



**MINUTES OF THE AUGUST 6-8, 2018**  
**MEETING OF THE STATE OF OHIO BOARD OF PHARMACY**

**Monday, August 6, 2017**

**10:07 a.m.** The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Fred M. Weaver, RPh, Presiding; Joshua M. Cox, RPh; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

Also present were Steven Schierholt, *Executive Director*; Eric Griffin, *Director of Compliance and Enforcement*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Jenni Wai, *Chief Pharmacist*; Erin Reed, *Senior Legal Counsel*; Chad Garner, *Director of OARRS*; Karrie Southard, *Director of Licensing*; Yvonne Tertel, *Assistant Attorney General*; and Ali Simon, *Public and Policy Affairs Liaison*.

President Weaver administered the Oath of Office to new Member, D. Rich Miller.

**OATH OF NEW MEMBER**

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

**10:09 a.m.** The Board President, Fred M. Weaver, made the following appointments for Fiscal Year 2019:

**4729-2-02 APPOINTMENTS**

<b><u>Board Matters</u></b>	<b><u>FY2019</u></b>
(A)(1): Citation Review & Issuance	1. Fred Weaver 2. Shawn Wilt
(A)(2): Budget/Finance	1. Jennifer Rudell 2. Joshua Cox
(A)(3): CE, Examination, Internship & Licensure	1. Kilee Yarosh 2. Curt Passafume
(A)(4): Legislation & External Affairs	1. Shawn Wilt 2. Megan Marchal



(A)(5): OARRS	<ol style="list-style-type: none"> <li>1. Fred Weaver</li> <li>2. Shawn Wilt</li> </ol>
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#### OTHER BOARD RESPONSIBILITIES

4729-2-02(A)(6): Probation Committee	<ol style="list-style-type: none"> <li>1. Fred Weaver</li> <li>2. Shawn Wilt</li> <li>3. Curt Passafume (Alt.)</li> </ol>
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\*Term of position 2 years 4723.49(C)

\*\*Term of position 2 years 4730.05(B)

\*\*\*Length of Appointment life of Committee (5 years) 3796.021, Appointment as chair by Governor: 3796.021(E)

**10:11 a.m.** The Board was joined by Assistant Attorney General Yvonne Tertel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Nicholas Williams, Mansfield, Ohio.**

**11:26 a.m.** The hearing ended and the record was closed.

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

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

**R-2019-001** After votes were taken in public session, the Board adopted the following order in the matter of **Nicholas Williams, Mansfield, Ohio.**

#### ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2017-1858)

In The Matter Of:

**Nicholas Williams, Intern**  
640 Five Points East Road  
Mansfield, OH 44903  
(License No. 06-016080)

#### INTRODUCTION

The Matter of Nicholas Williams came for hearing on August 6, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, R.Ph., *Presiding*; Joshua M. Cox, R.Ph; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Shawn C. Wilt, R.Ph.; Donald R. Miller, R.Ph.; Richard J. Newlon, *public member*; and Kilee S. Yarosh, R.Ph.

Nicholas Williams was not represented by Counsel. The State of Ohio was represented by Yvonne Tertel, Assistant Attorney General.

#### SUMMARY OF EVIDENCE

##### State's Witnesses:

1. Don Newton, Agent of the Board—State of Ohio Board of Pharmacy
2. Karrie Southard, Director of Licensing—State of Ohio Board of Pharmacy
3. Nicholas Williams, Respondent

##### Respondent's Witness:

1. Nicholas Williams, Respondent

##### State's Exhibits:

- |    |  |            |
|----|--|------------|
| 1. | Notice of Opportunity for Hearing                        | 05-10-2018 |
| 2. | Request for Hearing                                      | 05-10-2018 |
| 3. | Scheduling Letter  | 05-14-2018 |
| 4. | Intern Application                                       | 06-12-2017 |
| 5. | Pharmacist Application                                   | 06-06-2017 |
| 6. | Certificate of Pharmacy Education (Creighton University) | 06-09-2017 |
| 7. | Letter from Yogesh K., Desai, M.D.                       | 09-19-2017 |
| 8. | Board Ordered Examination Correspondence                 | 02-15-2018 |
| 9. | Comprehensive Psychiatric Services, Inc., Report         | 03-12-2018 |

##### 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: By letter dated February 23, 2018, the Board ordered Nicholas Williams to submit to a mental examination pursuant to ORC 4729.16(E). The Board's determination was based upon the reasons outlined in such letter. By letter dated March 12, 2018, from Dr. Luis Ramirez, a Board-approved psychiatric evaluator, Nicholas Williams was determined to have the diagnosis of Bipolar Disorder I, in partial remission. The report further stated Nicholas Williams is capable of working if his condition is monitored with regular reports by his treating psychiatrist in order to make sure he is adhering to treatment and rehabilitation progress.

