



**MINUTES OF THE JANUARY 7-8, 2019**  
**MEETING OF THE STATE OF OHIO BOARD OF PHARMACY**

**Monday, January 7, 2019**

**10:12 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; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Donald R. Miller, RPh; Joshua M. Cox, RPh; and Kilee S. Yarosh, RPh.

Curtis L. Passafume, Jr., RPh and Shawn C. Wilt, RPh, **Absent**

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Sarah Ackman, *Senior Legal Counsel*; Jenni Wai, *Chief Pharmacist*; Chad Garner, *Director of OARRS*; Henry Appel, *Assistant Attorney General*; Karrie Southard, *Director of Licensing*; Cameron McNamee, *Director of Policy and Communications*; Alexandra Simon, *Public Information Officer*; Terri Ghitman, *OARRS Pharmacist*; and Kathryn Lewis, *Administrative Assistant*.

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 **Anthony Fuller, Poland, Ohio**.

**R-2019-121** Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Weaver as follows: Newlon-yes; Marchal-yes; Miller-yes; Yarosh-yes; Rudell-yes; and Cox-yes.

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

**R-2019-122** After votes were taken in public session, the Board adopted the following order in the matter of **Anthony Fuller, Poland, Ohio**.

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2017-2322)

In The Matter Of:

**Anthony Fuller, RPh.**

3589 Hunters Hill

Poland, Ohio 44514

(License No. 03-1-29822)

**INTRODUCTION**

The Matter of Anthony Fuller came for hearing on January 8, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh and Kilee S. Yarosh, RPh.

Anthony Fuller was not present and was not represented by Counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. Karrie Southard—Director of Licensing

**Respondent's Witnesses:**

None

**State's Exhibits:**

1. Notice of Opportunity for Hearing/Proposal to Take Disciplinary  
Action Against License 12-Dec-2017
2. Letter from the State of Ohio Board of Pharmacy 8-Aug-2017
3. CPE Monitor Activity Transcript Varied

**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 or about March 1, 2013 through September 15, 2016, Anthony Fuller completed 4.825 units (48.25 hours) of continuing education. Records of the Board indicate that Anthony Fuller was 1.175 units (11.75 hours) deficient of the 6.0 units (60 hours) of continuing education required for compliance, as set forth in Attachment A and incorporated as though fully set forth in the Notice of Opportunity for Hearing letter dated December 19, 2017.
2. During an investigation by an Agent of the Board, it was also discovered on Anthony Fuller's 2017 renewal application that he falsely answered "Yes" to the certification statement that stated, "I certify the Continuing Pharmacy Education information submitted via this process is true and accurate".

#### CONCLUSIONS OF LAW

1. 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.
2. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of section 4729-7-02 of the OAC, requirements for renewal of a pharmacist identification card.
3. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of section 4729.16 of the ORC, as effective July 16, 2015:
  - a. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
  - b. 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)(5); and
  - c. Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code, ORC 4729.16(A)(10).

#### DECISION OF THE BOARD

Anthony Fuller must obtain, within 60 days from the effective date of this Order, 34 hours of approved continuing pharmacy education (3.4 CEUs), four (.4) in 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).

Further, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$750.00. 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.

Ms. Marchal moved for Findings of Fact; Mr. Cox seconded the motion. Motion passed (Aye-6/Nay-0).

Mr. Cox moved for Conclusions of Law; Ms. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

Ms. Yarosh moved for Action of the Board; Ms. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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- 10:43 a.m.** Mr. Cox provided the PAPC Report.
- 10:44 a.m.** Mr. Griffin Provided the Compliance Report.
- 10:49 a.m.** Ms. Southard presented the Licensing Report.
- 10:53 a.m.** Mr. Garner explained there would be a slight delay in the OARRS report due to some technical issues.
- 10:58 a.m.** Ms. Dehner presented the Legal Report.
- 11:03 a.m.** Mr. McNamee presented a Resolution for the Charitable Pharmacy of Central Ohio (Lic. #022033900) that would allow employees and volunteers to serve as support personnel.
- R-2019-123** Ms. Yarosh moved that the Board approve the Resolution. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6. The following Resolution was adopted by the Board:
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**Resolution: Charitable Pharmacy of Central Ohio – Support Personnel**

Pursuant to paragraph (O)(1)(a) of rule 4729:3-1-01 of the Ohio Administrative Code, the State of Ohio Board of Pharmacy (Board) hereby approves employees and volunteers at the Charitable Pharmacy of Central Ohio (Lic. #022033900) to serve as support personnel for the purposes of sorting donations of non-controlled substance dangerous drugs.

