 5. | Notarized Statement of Kyle Prusinski | 09-23-2015 |
| 6. | DEA 106 Form | 09-22-2015 |
| 7. | Accountability Statements | 11-20-2015 |
| 8. | Email Communication from Kyle Prusinski | 12-08-2015 |
| 9. | Order Reopening Hearing/Notice of Opportunity for Hearing | 12-10-2015 |

Respondent's Exhibits:

- | | | |
|----|---|------------|
| A. | PRO Contract | 10-14-2015 |
| B. | Chemical Dependency Treatment Documentation | 10-01-2015 |
| C. | 12 Step Meeting Attendance | Various |
| D. | Resume | No Date |
| E. | Letters of Support | No Date |

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, on December 7, 2015, found the following to be fact:

1. Kyle Prusinski, is addicted to the use of controlled substances in violation of Section 3719.121(A) of the ORC and/or there is a 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 ORC, to wit:
 - a. On September 23, 2015, Kyle Prusinski admitted to stealing tramadol from the Rite Aid Lake Avenue Store and having a seizure at the store due to an overdose of tramadol.
 - b. During an interview by an Agent of the Board, Kyle Prusinski was asked if he was addicted to tramadol and he responded, "Yes. I'd say opiates in general."

c. Kyle Prusinski admitted that he has been abusing opiates since he was in pharmacy school. Board records indicate that he graduated pharmacy school in 2013.

d. Kyle Prusinski admitted that from July 2015 through August 2015 he stole Percocet, tramadol, and Vicodin from Rite Aid store #3032 in Ashtabula.

e. Kyle Prusinski admitted to an Agent of the Board that he made an error in dispensing while under the influence.

f. Kyle Prusinski admitted to stealing medication that was returned to the pharmacy by individuals when a family member passed away. He also confirmed that accepting returned medication violated Rite Aid policy and that he never documented receipt of these drugs because he was aware it was improper.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1)(a) through (f) of the Findings of Fact constitutes theft, in violation of Section 2913.02(A)(1) of the ORC.
2. Such conduct as set forth in paragraph (1)(a) through (f) of the Findings of Fact constitutes the following violations of the ORC.
 - a. Guilty of acts constituting a felony and gross immorality, ORC 4729.16(A)(1); and
 - b. Guilty of dishonesty and unprofessional conduct in the practice of pharmacy, ORC 4729.16(A)(2); and
 - c. Addicted to abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - d. Guilty of willfully violating any of provisions of this chapter, sections 3715.52 to 3715.72 of Revised Code, Chapter 2925. Or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(5)
3. Such conduct as set forth in paragraphs (1) if proven, constitutes the following violations of the Ohio Administrative Code (OAC).
 - a. Not being of good moral character and habits, OAC Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04(D).

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 Kyle Prusinski on September 25, 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. 03-2-32556, held by Kyle Prusinski and such suspension is effective as of the date of the mailing of this Order.

(A) Kyle Prusinski, 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) Kyle Prusinski, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her/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 December 7, 2016, the Board will consider any petition filed by Kyle Prusinski 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) Kyle Prusinski 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 Kyle Prusinski in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

(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) Kyle Prusinski 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 Kyle Prusinski reappear before the Board for possible additional sanctions, including and up to revocation of license.

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

(D) Kyle Prusinski must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Respondent to possible additional sanctions, including and up to revocation of license.

(E) Kyle Prusinski 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 her unfit to practice pharmacy.

(F) 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 \$375.00 on Kyle Prusinski and payment in full is due prior to petitioning for reinstatement. 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, 17th Floor, Columbus, Ohio 43215-6126.

(G) Kyle Prusinski must obtain, prior to petitioning for reinstatement, 6 hours (0.6 CEUs) of approved continuing pharmacy education in medication errors, which may not

also be used for license renewal. Completed CEU documentation must be submitted to legal@pharmacy.ohio.gov

(H) Kyle Prusinski 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.