#### CONCLUSIONS OF LAW & DECISION OF THE BOARD

**The Board hereby finds Nicholas Williams to be impaired, consistent with Section 4729.16(E) of the Revised Code; and further finds the physician reports submitted to the Board to support the Board's determination that Nicholas Williams may practice pharmacy as an intern with continued psychiatric monitoring. As such, the Board hereby grants Nicholas Williams Intern License No. 06-016080, effective immediately.**

**As part of the conditions of Nicholas Williams receiving his Intern License, he must continue to meet with his treating psychiatrist and follow all medication and any other treatment recommendations. Nicholas Williams' treating psychiatrist must provide reports to Board staff and/or the probation committee no less than quarterly from the date of this Order. The reports may be emailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).**

**Nicholas Williams shall report to the board any hospitalizations and/or encounters with law enforcement within three business days of release from the hospital or contact with law enforcement.**

**Upon successful completion of the NAPLEX, Nicholas Williams must appear before the full Board prior to issuance of his Pharmacist License.**

Megan Marchal moved for Findings of Fact; Shawn Wilt seconded the motion. Motion passed (Aye-8/Nay-0).

Curt Passafume moved for Conclusions of Law and Decision of the Board; Joshua Cox seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

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- 12:12 p.m.** The Board recessed for lunch.
- 1:34 p.m.** The meeting reconvened in the Hearing Room.
- Mr. Griffin provided the Compliance and Enforcement report.
- Ms. Dehner provided the Legal report.
- 1:49 p.m.** Ms. Reed and Ms. Wai presented a Medical Marijuana Method and Form Petition for consideration by the Board.
- R-2019-002** Mr. Wilt moved the Board table the discussion to conduct further research on 90-day supply. The motion was seconded by Ms. Marchal and approved by the Board: Aye—5/Nay—2
- 2:13 p.m.** Mr. Schierholt discussed the ACPE Accreditation status of Ohio Northern University, stating they were now in full compliance.
- 2:14 p.m.** Mr. Garner provided the OARRS/IT report.
- R-2019-003** The Board received an application for the Continuing Education Provider Status of **St. Vincent de Paul Charitable Pharmacy**, Cuyahoga Falls, Ohio; **Lydia Bailey, RPH (03334430)**. Mr. Cox moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye—7.
- 2:22 p.m.** Ms. Southard provided the Licensing report.

- R-2019-004** Ms. Marchal moved that the Board approve the Technician Application Abandonment plan as presented by Ms. Southard. The motion was seconded by Ms. Rudell and approved by the Board: Aye—7.
- 2:46 p.m.** Ms. Simon provided the Legislative report.
- 2:55 p.m.** Nicole Dehner led a discussion on the Unauthorized use of pharmacy-related advertising pursuant to Section 4729.36 of the Ohio Revised Code.
- 2:59 p.m.** Mr. Wilt moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.
- 4:00 p.m.** Executive Session concluded, and the Board recessed for the day.

**Tuesday, August 7, 2018**

**9:02 a.m.** The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Fred M. Weaver, RPh, Presiding; Joshua M. Cox, RPh; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

The Board was joined by Assistant Attorney General Yvonne Tertel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Ann Ellis, Springfield, Ohio.**

**9:45 a.m.** The hearing ended, and the record was closed.

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

**9:57 a.m.** The recess ended, and the hearing was opened to the public.

**R-2019-005** After votes were taken in public session, the Board adopted the following order in the matter of **Ann Ellis, Springfield, Ohio.**

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2016-2370)

In The Matter Of:

**Ann Ellis, R.Ph.**

284 South Broadmoor Boulevard  
Springfield, Ohio 45504  
(License No. 03-2-17762)

**INTRODUCTION**

The Matter of Ann Ellis came for hearing on August 7, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, R.Ph., *Presiding*; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Donald R. Miller, R.Ph.; Shawn C. Wilt, R.Ph.; Richard J. Newlon, *public member*; Joshua M. Cox, R.Ph and Kilee S. Yarosh, R.Ph.

Ann Ellis was represented by Kevin Kerns. The State of Ohio was represented by Yvonne Tertel, Assistant Attorney General.

SUMMARY OF EVIDENCEPetitioner's Witnesses:

1. Ann Ellis—Respondent
2. Jarrod Grossman—PRO, Inc.

State's Witnesses:

None

Petitioner's Exhibits:

A.	PRO Contract	06-20-2017
B.	Jarrod Grossman Letter	07-22-2018
C.	Urine Screens & Related Emails	Various
D.	Cornerstone Aftercare Reports	Various
E.	CPE Monitor Activity Transcript	Various
F.	Clark County Common Pleas Judgement Entry	05-31-2018
G.	Meeting Attendance Dates	Various
H.	Joshua Keslar Letter	No Date

State's Exhibits:

1.	Board Order	06-13-2017
2.	Petition for Reinstatement	12-30-2016
3.	Glenbeigh Admission Record	01-20-2017
4.	Glenbeigh Discharge Record	04-07-2017
5.	Clark County Common Pleas Judgement Entry	05-31-2018

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 Ann Ellis has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2016-2370, dated June 13, 2017.

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 pharmacist identification card, No. 03-2-17762, held by Ann Ellis to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Ann Ellis must enter into and adhere to the terms of 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. Failure to adhere to the terms of the treatment contract will be considered a

violation of the Board's Order and subject Ann Ellis to potential sanctions up to and including revocation of license. 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 Ann Ellis 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. Ann Ellis 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 Ann Ellis reappear before the Board for possible additional sanctions, including and up to revocation of license.
  4. Ann Ellis 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 Ann Ellis reappear before the Board for possible additional sanctions, including and up to revocation of license.