As a condition of this approval, the Charitable Pharmacy of Central Ohio shall comply with all the following:

1. Drug sorting must be conducted under the direct supervision of a licensed pharmacist.
2. Support personnel are not permitted to label, package, repackage or dispense dangerous drugs.
3. The licensee shall have written policies and procedures for drug sorting by support personnel. Such policies and procedures shall require documentation of

all activities related to drug sorting, including participation logs, support personal information (name, address, contact phone, etc.), and a daily activity log to be signed by the licensed pharmacist or pharmacists providing direct supervision. All documents and records must be made available to Board staff for immediate inspection and shall be maintained on-site for a period of three years.

This Resolution shall remain in effect until April 1, 2019. Failure to meet the conditions set forth in this resolution will result in the immediate revocation of this approval.

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- 11:14 a.m.** Mr. McNamee discussed revisions to Practice as a Pharmacy Intern Rules, Section 4729:2-3-01.
- R-2019-124** Ms. Yarosh moved that the revisions to Practice as a Pharmacy Intern Rules be approved for filing with JCARR. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6.
- 11:15 a.m.** Mr. McNamee discussed revisions to Home Medical Equipment Service Provider Rules, Section 4729:11-1-01.
- R-2019-125** Ms. Marchal moved that the revisions to Home Medical Equipment Service Provider Rules be approved for filing with JCARR. The motion was seconded by Mr. Newlon and approved by the Board: Aye-6.
- 11:16 a.m.** Mr. McNamee discussed revisions to OARRS Rules, Section 4729:8.
- R-2019-126** Mr. Cox moved that the revisions to OARRS Rules be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-6.
- 11:23 a.m.** Ms. Simon presented the Legislative Report.
- 12:03 p.m.** President Weaver announced the Board would break for lunch. Ms. Marchal moved that after the lunch recess 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: Newlon-yes; Marchal-yes; Miller-yes; Yarosh-yes; Rudell-yes; and Cox-yes.
- 2:15 p.m.** The Board reconvened in the Hearing Room.
- Ms. Southard and Ms. Wai presented the Remote Order Entry Request of Health South, which would allow Ohio-licensed pharmacists residing out-of-state to conduct remote order entry process from their resident (home) for Encompass' institutional facilities so long as certain requirements were maintained. Ms. Southard and Ms. Wai also presented the Work from Home Proposal of Kroger Pharmacy, which would allow Ohio-licensed pharmacists residing in Ohio to conduct remote order entry process from their resident (home) specific to terminal distributor of dangerous drug license number 02221850 so long as certain requirements were maintained.

**R-2019-127** Ms. Yarosh moved that the Board approve Health South's Remote Order Entry Request. The Motion was seconded by Mr. Cox and approved by the Board: Aye-6.

**R-2019-128** Ms. Yarosh moved that the Board approve Kroger Pharmacy's Work from Home Proposal. The Motion was seconded by Ms. Rudell and approved by the Board: Aye-6.

**2:32 p.m.** Mr. Weaver discussed the necessity of the Board requiring urine screens for probationary members prior to vacations, members were in agreement with the Probation Committee to remove the drug screen prior to vacation. Additional discussion was tabled until further information could be gathered on the subject.

**2:43 p.m.** The Board recessed for the day.

**Tuesday, January 8, 2019**

**9:06 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; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Donald R. Miller, RPh; Joshua M. Cox, RPh; and Kilee S. Yarosh, RPh.

Curtis L. Passafume, Jr., RPh and Shawn C. Wilt, RPh, **Absent**.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Sarah Ackman, *Senior Legal Counsel*; Jenni Wai, *Chief Pharmacist*; and Kathryn Lewis, *Administrative Assistant*.