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

(J) Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

(K) The Board will not consider any request for deviation from the terms and conditions listed herein until a minimum of three years has passed from the effective date of this order.

(L) Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.

(M) Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.

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

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

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

Prior to journalization of the Board's Order, the Board was notified of additional information regarding Kyle Prusinski's positive urine screen. On its own Motion, the Board reopened the hearing and notified Kyle Prusinski that the hearing would be continued on January 12, 2015, on which date he appeared without counsel and participated in the continuation of the proceedings.

The hearing on January 12, 2016, was held before the following members of the Board: Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Curtis L. Passafume, Jr., R.Ph.; Shawn C. Wilt, R.Ph.; Absent.

Kyle Prusinski appeared without counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

The continuation of the hearing consisted of testimony from Kyle Prusinski and Jarrod Grossman and the introduction of State's Exhibits 8 and 9.

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board, on January 12, 2016: reaffirmed the findings of fact from December 7, 2015; reaffirmed the conclusions of law from December 7, 2015; and reaffirmed the Board's Decision from December 7, 2015.

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

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

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

SO ORDERED.

R-2016-182

The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Kamel S. Abraham, M.D.** (35.054847) Springfield, Ohio, be the responsible person for the following pain management clinics:

Associate Pain Medicine, London (02-2139150)
Associate Pain Medicine, London (02-2339250)

After discussion, Mr. Moné moved that the Board approve the specific request. The motion was seconded by Mr. Passafume and approved by the Board: Aye -5.

R-2016-183 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Cyril Marshall, M.D.** (35.034440) Independence, Ohio, be the responsible person for the following pain management clinics:

Cleveland Orthopedic Associates, Inc., Garfield Heights (02-2144150)
Cleveland Orthopedic Associates, Inc., Garfield Heights (02-2144151)

After discussion, Mr. Weaver moved that the Board deny the request. The motion was seconded by Mr. Moné and approved by the Board: Aye –5.

R-2016-184 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Gulam Jeelami Mukhdomi, M.D.** (35.083053) Columbus, Ohio, be the responsible person for the following pain management clinics:

Chronic Pain Resources, Grove City (02-2138950)
Chronic Pain Resources, Columbus (02-2344200)

After discussion, Ms. Marchal moved that the Board approve the request for a period of two years. The motion was seconded by Mr. Passafume and approved by the Board: Aye –5.

12:38 p.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Nicole Pryor, R.Ph.**, Akron, Ohio.

12:56 p.m. The hearing ended and the record was closed.

12:56 p.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Audra Koval, R.Ph.**, Pickerington, Ohio.

1:26 p.m. The Board recessed for reciprocity.

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 1948, 19thFloor of the Vern Riffe Center for Government and the Arts:

DELONG CEN	TO BE ASSIGNED	TEXAS
RACHEL JANE FELKER-SMITH	03-1-35372	WEST VIRGINIA
MARIA CONCETTA FIORENZA	03-1-35385	FLORIDA
JENNIFER HAYES	03-1-35359	WEST VIRGINIA
DREW MICHAEL HEATH	03-1-35364	MICHIGAN
GIYAE LEE	03-1-35330	DELAWARE
JENNIFER LESLIE	TO BE ASSIGNED	KENTUCKY
AMANDA LUCIANO	03-1-35381	NEW JERSEY

DANFENG NI	03-1-35347	PENNSYLVANIA
MONICA K. NICHOLS	03-1-35340	WEST VIRGINIA
AMBER OAKES	03-1-35358	KENTUCKY
KRISHA PATEL	03-1-35382	MICHIGAN
ANNA MARY CONSTANCE POWERS	03-1-35378	OREGON
CHAD DAVID RICHARD	03-1-35369	GEORGIA
CHERYL LYNN SANDERS	03-1-35354	MICHIGAN
MARC ANDREW SCHIAVONI	03-1-35384	FLORIDA
STEPHEN MICHAEL SEIDL	03-1-35368	WISCONSIN
LORI MICHELLE SHIFRIN	03-1-35371	GEORGIA
ERIC C. STURM	03-1-35363	NEW YORK
KRISTEN BROOKE THOMAS	03-1-35377	WEST VIRGINIA
LINDA S. WELSH	03-1-35376	WEST VIRGINIA

2:04 p.m. The meeting reconvened in Room East B.