5. Ann Ellis 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 Ann Ellis's progress towards recovery and what Ann Ellis has been doing during the previous three months.
6. Other terms of probation are as follows:
  - a. Ann Ellis must meet at least annually with the Board's Probation Committee, the first meeting to be held Monday, February 4, 2018.
  - b. The State of Ohio Board of Pharmacy hereby declares that Ann Ellis's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - c. Ann Ellis may not serve as a responsible pharmacist.
  - d. Ann Ellis may not destroy, assist in, or witness the destruction of controlled substances.
  - e. Ann Ellis may not work in a pharmacy more than 40 hours per week or 80 hours over a two- week period.
  - f. Ann Ellis must not violate the drug laws of Ohio, any other state, or the federal government.
  - g. Ann Ellis must abide by the rules of the State of Ohio Board of Pharmacy.
  - h. Ann Ellis must comply with the terms of this Order.
  - i. Ann Ellis's license is deemed not in good standing until successful completion of the probationary period.
7. Ann Ellis must immediately report any violation of the terms of this probation to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov). Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Ann Ellis 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 Ann Ellis' license.

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

Ms. Marchal moved for Findings of Fact and Decision of the Board; M. Rudell seconded the motion. Motion passed (Aye-8/Nay-0).

Ms. Yarosh moved for Action of the Board; Mr. Weaver seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

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**9:58 a.m.** The Board recessed briefly.

**10:05 a.m.** The meeting reconvened in the Hearing Room.

Jenni Wai and Ali Simon led a discussion regarding Operation Smart.

**R-2019-006** Mr. Passafume moved that the Board adopt the following Resolution:

**Waiver of Technician Registration in a Training Program Implemented by Army Regulation**

The State of Ohio Board of Pharmacy hereby grants an indefinite exemption from registration as an Ohio pharmacy technician or licensure as an Ohio pharmacist, limited Army Personnel trained as a "Pharmacy Specialist" who are training under a joint training program through the U.S. Army Medical Department Center and the contracted Training Institution, as set forth in a Memorandum of Understanding Between the Ohio-based Training Institution and The United States Army for the Office of the Surgeon General.

The Army has established multiple programs for student clinical training, sustainment training, and pre-deployment training. The joint training at the Training institution is designed to fulfill the clinical training requirements of the Army, through the Office of the Surgeon General, in order to provide current and competent health care personnel in support of the National Security Strategy.

The exempted Army personnel shall not have unauthorized access to dangerous drugs and drug records.

Sterile compounding must be performed under the direct observation of an Ohio-registered certified pharmacy technician or Ohio-licensed pharmacist.

The Army personnel conducting activities of "Practice of Pharmacy" as defined in division (B) of section 4729.01 of the Revised Code and 4729-5-01 of the Administrative Code shall be under the supervision and approval of an Ohio-licensed pharmacist.

The motion was seconded by Mr. Wilt and approved by the Board: Aye—7.

- 10:26 a.m.** Ms. Simon led a discussion regarding Pharmacy Technician training programs accreditation.
- 10:42 a.m.** Ms. Southard led a discussion regarding expired certifications of Certified Pharmacy Technicians.
- 10:57 a.m.** Ms. Wai led a discussion regarding support personnel and a pharmacy technician's role.
- 11:03 a.m.** Ms. Wai gave an update to the Board regarding 'Duty to Report'.
- 11:10 a.m.** Ms. Wai led a discussion regarding Assisted Living Facilities.
- 11:21 a.m.** Mr. Wilt moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.
- 11:40 a.m.** Executive Session concluded, and the Board recessed for lunch.
- 1:55 p.m.** The meeting reconvened in the Hearing Room.
- R-2019-007** Ms. Marchal moved that the Board adopt the following decisions of the Responsible Person Committee for requests to be Responsible Person on more than one location—Wholesale Distributor:
- a. Sandra Witherspoon—Approved**
    - I. St. Ann's Hospital of Columbus (02-0034150)
    - II. Diley Ridge Medical Center (02-2007400)
  - b. Rebecca Taylor—Approved**
    - I. Fairview General Hospital (02-0030050)
    - II. Moll Center Pharmacy (02-1069200)
  - c. Joshua Cain—Approved**
    - I. Armes Family Cancer Center (02-2539750)
    - II. LLC Medical Clinic (02-2883700)
  - d. Douglas Yelton—Approved**
    - I. Allergan Sales, LLC (01-2663350)
    - II. Allergan Sales, LLC (01-2663300)

The motion was seconded by Mr. Passafume and approved by the Board: Aye—7.

- R-2019-008** Mr. Wilt moved to approve a 5% increase in compensation to the Executive Director, to be effective in the pay period beginning July 1, 2018, subject to approval of the Governor's Office. The motion was seconded by Mr. Passafume and approved by the Board: Aye—7.

**R-2019-009** The Board received an Intern Renewal request, 4729-3-04(B), of **Rasha Metwali** (06-015860) Brook Park, Ohio. Mr. Wilt moved that the Board approve the specific request. The motion was seconded by Mr. Passafume and approved by the Board: Aye—7.

**R-2019-010** Mr. Passafume moved that the Board approve the Responsible Person Requirements as presented by Ms. Southard. The motion was seconded by Mr. Rudell and approved by the Board: Aye—7.