**9:06 a.m.** Mr. Griffin and Ms. Wai discussed what topics to include for continuing education roundtables.

**R-2019-129** Ms. Marchal moved that the Board Meeting Minutes of December 10-12, 2018 be approved. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6.

**R-2019-130** Ms. Yarosh moved that the Probation Committee Minutes of December 10, 2018 be approved as written. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6.

**R-2019-131** Ms. Marchal moved that the Conference Call Minutes of December 19, 2018 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-6.

**R-2019-132** Mr. Miller moved that the Conference Call Minutes of December 24, 2018 be approved as written. The motion was seconded by Mr. Cox and approved by the Board: Aye-6.

**R-2019-133** Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE No. 2018-1152**

**Erin Candella  
57 Magnolia Lane, Apt 3321  
Dayton, OH 45440  
License No. 03-236665**

**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 Erin Candella, for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing with the potential to cause serious harm. Together, the Board and Erin Candella 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. Erin Candella is an Ohio-licensed pharmacist under license number 03-236665.

**FACTS**

1. On or about January 17, 2018, the Board initiated an investigation of Erin Candella, pharmacist license number 03-236665, related to Erin Candella’s error in dispensing with the potential to cause serious harm.
2. On or about November 8, 2018, the Board sent a Notice of Opportunity for Hearing to Erin Candella, 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. Erin Candella neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 8, 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. Erin Candella agrees to pay to the OSBP the amount of 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. Erin Candella 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. Erin Candella agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Erin Candella understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Erin Candella 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.
8. Erin Candella 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.
12. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2019-134**

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

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**IN THE MATTER OF:  
CASE NO. 2017-1989**

**Jill Siegel, RPh**  
3500 Indian Oaks Lane  
Toledo, OH 43617  
**License No. 03-2-23362**

**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 Jill Siegel, for the purpose of resolving all issues between the parties relating to the Board investigation of Jill Siegel's error in dispensing of prescription number 023390919652. Together, the Board and Jill Siegel 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. Jill Siegel is an Ohio-licensed pharmacist under license number 03-2-23362.

**FACTS**

1. On or about August 9, 2017, the Board initiated an investigation of Jill Siegel, pharmacist license number 03-2-23362, related to Jill Siegel's error in dispensing of prescription number 023390919652.
2. On or about **November 28, 2018**, the Board sent a Notice of Opportunity for Hearing to Jill Siegel, 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. Jill Siegel neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated **November 28, 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. Jill Siegel agrees to pay to the Board a monetary penalty in 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 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. Jill Siegel 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. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

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

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

7. Jill Siegel 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.

1. Jill Siegel waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.

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.

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

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**R-2019-135**

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

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**IN THE MATTER OF:  
CASE NO. 2017-2293**

**Robert Roth, RPH**  
2237 Chestnut Hills  
Cleveland, OH 44106  
**License No. 03-2-08145**

**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 **Robert Roth**, for the purpose of resolving all issues between the parties relating to the Board investigation of **the illegal processing of drug documents and the theft of controlled substances from your employer** Together, the Board and **Robert Roth** 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. **Robert Roth** is an Ohio-licensed pharmacist under license number **03208145**.

**FACTS**

1. On or about **September 22, 2017**, the Board initiated an investigation of **Robert Roth**, pharmacist license number **03208145**, related to **Robert Roth’s** creating fraudulent phone-in prescriptions for his brother and stealing controlled substances from his employer.
2. On or about June 28, 2018, you pleaded guilty in the Cuyahoga County, Ohio Court of Common Pleas to (6) counts of Attempted Illegal Processing of Drug Documents, pursuant to 2923.02 as it relates to 2925.23 of the Ohio Revised Code, all misdemeanors of the first degree. Per the plea agreement, you were sentenced to (100) hours of community service, you agreed to voluntarily surrender your State of Ohio Board of Pharmacy license, to sell your interest in Parkland Pharmacy and serve (6) days of Community Control with standard conditions.
3. On or about **November 29, 2018** the Board sent a Notice of Opportunity for Hearing to **Robert Roth**, 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. **Robert Roth** neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated **November 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. **Robert Roth PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03208145, WITH DISCIPLINE PENDING.**
  4. **Robert Roth agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
  5. **Robert Roth 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. **Robert Roth** agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
  7. **Robert Roth** understands that he has the right to be represented by counsel for review and execution of this agreement.
  8. **Robert Roth** 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. Robert Roth 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.
  13. This Agreement shall become effective upon the date of the Board President's signature below.
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**R-2019-136** Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE NO. 2018-2041  
License No. 022708100**