2:06 p.m. The hearing ended and the record was closed.

2:07 p.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Gordon Smith, R.Ph.**, West Carrollton, Ohio.

2:36 p.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. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain- yes; Marchal – yes; Moné – yes; Passafume – yes and Weaver – yes.

3:35 p.m. The recess ended and the hearing was opened to the public.

R-2016-185 After votes were taken in public session, the Board adopted the following order in the matter of **Nicole Pryor, R.Ph.**, Akron, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-2159)

In The Matter Of:

Nicole Pryor, R.Ph.

1038 Delia Avenue

Akron, Ohio 44320

(R.Ph. Number 03-3-34327 *Pending*)

INTRODUCTION

The Matter of Nicole Pryor came for consideration on January 12, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; and Fred M. Weaver, R.Ph.

Shawn C. Wilt, R.Ph.; Absent.

Nicole Pryor was not present nor represented by Counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. David Gallagher, State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | |
|--|------------|
| 1. Notice of Opportunity for Hearing | 06-23-2015 |
| 2. Credential View Screen | 09-10-2015 |
| 3. Reciprocity Application | 09-17-2014 |
| 4. Virginia License Information | 03-04-2015 |
| 5. Docket Sheet of Deferred Disposition, Shoplifting | 08-06-2007 |

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. On Nicole Pryor's notarized NABP application for Transfer of Pharmacist License to the state of Ohio, she falsely answered "No" to question 4 that inquired whether she had ever been charged or convicted (including a nolo contendere plea or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not the sentence was imposed, suspended, expunged, or whether she was pardoned from any such offense. Upon further investigation by an Agent of the Board, it was determined that answer was false.

- a. On June 5, 2006, Nicole Pryor was charged with one count of "Felony Concealment" by Hampton General District Court in Newport News, Virginia. Case No. GT06037864-00.

- b. On March 6, 2015, Nicole Pryor spoke with an Agent of the Board by phone and discussed her responses to the application submitted to the Board. She indicated that she did not read the application thoroughly and did not see the sections requiring her to report her past theft and expunged offenses.

CONCLUSIONS OF LAW

1. Such conduct, as set forth in paragraphs 1, 1a , 1b constitutes the following violations of the ORC:
 - a. Being guilty of dishonesty in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - b. Being guilty of willfully violating any rule adopted by the Board, ORC Section 4729.16(A)(5); and
 - c. Having committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the Board, ORC Section 4729.16(A)(10).

2. Such conduct, as set forth in paragraphs 1, 1a, and 1b constitutes the following violation of the Ohio Administrative Code (OAC): not being of good moral character and habits, OAC Rule 4729-5-04(A).

DECISION OF THE BOARD

1. 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 \$800 on Nicole Pryor and payment in full is due no later than thirty days from the effective date 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, 17th Floor, Columbus, Ohio 43215-6126.

2. On the basis of the Findings of Fact set forth above and after consideration of the record as a whole, upon payment of the monetary penalty the State of Ohio Board of Pharmacy hereby permits the application for reciprocity submitted by Nicole Pryor on or about August 27, 2014 to be processed. Nicole Pryor must complete the Board's remaining reciprocity requirements.

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

Mr. Weaver 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. Passafume seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

R-2016-186 After votes were taken in public session, the Board adopted the following order in the matter of **Audra Koval, R.Ph.**, Pickerington, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1846)

In The Matter Of:

Audra Koval, R.Ph.
204 Lakeview Drive
Pickerington, Ohio 43147
(R.Ph. Number 03-2-26304)

INTRODUCTION

The Matter of Audra Koval came for consideration on January 12, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; and Fred M. Weaver, R.Ph.