**R-2019-011** Ms. Yarosh moved that the Board adopt the following Resolution:

**Pharmacy Practice Specific Specialty Certification Programs**

Pursuant to Section 4729-7-08 of the Ohio Administrative Code, the Board hereby approves the following pharmacy practice specific specialty certification programs that may satisfy the continuing pharmacy education requirements for licensed pharmacists:

- Board of Pharmacy Specialties in Cardiology Pharmacy
- Board of Pharmacy Specialties in Compounded Sterile Preparations Pharmacy
- Board of Pharmacy Specialties in Infectious Diseases Pharmacy

Previously approved on January 12, 2016:

- Board of Pharmacy Specialties in Ambulatory Care Pharmacy
- Board of Pharmacy Specialties in Critical Care
- Board of Pharmacy Specialties in Geriatric Pharmacy
- 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 Pediatric Pharmacy
- Board of Pharmacy Specialties in Pharmacotherapy
- Board of Pharmacy Specialties in Psychiatric Pharmacy
- Certified Specialist in Poison Information

The motion was seconded by Mr. Passafume and approved by the Board: Aye—7.

**R-2019-012** Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:  
CASE No. 2016-2057**

**Pain Evaluation and Management Center of Ohio  
License Nos. 02-2256150; 02-1733250  
c/o Janice Pauley, M.D.  
1512 Yankee Park Place  
Centerville, Ohio 45458**

And

c/o Dr. Janice Pauley  
1550 Yankee Park Place  
Centerville, OH 45458

### **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 (Board) and Pain Evaluation and Management Center of Ohio (PEMCO), for the purpose of resolving all issues between the parties relating to the Board investigation of PEMCO operating as a Pain Management Clinic without obtaining a pain management clinic classification. Together, the Board and PEMCO are referred to hereinafter as "the parties."

### **JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. PEMCO is a licensed Terminal Distributor of Dangerous Drugs under license numbers 02-2256150 and 02-1733250.

### **FACTS**

1. On or about September 9, 2016, the Board initiated an investigation of PEMCO, Terminal Distributor of Dangerous Drugs license numbers 02-2256150 and 02-1733250, related to PEMCO operating as a Pain Management Clinic without obtaining a pain management clinic classification.
2. On or about July 20, 2017, the Board sent a Notice of Opportunity for Hearing to PEMCO, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

### **TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. PEMCO neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 20, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. PEMCO agrees to pay to the Board a monetary penalty in the amount of \$7,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
  4. PEMCO's Terminal Distributor of Dangerous Drugs with Pain Management Clinic Classification license will be issued upon receipt of completed application(s), application fee(s), fine payment, and proof that PEMCO meets the criteria to become a licensed Pain Management Clinic.
  5. PEMCO agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
  6. PEMCO agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by PEMCO of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to PEMCO by the Board and will NOT discharge PEMCO from any obligation under the terms of this Agreement.
  7. PEMCO agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
  8. PEMCO understands that it has the right to be represented by counsel for review and execution of this agreement.
  9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom PEMCO will operate.
  10. PEMCO waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
  11. 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.
  12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  13. 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-2019-013** Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:  
CASE NO. 2016-2359**

**Kaoru Shor**  
**License No. 03-3-15815**  
5920 Province Court  
Lorain, Ohio 44053

**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 (Board) and Kaoru Shor, for the purpose of resolving all issues between the parties relating to the Board investigation of Kaoru Shor's violation of her Board Order. Together, the Board and Kaoru Shor 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Kaoru Shor is an Ohio-licensed pharmacist under suspended license number 03-3-15815.

**FACTS**

1. On or about November 22, 2016, the Board initiated an investigation of Kaoru Shor, pharmacist license number 03-3-15815, related to Kaoru Shor's violation of her Board Order dated September 17, 2010.
2. On or about May 10, 2017, the Board sent a Notice of Opportunity for Hearing to Kaoru Shor, 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 May 18, 2017, Kaoru Shor timely requested an administrative hearing, which was subsequently scheduled for November 14, 2017.

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. Kaoru Shor neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 10, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Kaoru Shor permanently and voluntarily surrenders to the State of Ohio Board of Pharmacy her license and registration to practice pharmacy, license no. 03-3-15815, with discipline pending. This agreement supersedes the previous settlement agreement, which was effective October 11, 2017.
4. Kaoru Shor agrees to immediately return her license and wall certificate to the Board, if the Board is not already in possession of both.
5. Kaoru Shor may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Ohio Revised Code.
6. Kaoru Shor agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Kaoru Shor understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Kaoru Shor agrees and acknowledges that this Board 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 Board on renewal applications or applications for a new license.
9. Kaoru Shor waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraws her request for a hearing in this matter, and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

**R-2019-014**

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

**IN THE MATTER OF:  
CASE NO. 2016-1630**



**Revision Advanced Surgery Center**  
**License No. 02-1683450**  
c/o James D. Schumer, M.D.  
1080 Polaris Parkway, Ste 100  
Columbus, OH 43240

**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 (Board) and Revision Advanced Surgery Center, for the purpose of resolving all issues between the parties relating to the Board investigation of Revision Advanced Surgery Center's compounding ophthalmic preparations intended as eye drops, without adequate equipment or labeling in a non-sterile environment. Together, the Board and Revision Advanced Surgery Center are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Revision Advanced Surgery Center is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1683450.