**Timothy J. Kraig, D.D.S., Inc.  
Timothy J. Kraig, D.D.S.  
7819 Broadview Road, Suite1  
Seven Hills, OH 44131**

#### **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 J. Kraig, D.D.S., Inc., for the purpose of resolving all issues between the parties relating to the Board investigation of the illegal processing of drug documents, trafficking drugs, and not reporting prescribed medications to the OARRS database. Together, the Board and Timothy J. Kraig, D.D.S., Inc. are referred to hereinafter as “the parties.”

#### **JURISDICTION**

3. 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.
4. Timothy J. Kraig, D.D.S., Inc. is a licensed Terminal Distributor of Dangerous Drugs under license number 022708100.

#### **FACTS**

3. On or about August 1, 2018, the Board initiated an investigation of Timothy J. Kraig, D.D.S., Inc., Terminal Distributor of Dangerous Drugs license number 022708100, related to Timothy J. Kraig, D.D.S., Inc.’s the illegal processing of drug documents, trafficking drugs, and not reporting prescribed medications to the OARRS database.
4. On or about August 8, 2018 the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Timothy J. Kraig, D.D.S., Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

**TERMS**

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

13. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.

14. Timothy J. Kraig, D.D.S., Inc. neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated August 8, 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.

15. Timothy J. Kraig, D.D.S., Inc. permanently and voluntarily surrenders to the State of Ohio Board of Pharmacy its Terminal Distributor of Dangerous Drugs license, number 022708100, with the State of Ohio Board of Pharmacy, with discipline pending.

16. Timothy J. Kraig, D.D.S., Inc. 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.

17. Timothy J. Kraig, D.D.S., Inc. 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.

18. Timothy J. Kraig, D.D.S., Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

19. Timothy J. Kraig, D.D.S., Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.

20. 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 Timothy J. Kraig, D.D.S., Inc. will operate.

21. Timothy J. Kraig, D.D.S., Inc. 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.

22. 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.

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

24. 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.

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

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- R-2019-137** Ms. Marchal moved that the Board go into Executive Session to consider the employment (dismissal, discipline, promotion, demotion, compensation, appointment) of a public employee and 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: Newlon-yes; Marchal-yes; Miller-yes; Yarosh-yes; Rudell-yes; and Cox-yes.
- 9:26 p.m.** Executive Session Concluded and the Board reconvened in the Hearing Room.
- 9:35 a.m.** Ms. Reed provided an update on the Federal Hemp Bill as well as the Medical Marijuana Program.
- 9:39 a.m.** Ms. Reed proposed the Board adopt the resolution titled *Special Status Registration Fees for Medical Marijuana Patients and Caregivers*.
- R-2019-138** Mr. Cox moved that the Board approve the Resolution. The motion was seconded by Mr. Passafume, approved by the Board: Aye-6, and the following resolution was adopted:
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**Resolution: Special Status Registration Fees for Medical Marijuana Patients and Caregivers**

**Adopted January 8, 2019**

Pursuant to paragraph (B) of rule 3796:7-3-01 of the Ohio Administrative Code, the State Board of Pharmacy may reduce the medical marijuana registration fees to, "fifty per cent of the full registration price for a prospective patient who qualifies for indigent or veteran status, and any prospective caregiver for such a patient."

The State of Ohio Board of Pharmacy has received inquiries regarding whether caregivers meeting indigent or veteran status may receive a discounted registration when the patient they serve is a dependent of the caregiver.

It is hereby the policy of the State of Ohio Board of Pharmacy that a caregiver who qualifies for indigent or veteran status may have their fee reduced when the patient they are associated with is a dependent of that same caregiver. Under these circumstances, the patient may also have their fee reduced in accordance with rule 3796:7-3-01 of the Ohio Administrative Code.

