



MINUTES OF THE MAY 6-7, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, May 6, 2019

- 10:01 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; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; and Curtis L. Passafume, Jr., RPh.
- Jennifer M. Rudell, RPh and Kilee S. Yarosh, RPh, **Absent**
- Also present were Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Terri Ghitman, *OARRS Pharmacist*; Jenni Wai, *Chief Pharmacist*; Karrie Southard, *Director of Licensing*; Chad Garner, *Director of OARRS*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.
- 10:02 a.m.** Mr. Garner Provided the OARRS Report.
- 10:20 a.m.** Mr. Griffin Provided the Compliance Report.
- 10:24 a.m.** Ms. Southard Provided the Licensing Report.
- 10:33 a.m.** Ms. Ghitman presented SOAR Clinic's application for approval as a provider of continuing pharmacy education.
- R-2019-273** Ms. Marchal moved that the Board approve SOAR Clinic's application. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6, Nay-0.
- 10:34 a.m.** Ms. Ghitman presented the program application of Trumbull Career and Technical Center.
- R-2019-274** Mr. Passafume moved that the Board approve Trumbull Career and Technical Center's application. The motion was seconded by Mr. Cox and approved by the Board: Aye-6, Nay-0.
- 10:35 a.m.** Ms. Ghitman presented the Ohio Public High School Pharmacy Technician Training Program Application of Ashtabula County Technical and Career Campus.
- R-2019-275** Mr. Passafume moved that the Board approve Ashtabula County Technical and Career Campus's application. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- 10:36 a.m.** Ms. Southard and Ms. Wai let a discussion on Outsourcing Facility Licensure Requirements.

- 10:46 a.m.** Ms. Southard and Ms. Wai presented the request of Ohio Northern University, regarding OAC 4729-5-38 Immunization and Vaccine Administration, to extend the pharmacist to pharmacy intern practice ratio.
- R-2019-276** Mr. Cox moved that the Board approve Ohio Northern University's request. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6, Nay-0.
- 10:51 a.m.** Ms. Southard and Ms. Wai presented Ohio Northern University's Pharmacy Services Center request.
- R-2019-277** Mr. Passafume moved that the Board approve Ohio Northern University's request. The motion was seconded by Mr. Cox and approved by the Board: Aye-5, Nay-1.
- 11:08 a.m.** Ms. Wai presented Cleveland Clinic's request on a Refill Authorization Program for Board approval.
- 11:38 a.m.** The Board tabled this matter for June 2019, so that a representative from Cleveland Clinic might appear before the Board to discuss the new program.
- 11:40 a.m.** Ms. Southard proposed an updated Resolution: Pharmacy Technician Trainee Registration Extensions.
- R-2019-278** Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

Resolution: Pharmacy Technician Trainee Registration Extensions

Approved 1/8/2019

Updated 5/6/2019

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.
- Active enrollment in an ASHP accredited pharmacy technician training program.
- Enrollment in a school of pharmacy anticipated within six (6) months of expiration of a trainee's registration.

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- 11:43 a.m.** Mr. McNamee presented Resolution: Naloxone Off-Cite Storage Request—the Ohio Department of Mental Health and Addiction Services to the Board for approval.
- R-2019-279** Ms. Marchal moved that the Board approve the Resolution. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:
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Resolution: Off-Site Storage of Naloxone - Ohio Department of Mental Health and Addiction Services

Pursuant to agency 4729 of the Administrative Code, the Board hereby authorizes the Ohio Department of Mental Health and Addiction Services to maintain a supply of naloxone for the purpose of being personally furnished in accordance with section 4731.941 of the Revised Code at a location other than that which is licensed by the Board. The naloxone maintained at an off-site location must adhere to the applicable storage and recordkeeping requirements of agency 4729 of the Administrative Code.

11:46 p.m. Mr. McNamee presented Resolution: Appointment to the Ohio Board of Nursing's Committee on Prescriptive Governance to the Board for approval.

R-2019-280 Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Mr. Newlon and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

Resolution: Appointment to the Ohio Board of Nursing's Committee on Prescriptive Governance

Pursuant to section 4723.49 of the Revised Code, the Board hereby appoints Jessica Geiger-Hayes to the Ohio Board of Nursing's Committee on Prescriptive Governance.

11:47 a.m. Ms. Southard presented the Responsible Person Requirements for Licensure Resolution to the Board for approval.

R-2019-281 Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

RESPONSIBLE PERSON REQUIREMENTS FOR LICENSURE

Adopted 8-6-2018 (revised)

Pursuant to Section 4729:5-2-01 and 4729:6-2-01 of the Ohio Administrative Code, the Board of Pharmacy is required to adopt a resolution providing the credential types or qualifications required for the responsible person of each classification of terminal distributor of dangerous drugs and drug distributor license. Only individuals that meet the credentials specified may be the responsible person for that classification type.