FACTS

1. On or about June 17, 2016 the Board initiated an investigation of Revision Advanced Surgery Center, Terminal Distributor of Dangerous Drugs license number 02-1683450, related to Revision Advanced Surgery Center's compounding ophthalmic preparations intended as eye drops, without adequate equipment or labeling in a non-sterile environment.
2. On or about January 29, 2018, the Board sent a Notice of Opportunity for Hearing to Revision Advanced Surgery Center, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On February 8, 2018, Revision Advanced Surgery Center timely requested an administrative hearing, which was scheduled for May 2, 2018.

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. Revision Advanced Surgery Center neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated January 29, 2018 however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Revision Advanced Surgery Center agrees to pay to the Board a monetary penalty the amount of \$3,500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart, in addition to a \$3.50 processing fee.
4. Revision Advanced Surgery Center may compound only Marcaine and Lidocaine for corneal transplant procedures pursuant to the Standard Operating Procedure in effect as presented to the Board in June of 2018. Any other compounding performed by Revision Advanced Surgery Center shall be approved by the Board prior to use.
5. Revision Advanced Surgery Center, is permitted to continue to designate James D. Schumer, M.D., as the Responsible Person.
6. Revision Advanced Surgery Center agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
7. Revision Advanced Surgery Center agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Revision Advanced Surgery Center of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Revision Advanced Surgery Center by the Board and will NOT discharge Revision Advanced Surgery Center from any obligation under the terms of this Agreement.
8. Revision Advanced Surgery Center agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Revision Advanced Surgery Center understands that it has the right to be represented by counsel for review and execution of this agreement.
10. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Revision Advanced Surgery Center will operate.

11. Revision Advanced Surgery Center waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
  12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
  13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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**R-2019-015**

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

**IN THE MATTER OF:  
CASE No. 2015-1961**

**James H. LeVan, RPh  
License No. 03-221284  
3605 Township Rd. 108  
Huntsville, OH 43324**

**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 (Board) and James LeVan, for the purpose of resolving all issues between the parties relating to the Board investigation of unprofessional conduct and mental health issues. Together, the Board and James LeVan are referred to hereinafter as “the parties.”

**JURISDICTION**

1. Pursuant to Section 4729.16 of the Ohio Revised Code (ORC) and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. James LeVan is an Ohio-licensed pharmacist under license number 03-221284, whose license expired on September 15, 2017; however, pursuant to Section 4729.12 of the ORC, when a license has expired but an application is made within three years after the expiration of the license, the applicant’s license shall be renewed without further examination if the applicant meets the requirements of this section and pays the fee designated under division(A)(5) of section 4729.15.
3. A pharmacist who fails to make application to the state board of pharmacy for a license renewal within a period three years from the expiration of the license must pass an examination for licensure and comply with sections 4776.01 to 4776.04 of the Revised Code. ORC Section 4729.13.

**FACTS**

1. On or about November 16, 2015 the Board initiated an investigation of James LeVan, pharmacist license number 03-221284, related to James LeVan's unprofessional conduct and mental health issues.
2. On or about November 17, 2017 the Board sent a Notice of Opportunity for Hearing to James LeVan, 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 December 28, 2017, James LeVan requested an administrative hearing, which was subsequently scheduled for June 5, 2018.

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. James LeVan neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 17, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. James LeVan may not reapply for renewal or licensure with the Board until he undergoes a mental and physical examination pursuant to Division (E) of Section 4729.16 of the ORC.
4. James LeVan must, prior to submitting an application for renewal or licensure, provide the results of the examination and proof of compliance with the recommendations to the Board.
5. James LeVan must appear before the Board prior to submitting an application for renewal or licensure.
6. If more than three years have passed since the date of James LeVan's license expiration on September 15, 2017, Mr. LeVan must first appear before the Board for permission to retake the NAPLEX and Multistate Jurisprudence Examination prior to submitting an application for licensure. Once granted permission to retest, Mr. LeVan must successfully pass the NAPLEX and MPJE, and undergo all other licensure requirements such as background check, application process, and any other requirements of the Board in order to be granted a license.
7. James LeVan agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. James LeVan understands that he has the right to be represented by counsel for review and execution of this agreement.
  9. James LeVan agrees and acknowledges that this Board 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 Board on renewal applications or applications for a new license.
  10. James LeVan waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter and waives any right to an appeal.
  11. 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.
  12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  13. 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-2019-016**

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

**IN THE MATTER OF:  
CASE No. 2017-1623**

**Kroger Pharmacy #014418  
License No. 02-1967050  
1014 Vine Street  
Cincinnati, Ohio 45202**

**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 (Board) and Kroger Pharmacy #014418, for the purpose of resolving all issues between the parties relating to the Board investigation of the Errors in Dispensing that occurred between April 8, 2017 through April 15, 2017. Together, the Board and Kroger Pharmacy #014418 are referred to hereinafter as “the parties.”

**JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Kroger Pharmacy #014418 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1967050.

### FACTS

On or about May 2, 2017, the Board initiated an investigation of Kroger Pharmacy #014418, Terminal Distributor of Dangerous Drugs license number 02-1967050, related to four incidents of errors in dispensing that occurred between April 8, 2017 through April 15, 2017.

On or about April 4, 2018, the Board sent a Notice of Opportunity for Hearing to Kroger Pharmacy #014418, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

On April 20, 2018, Kroger Pharmacy #014418 timely requested a hearing, which was scheduled for September 10, 2018.