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- 9:50 a.m.** Mr. McNamee proposed a minor edit to 4729:2-3-01, Practice as a Pharmacy Intern, paragraph (m).
- R-2019-139** Ms. Yarosh moved that the Board adopt the change to 4729:2-3-01. The motion was seconded by Mr. Miller, and approved by the Board: Aye-6.
- 9:52 a.m.** Mr. McNamee revisited the discussion on the Proposed Classification of Kratom as a Schedule 1 Controlled Substance.
- R-2019-140** Ms. Marchal moved that the Board table the discussion until more information could be gathered. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-6.
- 10:23 a.m.** Pursuant to Sections 4729.16 and 4729.571 of the Revised Code, the State of Ohio Board of Pharmacy was joined by Thomas Pyles, *Chief of Investigations* for the purpose of considering summary suspension as authorized by Section 3719.121, 4729.561, and 4729.571 of the Ohio Revised Code.
- R-2019-141** After hearing Mr. Pyles discuss the significant facts regarding the activities of Dominic Pileggi, Pharmacist, Ms. Marchal moved that the Board summarily suspend the Pharmacist's License belonging to Dominic Pileggi (03-234002), Cambridge, MA. The motion was seconded by Mr. Cox and approved by the Board: Aye – 6.
- R-2019-142** After hearing Mr. Pyles discuss the significant facts regarding the activities of Gifty Kusi, Pharmacist, and Darrell Bryant, Pharmacist, Ms. Marchal moved that the Board summarily suspend the Pharmacists Licenses belonging to Gifty Kusi (03-132085), Hilliard, OH, and Darrel Bryant (03-325389), Westerville, OH. The motion was seconded by Mr. Miller and approved by the Board: Aye – 6.
- R-2019-143** After hearing Mr. Pyles discuss the significant facts regarding the activities of Health and Wellness Pharmacy, 5825 Westbourne Ave., Terminal Distributor of Dangerous Drugs (TDDD), and Health and Wellness Pharmacy, 5050 Blazer Parkway, TDDD, Marchal moved that the Board summarily suspend the TDDD Licenses belonging to of Health and Wellness Pharmacy (02-2248000), Columbus, OH and Health and Wellness Pharmacy (02-2126300) Dublin, OH. The motion was seconded by Mr. Newlon and approved by the Board: Aye – 6.
- R-2019-144** After hearing Mr. Pyles discuss the significant facts regarding the activities of Health and Wellness, Wholesale Distributor of Dangerous Drugs (WDDD), Ms. Yarosh moved that the Board summarily suspend the WDDD License belonging to Health and Wellness (01-2310700), Dublin, OH. The motion was seconded by Mr. Rudell and approved by the Board: Aye – 6.
- 10:44 a.m.** Mr. Corlett presented the updated Board Member Compensation and Travel Expenses Policy.
- R-2019-145** Mr. Newlon moved that the Board adopt the Compensation Policy. The motion was seconded by Mr. Cox and approved by the Board: Aye-6. The following policy was adopted by the Board:

 <p><b>Policies &amp; Procedures</b></p>	<b>Policy Name:</b> Board Member Compensation and Travel Expenses	<b>Pages:</b> 2
	<b>Authority:</b> ORC 4729.03	<b>Policy No:</b> HR.101
	<b>Related References:</b>	<b>Original Issue Date:</b> 01/21/2019
	<b>Related Forms:</b> Board Member Meeting or Event Attendance Record	<b>Effective Date:</b> 01/21/2019
	<b>Appointing Authority Approval:</b>	

**I. PURPOSE OF POLICY**

The purpose of this policy is to establish guidelines for compensation and reimbursement of board members for their official duties. All such guidance is consistent with the Ohio Revised Code (ORC), Ohio Administrative Code (OAC), and applicable directives of the Governor, Office of Budget and Management (OBM), Department of Administrative Services (DAS), and Ohio Ethics Commission (OEC).