Shawn C. Wilt, R.Ph.; Absent.

Audra Koval was not present nor represented by Counsel. The State of Ohio was represented by Henry Appel, 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. | Summary Suspension/Notice of Opportunity for Hearing | 11-02-2015 |
| 2. | Credential View Screen | 12-14-2015 |
| 3. | Renewal Application | 09-01-2015 |
| 4. | Notarized Statement of Audra Koval | |
| | 10-19-2015 | |

5.	Incident Report, Suicide Attempt	10-27-2014
6.	Conviction for DUI	03-27-2015
7.	Conviction for Attempted Possession of Drugs	04-29-2015
8.	Incident Report, Suicide Attempt	08-14-2015
9.	Notice of Probation Violation	09-29-2015

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. Audra Koval, is engaged in conduct that provides clear and convincing evidence that continuation of her professional practice presents a danger of immediate serious harm to others set forth in Section 3719.121(B) of the ORC, to wit:
 - a. On or about October 14, 2015, an Agent of the Board received Audra Koval's renewal application where she answered "yes" to the legal question that inquired whether "within the last 18 months: do you have a record of arrest or criminal charges pending or have a conviction of a felony, misdemeanor, or traffic violation (even if sealed, expunged, or the equivalent thereof in another jurisdiction."
 - b. On or about October 27, 2014, medics and police officers were dispatched to Audra Koval's residence for a suicide attempt. She admitted to the responding officers that she drank seventeen (17) beers and consumed an unknown amount of Vicodin.
 - c. On or about March 27, 2015, Audra Koval was arrested and charged with operating a vehicle under the influence of alcohol and/or a drug of abuse and two (2) counts of felony possession of drugs. During the stop, the Officer observed a twelve (12) pack of bud light beer in her vehicle as well as an open container of bud light beer. The Officer also removed a prescription bottle containing amphetamine and dextroamphetamine from her purse. The bottle was prescribed to Zoe Koval. Audra Koval was also advised that an additional bottle that contained a mixture of pills, acetaminophen and hydrocodone, was removed from her purse.
 - d. On or about April 29, 2015, Audra Koval plead guilty to operating a vehicle under the influence of alcohol and/or a drug of abuse and attempted possession of drugs in Circleville Municipal Court, case number CRA 1500382.
 - e. On or about August 14, 2015, medics and police officers were dispatched to Audra Koval's residence after she called reporting that she was suicidal. The officers

found her locked inside the bathroom, combative, and very intoxicated. As a result, she was pink slipped because she could not care for herself.

f. On or about September 29, 2015, Audra Koval violated her probation by testing positive for alcohol and marijuana. She admitted to consuming both drugs and alcohol. As a result of her probation, she was ordered by the court to complete intensive outpatient treatment for drugs and alcohol.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs(1)(a) through (f) of the Findings of Fact constitutes the following violations of the ORC:
 - a. Guilty of a felony and gross immorality, ORC 4729.16(A)(1); and
 - b. Addicted to abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - c. Guilty of willfully violating any of provisions of this chapter, sections 3715.52 to 3715.72 of Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(5).
2. Such conduct as set forth in paragraphs (1)(a) through (f) of the Findings of Fact section constitutes the following violations of the Ohio Administrative Code (OAC):
 - a. Not being of good moral character and habits, OAC Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04 (D).

DECISION OF THE BOARD

1. Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension of license no. 03-2-26304 issued to Audra Koval on November 2, 2015.
2. 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 Audra Koval as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-2-26304, held by Audra Koval effective as of the date of the mailing of this Order; said revocation is stayed as set forth in paragraph 2 below.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-2-26304, held by Audra Koval effective as of the date of the mailing of this Order; said revocation is stayed as set forth in paragraph 2 below.