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. Kroger Pharmacy #014418 neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 4, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Kroger Pharmacy #014418 agrees to pay to the Board a monetary penalty the amount of
4. \$2,000.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
5. Kroger Pharmacy #014418 will continue to educate its staff pharmacists and pharmacy technicians.
6. Kroger Pharmacy #014418 will continue the education of its pharmacy staff in Best Practices, including those affecting the replenishment of the Parata Auto Fill System.
7. Kroger Pharmacy #014418 agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
8. Kroger Pharmacy #014418 agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio

Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Kroger Pharmacy #014418 of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Kroger Pharmacy #014418 by the Board and will NOT discharge Kroger Pharmacy #014418 from any obligation under the terms of this Agreement.

9. Kroger Pharmacy #014418 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
  10. Kroger Pharmacy #014418 understands that it has the right to be represented by counsel for review and execution of this agreement.
  11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Kroger Pharmacy #014418 will operate.
  12. Kroger Pharmacy #014418 waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
  13. 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.
  14. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  15. 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-2019-017**

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

**IN THE MATTER OF:  
CASE NO. 2017-1054**

**Mark Moore**  
**License No. 03-1-19236**  
1335 Camden Trace  
Beavercreek, OH 45434

**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 (Board) and Mark Moore, for the purpose of resolving all issues between the parties relating to the Board investigation of Mark Moore's thefts of various strengths and numerous quantities of

hydrocodone/acetaminophen. Together, the Board and Mark Moore 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy as a pharmacist in the state of Ohio.
2. Mark Moore is an Ohio-licensed pharmacist under license number 03-1-19236.

#### FACTS

1. On or about January 13, 2017, the Board initiated an investigation of Mark Moore, pharmacist license number 03-1-19236, related to Mark Moore’s thefts of various strengths and numerous quantities of hydrocodone/acetaminophen.
2. On or about May 4, 2018 the Board sent a Notice of Opportunity for Hearing to Mark Moore, 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. Mark Moore neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 4, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. **MARK MOORE PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-1-19236, WITH DISCIPLINE PENDING.**
4. **Mark Moore agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **Mark Moore may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Revised Code.**



6. **Mark Moore agrees never to be employed by or otherwise work in any facility or establishment licensed by the State of Ohio Board of Pharmacy.**

7. Mark Moore agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Mark Moore understands that he has the right to be represented by counsel for review and execution of this agreement.

9. Mark Moore agrees and acknowledges that this Board 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 Board on renewal applications or applications for a new license.

10. Mark Moore waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.

11. 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.

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

13. 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-2019-018**

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

**IN THE MATTER OF:  
CASE NO. 2017-1852**

**Timothy W. Dudgeon, RPH**  
**License No. 03-3-16943**  
8237 Springdew Drive  
Cincinnati, OH 45231

**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 (Board) and Timothy W. Dudgeon, for the purpose of resolving all issues between the parties relating to the Board investigation of Timothy W. Dudgeon's error in dispensing. Together, the Board and Timothy W. Dudgeon 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued

pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy as a pharmacist in the state of Ohio.

2. Timothy W. Dudgeon is an Ohio-licensed pharmacist under license number 03-3-16943.

### **FACTS**

1. On or about July 6, 2017, the Board initiated an investigation of Timothy W. Dudgeon, pharmacist license number 03-3-16943, related to Timothy W. Dudgeon's error in dispensing. The error in dispensing occurred on February 3, 2017 while you were employed at Bethesda North Apothecary.

2. On or about June 25, 2018 the Board sent a Notice of Opportunity for Hearing to Timothy W. Dudgeon, 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. Timothy W. Dudgeon neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 25, 2018 however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Timothy W. Dudgeon agrees to pay to the Board a monetary penalty in the amount of \$500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Timothy W. Dudgeon must obtain, within 90 days from the effective date of this Agreement, six 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. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
5. Timothy W. Dudgeon agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Timothy W. Dudgeon understands that he has the right to be represented by counsel for review and execution of this agreement.

7. Timothy W. Dudgeon agrees and acknowledges that this Board 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 Board on renewal applications or applications for a new license.
8. Timothy W. Dudgeon waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
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.

**R-2019-019**

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

**IN THE MATTER OF:  
CASE NO. 2017-1959**

**Alexander R. Clapsaddle  
License No. 03-1-36060  
1550 Winchester Drive  
Westlake, Ohio 44145**

**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 (Board) and Alexander R. Clapsaddle, for the purpose of resolving all issues between the parties relating to the Board investigation of Alexander R. Clapsaddle's error in dispensing with patient harm. Together, the Board and Alexander R. Clapsaddle 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Alexander R. Clapsaddle is an Ohio-licensed pharmacist under license number 03-1-36060.

**FACTS**

1. On or about August 1, 2017, the Board initiated an investigation of Alexander R. Clapsaddle, pharmacist license number 03-1-36060, related to Alexander R. Clapsaddle's error in dispensing with patient harm.
2. On or about June 18, 2018 the Board sent a Notice of Opportunity for Hearing to Alexander R. Clapsaddle, 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. Alexander R. Clapsaddle neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 18, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Alexander R. Clapsaddle agrees to pay to the Board a monetary penalty in the amount of
4. \$750.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
5. Alexander R. Clapsaddle must obtain, within 90 days from the effective date of this Agreement, six 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. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
6. Alexander R. Clapsaddle agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Alexander R. Clapsaddle understands that he has the right to be represented by counsel for review and execution of this agreement.
8. Alexander R. Clapsaddle agrees and acknowledges that this Board 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 Board on renewal applications or applications for a new license.
9. Alexander R. Clapsaddle waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.