**II. BACKGROUND**

- A. This policy applies to the nine (9) members of the Board of Pharmacy who are appointed by the Governor.
- B. This policy does not apply to the members of the Medical Marijuana Advisory Committee.
- C. The statutory basis for compensation and expense reimbursement for members of the Board of Pharmacy is found in ORC 4729.03.
- D. ORC 124.15(J) authorizes the director of DAS to establish the rate and method of payment for members of the Board.
- E. Board members are eligible for reimbursement for any travel expenses incurred when performing any of their official duties as listed in III(C). Reimbursement of expenses, including but not limited to airfare, personal mileage, lodging, meal and incidental expenses, will be done in accordance with the OBM Travel Rule (ORC 126.31, OAC 126-1-02).

**III. COMPENSATION**

- A. Board members shall be paid on a per diem (8-hour equivalent) basis for any day on which they perform official duties for more than four (4) hours.
- B. Board members shall be paid on a one-half per diem (4-hour equivalent) basis for any day on which they perform official duties for up to four (4) hours.
- C. Official duties include:
  - i. Board meetings
  - ii. Board member orientation

- iii. Reciprocity hearings
  - iv. Rules review meetings
  - v. Medical marijuana variance review meetings
  - vi. Attending national or regional conferences of the National Association of Boards of Pharmacy (NABP)
  - vii. White coat ceremonies, when attending at the direction of the Board President
  - viii. Press conferences and other speaking engagements, when attending at the direction of the Board President
  - ix. Travel to and from any of the above events
  - x. Any other activity authorized by the Board President
- D. Board members will be compensated for actual time spent reviewing reports and other materials in preparation for Board meetings, reciprocity hearings, and rules review meetings. Such compensation shall not exceed 20 hours per month without approval of the Board President.
- E. The following are not considered official duties for the purposes of compensation and Board members will generally not be compensated for them:
- i. Phone calls, including summary suspension calls, unless such calls exceed one (1) hour in duration
  - ii. Reading and writing email or other general correspondence
  - iii. Completing travel authorizations, travel expense reports, or payroll forms
  - iv. Attending board social events
- F. The Board President may authorize payment for the activities listed in III(E) on a case-by-case basis. In such cases, the Board President will communicate with the Executive Director, Chief Legal Counsel, and/or Director of Administration to document the reason for the exception.
- G. Board members shall document their hours on a form that records the date(s), total hours, and nature of work performed. Board members should give completed, signed forms to the Executive Assistant.
- H. The Director of Administration shall ensure that hours are paid in the next payroll processing cycle following receipt of the forms. Due to statewide processing schedules, it may take up to 4 weeks for Board members to receive compensation for hours worked from the time that correct and complete forms are received by the Director of Administration.

#### **IV. COORDINATION WITH OTHER SOURCES OF REIMBURSEMENT**

- A. Board members attending an event as a representative of the Board of Pharmacy shall not have any portion of the cost paid by their employer.
- B. Board members attending an event as representatives of their employers shall not also represent themselves as attending on behalf of the Board of Pharmacy. No board member shall jointly represent the Board and their employer at any event.
- C. Entities of which the Board of Pharmacy is a dues-paying member may pay all or part of the official travel and conference costs of Board members.
- D. Requests by an entity for a Board member to attend a speaking engagement at the entity's expense will be reviewed by the Board, in consultation with the Chief Legal Counsel, prior to agreeing to the request.
- E. No exceptions to these provisions may be made without the approval of the Board President and the concurrence of the Chief Legal Counsel.

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**10:44 a.m.** Ms. Southard proposed the Board allow an automatic six-month extension for Pharmacy Technician Trainees under certain circumstances.

**R-2019-146** Mr. Cox moved that the Board adopt the Extension. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6. The following Resolution was adopted by the Board:

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**Resolution: Pharmacy Technician Trainee Registration Extensions**

The Board hereby authorizes the Executive Director, or the Director's designee, to grant a six (6) month extension of a trainee's registration in accordance with section 4729:3-2-01(D) of the Ohio Administrative Code for the following conditions:

- Medical leave/absence.
  - Initial employment or change in employment four (4) months prior to the expiration of a trainee's registration.
  - Failure to pass an employer-based training program examination.
  - Failure to obtain a pharmacy technician certification from an organization that has been recognized by the board.
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**R-2019-147** Ms. Marchal moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Cox and a roll-call vote was conducted by President Weaver as follows: Newlon-yes; Marchal-yes; Miller-yes; Yarosh-yes; Rudell-yes; and Cox-yes.