3. Further, the Board will stay the revocation and suspend indefinitely the pharmacist license, No. 03-2-26304, held by Audra Koval. Audra Koval must petition for reinstatement no later than February 1, 2019 and must personally appear before the Board to demonstrate the following:

a) Two years of documented sobriety through participation with an Ohio Department of Mental Health and Addiction Services (ODMHAS) approved treatment provider.

b) Provide current mental and physical evaluation(s) from Board certified psychologist and physician that indicate Audra Koval is fit to return to the practice of pharmacy.

c) Documentation must be provided that Audra Koval demonstrates the current skill, care, and competence to practice pharmacy.

d) Audra Koval may be required to apply for and successfully complete the NAPLEX and/or MPJE examinations.

3. Failure to meet the requirements set forth in paragraphs 3(a) through 3(d) of this Section, on or prior to February 1, 2019 shall cause the revocation of Audra Koval's pharmacist license, No. 03-2-26304, by operation of law.

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

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

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

SO ORDERED.

R-2016-187

After votes were taken in public session, the Board adopted the following order in the matter of **Gordon Smith, R.Ph.**, West Carrollton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1149)

In The Matter Of:

Gordon Smith, R.Ph.
757 Cransberry Drive
West Carrollton, Ohio 45449
(R.Ph. Number 03-1-09088)

INTRODUCTION

The Matter of Gordon Smith came for consideration on January 12, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; and Fred M. Weaver, R.Ph.

Shawn C. Wilt, R.Ph.; Absent.

Gordon Smith was not present nor represented by Counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. James Amend, State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|----|--|-------------------------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 03-13-2015 |
| 2. | Credential View Screen | 11-16-2015 |
| 3. | Samaritan Pharmacy Timesheets and Inventory Logs | Various |
| 4. | Notarized Statement of Gordon Smith | 03-09-2015 |
| 5. | Accountability Statements | 10-04-2015 through 03-16-2015 |
| 6. | Video of Gordon Smith | |

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 indicate that Gordon Smith was originally licensed in the State of Ohio on August 12, 1968, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.
2. The Board has the authority to pursue a summary suspension of a pharmacist's license pursuant to Section 3719.121 and discipline of a pharmacist license pursuant to Section 4729.16 of the Revised Code.
3. Gordon Smith 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. Review of Gordon Smith's schedule for March showed that he was scheduled to work on the following dates in March of 2015: 2, 5, 7, and 8. There was a discrepancy of 15 tablets of hydrocodone/APAP 5/325mg discovered during the morning count on March 9, 2015. Review of camera footage from March 7, 2015 revealed that he retrieved a bottle of medication from the hydrocodone location, opened the bottle, placed the drug into his pocket, and replaced the bottle on the shelf. This medication removal occurred in the dark. He continued to go about retrieving other medications from the inpatient pharmacy.
 - b. When confronted by an agent and specialist of the State Board of Pharmacy in an interview at Gordon Smith's residence on March 9, 2015, he eventually admitted to theft of drugs from the pharmacy.
 - i. Gordon Smith indicated that he began stealing various strengths of hydrocodone from the pharmacy and that this began as a result of the quantities being prescribed for post-operative dental procedures not being sufficient. He indicated that he required more pain medication than prescribed and that he supplemented by stealing from Samaritan Pharmacy. He reported that after his last dental procedure in January and the completion of his final prescription for pain medication, he no longer had dental related pain but had become depending on hydrocodone for a psychological/physical dependence on them.
 - ii. Gordon Smith provided a written statement to Board investigators detailing the information he verbally reported during the March 9, 2015 interview.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (3)(a) through (b) of the Findings of Fact constitutes a violation of Section 4729.16(A)(3) of the Revised Code, being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy.
2. Such conduct as set forth in paragraphs (3)(a) through (b) of the Findings of Fact constitutes a violation of Section 2913.02(A)(2) of the Revised Code, Theft.
3. Such conduct as set forth in paragraphs (3)(a) through (b) of the Findings of Fact constitutes a violation of Section 4729.16(A)(1) of the Revised Code, acts constituting a felony or gross immorality.
4. Such conduct as set forth in paragraphs (3)(a) through (b) of the Findings of Fact constitutes a violation of Section 4729.16(A)(2) of the Revised Code, being guilty of dishonesty or unprofessional conduct in the practice of pharmacy.
5. Such conduct as set forth in paragraphs (3)(a) through (b) of the Findings of Fact constitutes a violation of Section 4729.16(A)(5) of the Revised Code, being guilty of willfully violating Chapter 2925. or 3719. of the Revised Code.