10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
  11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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- R-2019-020** Ms. Marchal announced the citation issued to **Kyle Prusinski, RPh** is hereby dismissed.
- R-2019-021** Ms. Marchal announced the citation issued to **Cleveland Back and Pain** is hereby dismissed.
- 2:11 p.m.** Pursuant to sections 3719.121 and 4729.96 of the Ohio Revised Code, the Board considered the matter of Dr. Timothy J. Kraig, DDS for summary suspension.
- R-2019-022** After hearing Mr. Pyles discuss the significant facts regarding the activities of the individual, Ms. Marchal moved that the Board summarily suspend the Terminal Distributor of Dangerous Drugs license belonging to Dr. Timothy J. Kraig, DDS (022708100) Seven Hills, Ohio. The motion was seconded by Mr. Passafume and approved by the Board: Aye—7.
- 2:16 p.m.** Mr. Wilt moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.
- 3:05 p.m.** Executive Session concluded, and the Board recessed for the day.

### **Wednesday, August 8, 2017**

- 9:03 a.m.** The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:
- Fred M. Weaver, RPh, Presiding; Joshua M. Cox, RPh; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.
- Richard J. Newlon, *Public Member*—Not present.

- R-2019-023** Mr. Wilt moved that the Conference Call Minutes of July 25, 2018, be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.
- R-2019-024** Mr. Wilt moved that the Conference Call Minutes of June 20, 2018, be approved as written. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2019-025** Ms. Marchal moved that the Probation Committee Minutes of June 4, 2018, be approved as written. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2019-026** Ms. Marchal moved that the June 4-6, 2018 Meeting Minutes, be approved as amended. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- 9:06 a.m.** Mr. Cox provided the PAPC Committee report.
- Mr. Passafume provided Medical Marijuana Advisory Committee update.
- 9:07 a.m.** Mr. Newlon joined the meeting.
- 9:21 a.m.** Ms. Reed led a discussion regarding Medical Marijuana Variances.
- R-2019-027** Mr. Newlon moved that the Board approve the Medical Marijuana Variance process as presented. The motion was seconded by Ms. Marchal and approved by the Board: Aye-8.
- 9:35 a.m.** The Board recessed briefly.
- 9:44 a.m.** The meeting reconvened in the Hearing Room.
- The Board was joined by Assistant Attorney General Yvonne Tertel to create a record in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Thomas McNew, Galion, Ohio**.
- 11:28 a.m.** The hearing ended and the record was closed.
- Mr. Wilt moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Newlon-yes; Marchal-yes; Miller-yes; Passafume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.
- 11:55 a.m.** The recess ended and the hearing was opened to the public.
- R-2019-028** After votes were taken in public session, the Board adopted the following order in the matter of **Thomas McNew, Galion, Ohio**.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2016-1035)

In The Matter Of:

**THOMAS MCNEW, R.Ph.**

286 Sixth Avenue  
 Galion, OH 44833  
 (License No. 03-2-13861)

**INTRODUCTION**

The Matter of Thomas McNew came for hearing on August 8, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, R.Ph., *Presiding*; Joshua M. Cox, R.Ph.; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Megan M. Marchal, R.Ph.; Shawn C. Wilt, R.Ph.; D. Rich Miller, R.Ph.; Richard J. Newlon, *public member*; and Kilee S. Yarosh, R.Ph.

Thomas McNew was represented by Laura Perkovic. The State of Ohio was represented by Yvonne Tertel, Assistant Attorney General.

**SUMMARY OF EVIDENCE****State's Witness:**

1. Jason Doty, Agent—State of Ohio Board of Pharmacy

**Respondent's Witness:**

1. Thomas McNew, Respondent

**State's Exhibits:**

- |     |  |            |
|-----|--|------------|
| 1.  | Notice of Opportunity for Hearing                      | 02-28-2018 |
| 2.  | Request for Hearing                                    | 03-09-2018 |
| 3.  | Scheduling Letters                                     | Various    |
| 4.  | Credential View Screen                                 | Various    |
| 5.  | Witness Statements                                     | Various    |
| 6.  | Patient Statements                                     | Various    |
| 7.  | McNew Statement  | 02-02-2016 |
| 8.  | Patient #67 Records                                    | Various    |
| 9.  | Unredacted Patient Key                                 | Various    |
| 10. | Jill Steele, CNP Statement and Investigative Materials | Various    |
| 11. | Morrow County Common Pleas Court Journal Entry         | 12-21-2017 |
| 12. | Patient Records #1-67                                  | Various    |

Respondent's Exhibits:

A.	Character Letter from B. Roseborough, R.Ph.	12-19-2017
B.	Character Letter from S. Perry, R.Ph.	12-19-2017
C.	Character Letter from T. Whiston, R.Ph.	12-20-2017
D.	Character Letter from D. Wilson	12-20-2017
E.	Character Letter from K. Morales	12-18-2017
F.	Character Letter from M. Williams	12-20-2017
G.	Character Letter from Rev. W. Brown	12-19-2017