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**R-2019-148** After votes were taken in public session, the Board adopted the following order in the matter of **Cynthia (Warmouth) Soto, Dayton, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**  
**CONFIRMING AND APPROVING IN PART & MODIFYING IN PART**  
**REPORT & RECOMMENDATION OF HEARING EXAMINER**

(Case Number 2018-0127)

In The Matter Of Cynthia (Warmouth) Soto:

**Cynthia (Warmouth) Soto, Certified Pharmacy Technician.**

2330 Southlea Drive  
Dayton, OH 45459  
(License No. 09-301564)

INTRODUCTION

A Notice of Opportunity for Hearing (Notice) was issued by the Board on September 6, 2018. The Matter of Cynthia (Warmouth) **Soto** came for hearing before Hearing Examiner Krista M. Weida on September 28, 2018 at which time Cynthia (Warmouth) Soto represented herself. The State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about December 26, 2018 and, without having received any written objections, the matter subsequently came for consideration by the Board on January 10, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; RPh; Jennifer M. Rudell, RPh; and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1)(a) through (13), Respondent's Exhibits lettered (A) through (D) and (F) through (H), the hearing transcript, and Hearing Examiner Weida's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts Hearing Examiner Weida's Findings of Facts (1) through (12), including those that specifically relate to the Board's Notice letter dated September 6, 2018.

The Board adopts Conclusions of Law (1), (2)(a), (3), (4), (5-1), (5-2), (5-3) as set forth by Hearing Examiner Weida. The Board declines to adopt Conclusions of Law (2b), (2c), and (5-4) through (5-10). Although they are accurate statements of pharmacy law, Respondent's Notice letter did

not raise these points as potential violations of law – thus the Respondent was not on official notice of them – nor does the Board believe them to be applicable to the case before it.

The Board further modifies the Report and Recommendation to include the Board’s violations of law as set forth in the Notice in paragraphs (2)(b): Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 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, in violation of ORC 4729.16(A)(2)(d), and (2)(c): Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.94 of the Revised Code, in violation of ORC Section 4729.96(A)(2)(g). Both violations of law are supported based on the evidence in the record.

The Board adopts in part the Hearing Examiner’s Recommendation. Pursuant to Section 4729.96 of the Ohio Revised Code, and after consideration of the record as a whole, the Board hereby adopts the recommendation of the Hearing Examiner and issues the certified technician registration, No. 09-301564, to Cynthia (Warmouth) Soto. The Board Orders that Ms. (Warmouth) Soto must notify the Board if she leaves her job or the position she currently maintains with Humana Pharmacy as a REMS (Risk Evaluation Mitigation Strategy) technician. This notification should be made to the email inbox of [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

Based on the evidence presented and in light of the lengthy history of sobriety that has been demonstrated, and the positive evidence in the record submitted by Ms. (Warmouth) Soto’s employer, the Board declines to adopt the Hearing Examiner’s recommendation of probation with random drug/alcohol testing nor does it adopt the recommendation for Ms. (Warmoth) Soto to undergo a physical/mental examination. The Board finds the timing and nature of the prior offenses to be of such a nature that this technician registration would not benefit from the aforementioned items.

Ms. Marchal moved to confirm and approve the Report and Recommendation of Hearing Examiner Angell, with the exceptions of the modifications as set forth herein. Mr. Cox seconded the motion. Motion passed (Aye - 6/Nay - 0).

SO ORDERED.

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**R-2019-149**

After votes were taken in public session, the Board adopted the following order in the matter of **Carole Alexander, Stow, Ohio**.