DECISION OF THE BOARD

4. Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension of license no. 03-1-09088 issued to Gordon Smith on March 13, 2015.

5. 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 Gordon Smith as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-1-09088, held by Gordon Smith effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-1-09088, held by Gordon Smith effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license,

No. 03-1-09088, held by Gordon Smith effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-1-09088, held by Gordon Smith effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist license, No. 03-1-09088, held by Gordon Smith effective as of the date of the mailing of this Order.

6. Further, the Board hereby stays the revocation and suspends indefinitely the pharmacist license, No. 03-1-09088, held by Gordon Smith. Gordon Smith must submit a petition for reinstatement prior to February 1, 2019 and personally appear before the Board. During the reinstatement hearing, Gordon Smith must demonstrate that he is no longer addicted to controlled substances and that he possesses the current skill, care, and competence to practice pharmacy.

3. Failure to petition for reinstatement by February 1, 2019 shall cause the revocation of Gordon Smith's pharmacist license, No. 03-1-09088, by operation of law.

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

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

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

SO ORDERED.

R-2016-188 Mr. Passafume moved that the Board Minutes of December 7-9, 2015, be approved as amended. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 5.

R-2016-189 Ms. Marchal moved that the Board Conference Call Minutes of December 10, 2015, be approved as written. Mr. Passafume seconded the motion and it was approved by the Board: Aye – 5.

R-2016-190 Mr. Moné moved that the Board adopt the following resolution:

A Resolution

Pursuant to Rule 4729-7-08, the State of Ohio Board of Pharmacy approves the following pharmacy practice specific specialty certification programs:

- Board of Pharmacy Specialties in Nuclear Pharmacy
- Board of Pharmacy Specialties in Nutrition Support Pharmacy
- Board of Pharmacy Specialties in Oncology Pharmacy
- Board of Pharmacy Specialties in Pharmacotherapy
- Board of Pharmacy Specialties in Psychiatric Therapy
- Board of Pharmacy Specialties in Ambulatory Care Pharmacy
- Certified Specialist in Poison Information
- Commission for Certification in Geriatric Pharmacy
- Board of Pharmacy Specialties in Pediatric Pharmacy
- Board of Pharmacy Specialties in Critical Care

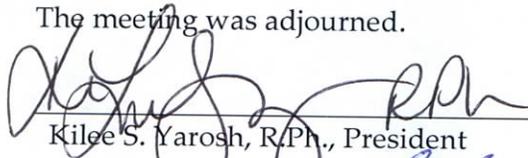
The motion was seconded by Ms. Marchal and approved by the Board: Aye -5.

R-2016-191

Mr. Moné moved that the Board approve Rules 4729-16-12 and 4729-16-07, as amended, for filing with JCARR. The motion was seconded by Mr. Cain and approved by the Board: Aye -5.

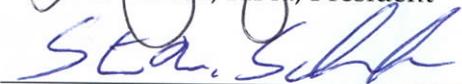
3:51 p.m.

The meeting was adjourned.



Kilee S. Yarosh, R.Ph., President

Date: 2/3/16



Steven W. Schierholt, Esq., Executive Director

Date: 2/3/16