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. While on sabbatical in Florida, on or about January 16, 2016, Thomas McNew phoned in a fraudulent prescription for S.M., to Discount Drug Mart located at 525 W. Marion Road, Mt. Gilead, Ohio. The fraudulent prescription was for Diflucan (fluconazole).

a. Thomas McNew claimed to the pharmacist on duty that the prescriber had phoned in the prescription and Thomas McNew was acting as the prescriber's agent. When the pharmacist on duty inquired with the prescriber to verify the prescription, it was discovered that the prescriber had not seen that patient in a year and a half and the prescription was not authorized. When interviewed, Thomas McNew explained that S.M. did not have insurance and he were trying to help her out.

b. As the result of the fraudulent prescription called in on or about January 16, 2016, the Board began an investigation, during which Thomas McNew was interviewed and admitted to forging other prescriptions not authorized. On or about July 29, 2011 through January 16, 2016, Thomas McNew knowingly created fake or false prescriptions for dangerous drugs at Discount Drug Mart located at 525 W. Marion Road, Mt. Gilead, Ohio on a total of 67 occasions as set forth in Exhibit A, attached hereto and incorporated as though fully set forth herein.

2. On or about September 28, 2017, Thomas McNew was indicted in Morrow County for 33 counts of Illegal Processing of Drug Documents, pursuant to section 2925.23 of the Ohio Revised Code, all felonies of the fifth degree. *State v. McNew*, 2017-0148, Morrow County. On or about December 21, 2017, Thomas McNew pleaded guilty to three counts of Attempted Illegal Processing of Drug Documents, pursuant to Ohio Revised Code 2923.02(A) as it relates to 2925.23(B)(1), all misdemeanors of the first degree. On December 21, 2017, the Court sentenced Thomas McNew on each count to ten (10) days in jail, suspended, so long as Thomas McNew commit no similar offenses within twelve (12) months, ordered Thomas McNew to pay a fine of \$500 and ordered Thomas McNew to pay court costs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1)(a) and (1)(b) inclusive of Exhibit A of the Allegations section, if proven, each constitutes a violation of section 2925.23 of the Ohio Revised Code, each violation constituting a felony of the fifth degree, each punishable by a maximum penalty of \$2,500.



2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.08(B) of the ORC and Rule 4729-5-04(C) of the OAC, not of good habits, punishable by a maximum penalty of \$500.
3. Such conduct as set forth in paragraph (1)(a) and (1)(b) inclusive of Exhibit A, and (2) of the Allegations Section, if proven, constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective March 19, 2015 and July 16, 2015, each violation constituting a minor misdemeanor, each punishable by a maximum penalty of \$150:
  - a. Guilty of acts constituting a felony or gross immorality, ORC Section 4729.16(A)(2)(a); and
  - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2)(b); and
  - c. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(2)(e).

#### DECISION OF THE BOARD

**The Board hereby issues a Public Reprimand of Thomas McNew's license to practice pharmacy in the state of Ohio.**

**Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$6,700. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.**

**Thomas McNew must obtain, within one year from the effective date of this Agreement, 12 hours of approved continuing pharmacy education (1.2 CEUs), of which, 6 hours (0.6 CEUs) in medication errors and/or patient safety and 6 hours (0.6 CEUs) in law, which cannot be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov)**

**Further, the Board Orders Thomas McNew to attend the Board's "Responsible Person Roundtable" session within six months of the date of this Order.**

**Thomas McNew may never be a "Responsible Person" in a Board-licensed facility.**

**Thomas McNew may never fill prescriptions for himself or any family members.**

Curt Passafume moved for Findings of Fact; Shawn Wilt seconded the motion. Motion passed (Aye-8/Nay-0).

Megan Marchal moved for Conclusions of Law; Kilee Yarosh seconded the motion. Motion passed (Aye-8/Nay-0).

Shawn Wilt moved for Action of the Board; Joshua Cox seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

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**11:57 a.m.** The Board recessed briefly.

**12:02 p.m.** The meeting reconvened in the Hearing Room.

**R-2019-029** Mr. Passafume moved that the Board adopt the following Resolution:

**Accreditation for Pharmacy Technician Programs**


The Board hereby extends the pharmacy technician training program requirement for programs to have received accreditation from the American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education. This extension allows all programs to apply by February 15<sup>th</sup>, 2019 to be considered compliant with OAC 4729:3-3-02 which requires all pharmacy technician training programs (except employer based, military training, or an ODE approved high school program) to be accredited by April 6, 2019. All programs must be notified of accreditation award no later than July 31<sup>st</sup>, 2019.

The motion was seconded by Ms. Yarosh and approved by the Board: Aye—8.

**R-2019-030** Mr. Passafume moved that the Board issue an Order of the Board to **Jordan Breitigam, RPh** to reinstate his pharmacist license (03337147) upon receipt of passing NAPLEX and MPJE exam results. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8.


**R-2019-031** Mr. Passafume moved that the meeting be adjourned. The motion was seconded by Ms. Marchal and approved by the Board: Aye—8.

**12:21 p.m.** The meeting adjourned.

  
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Fred M. Weaver, RPh, President

  
\_\_\_\_\_  
Date

  
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Steven W. Schierholt, Esq., Executive Director

  
\_\_\_\_\_  
Date