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**ORDER OF THE STATE BOARD OF PHARMACY**  
**CONFIRMING AND APPROVING IN PART & MODIFYING IN PART**  
**REPORT & RECOMMENDATION OF HEARING EXAMINER**  
(Case Number A-2018-0125)

In The Matter Of Carole Alexander:

**Carole Alexander, Registered Pharmacy Technician**  
3872 Baumberger Rd.  
Stow, OH 44224  
(Registration No. 09-202684)

**INTRODUCTION**

A Notice of Opportunity for Hearing was issued by the Board to Carole Alexander on May 14, 2018. The Matter of Carole Alexander came for hearing before Hearing Examiner Megan Jewett on October 4, 2018. Respondent was represented by Michael Callahan. The State of Ohio was represented by Yvonne Tertel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about December 8, 2018 and, without having received any written objections, the matter subsequently came for consideration by the Board on December 10, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Richard J. Newlon, *Public Member*; and Kilee S. Yarosh, RPh.

**BOARD REVIEW OF THE RECORD**

The Board reviewed the following items prior to making its decision: State's exhibits numbered one through eight, Respondent's Exhibit lettered A, the hearing transcript, and Hearing Examiner Jewett's Report and Recommendation. After thorough review of all the evidence, the Board hereby adopts Hearing Examiner Jewett's Summary of the Evidence and Findings of Facts as they relate to the Board's Summary Suspension/Notice of Opportunity of Hearing dated May 14, 2018.

The Board modifies and adopts the Conclusions of Law as set forth by Hearing Examiner Jewett as detailed herein. The Board modifies Hearing Examiner Jewett's "Conclusions of Law" section (1) only as it pertains to "moral character" by removing that element as it pertains to ORC Section 4729.90(B)(1)(C) and Rule 4729:3-1-01(G). The Board finds that while the evidence adduced at hearing related to Carole Alexander's conduct as alleged in the notice indicated a lack of good habit, there was no evidence presented that indicates as a whole the Respondent lacks moral character.

The Board adopts "Conclusion of Law" sections (2), (4), (5) as set forth in the Report and Recommendation. The Board declines to adopt "Conclusion of Law" paragraph 3, which found a

violation of ORC Section 4729.96(A)(2)(b), as that potential violation was not alleged in the Notice of Opportunity for Hearing.

The Board adopts all other “Conclusions of Law” and finds Carole Alexander did violate section 2(a), 3(a), 3(b), and 3(c) as set forth in the Board’s Notice of Proposal to Deny/Notice of Opportunity of Hearing dated May 14, 2018, and evidence in the record supports such a finding.

The Board further modifies the “Conclusions of Law” to include a finding that Carole Alexander violated section ORC 4729.96(A)(2)(g) as outlined in the Notice in section 2(b); which was not addressed in the Hearing Examiner’s Report and Recommendation. By virtue of the other findings, the Board does, in fact, find that Respondent engaged in any conduct for which it may impose discipline as set forth in rules.

#### DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adopts the recommendation of the Hearing Examiner to issue the certified technician registration, No. 09-202684, to Carole Alexander. The Board also adopts terms and conditions (1), (5), and (6). The Board issues a public reprimand to Carole Alexander and requires that she immediately notify the Board of any records of arrest, charges, or convictions that occur on or after the effective date of this Order. Failure to comply with the terms set forth in the Board's Order will result in the Board issuing a notice of opportunity of hearing to consider additional disciplinary action, including and up to revocation of Carole Alexander’s Pharmacy Technician Registration.

The Board declines to adopt the Hearing Examiner’s recommendation of terms and conditions (2), (3), and (4) pertaining to a fine, continuing education and disclosure to her employer and the proper licensing authority. Based on the evidence presented, the findings of fact and conclusions of law as set forth by the Hearing Examiner and adopted by the Board (with modifications), the Board finds the timing and nature of the prior offenses to be of such a nature that this technician registration would not benefit from monetary penalty or additional continuing education or notice to employers, there would be no benefit to public safety nor need for disciplinary items on these specific facts.

Ms. Yarosh moved to confirm and approve the Report and Recommendation of Hearing Examiner Jewett, with the exceptions of the modifications as set forth herein. Mr. Newlon seconded the motion. Motion passed (Aye 6/Nay – 0).

SO ORDERED.

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**R-2019-150.** Mr. Cox moved that the meeting be adjourned. The motion was seconded by Mr. Newlon and approved by the Board: Aye-6.

**12:03 p.m.** The meeting adjourned.

  
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Fred M. Weaver, RPh, President

Date: 3-6-19

  
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Steven W. Schierholt, Executive Director

Date: 3/14/19