Effective, May 6, 2019, the Board hereby adopts the following responsible person requirements:

TERMINAL - CLINIC			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AS	Ambulatory Surgery	DO, MD, RPH, DDS, DPM	
CI	Correctional Institution - clinic or med room that is located within a correctional facility or jail.	DO, MD, RPH, APRN	
CL	Clinic - Health Dept., Free Clinic, Specialty Clinic	DO, MD, RPH, APRN, DDS	
CT	Chemical Treatment	DO, MD, APRN	
ED	Free Standing Emergency Department	DO, MD, RPH	
MC	Mobile Clinic - Drugs stored on a truck, aircraft, bus, etc.; includes non-emergent helicopters and aircraft.	DO, MD, DVM, APRN, DDS	
MH	Mental Health	DO, MD, APRN	
ONC	Oncology Clinic	DO, MD, RPH	
PC	Prescriber Practice- general medical provider	DO, MD, APRN, DDS, OD, RPH	OD must provide therapeutic #
POC	Point of Care - Pyxis located in another Hospital	RPH	
RT	Clinical Trials	DO, MD, DVM, OD, DDS	OD must provide therapeutic #
SC	Sports Training Facility	DO, MD, APRN	
UR	Urgent Care + Convenience Care Clinic	DO, MD, APRN	

TERMINAL - CLINIC - SOLE PRACTITIONER/DENTIST

Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
PC	Prescriber Practice-general medical provider	DO, MD, APRN, DDS, OD, RPH	OD must provide therapeutic #

TERMINAL - EMS - LIMITED

Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
EM	EMS Headquarters	DO, MD, RPH	
EMSS	EMS Satellite	DO, MD, RPH	

TERMINAL - FACILITY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AC	Animal Control, Humane Society	DVM	
BB	Blood Bank	DO, MD	
CC	Custodial Care, Pediatric Respite, Group Home	DO, MD, APRN, RN	RN - only if medication is delivered patient specific
DU	Dialysis Unit	DO, MD, APRN, RPH	
HC	Hospice	DO, MD	
IC	Infusion Center	DO, MD, RPH	
IM	Imaging	DO, MD	
LA	Laboratory/Research	DO, MD, PHD, Chemist, Management, RPH, DVM, DDS	PHD, Chemist or Management must provide a proof of a degree in one of the following: chemistry, biochemistry, forensic science, biology, microbiology, or related pure applied science or proof of certified training in the field of expertise.

TERMINAL - FACILITY - VETERINARY MEDICINE			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
VT	Veterinary Practice, Zoo, Veterinary Hospital	DVM	

TERMINAL - FACILITY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
AE	Animal Euthanasia, Dog Pound, Dog Warden	CET, DVM, DOG WARDEN	All personnel must complete a euthanasia certification course.
DG	Dog Trainer	Management + LENA	Law Enforcement Affiliation or Contract required.
FA	First Aid Room/Department	DO, MD, APRN, RN	RN only if medication is delivered patient specific or for the purposes of personal furnishing naloxone.
HH	Home Health Care - providing services to the patient's homes or vaccinations off-site	DO, MD	
ND	Nursing Home Drug Stock	DO, MD, APRN	
PD	Peritoneal Dialysis Center - ships directly to the patient's home, RPh does not perform final verification	Management	
PT	Physical Therapy	DO, MD	
TE	Teaching Institution	DDS, DO, MD, HEAD OF PROGRAM (RN), RPH, APRN, PA, OD, DVM	If injecting into humans, must be - DDS, DO, MD, DDS, OD, RPH or APRN.

TERMINAL - MEDICAL GAS - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CX	Contingency Stock	RN, LNHA, Management, RRT	
GM	Manufacturer Process Use + Food Processor	Management	
OX	Retail Seller or Biller of Oxygen	MD, DO, RN, APRN, LNHA, RRT, OD, DDS, DVM, RPH, Management	

TERMINAL - NON-RESIDENT PHARMACY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CF	Central Fill Pharmacy	RPH	
IP	Pharmacy Servicing Institutions	RPH	*May included Mental Health Pharmacies & Nursing Home Inpatient Pharmacies
MO	Mail Order Pharmacy	RPH	
NU	Nuclear Pharmacy	RPH	
SP	Specialty Pharmacy - High \$ Drugs	RPH	**MAY INCLUDE COMPOUNDING

TERMINAL - NON-RESIDENT PHARMACY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CR	Consulting Pharmacy- NO DRUGS ON SITE	RPH	*Category II only
CRP	Contract Remote Order Entry - NO DRUGS ON SITE	RPH	*Category II only

TERMINAL - OPIOID TREATMENT PROGRAM			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OTP	Opioid Treatment Program - personally furnish buprenorphine and/or administer methadone.	DO, MD	*Category III only. Obtain SAMHSA or CARF accreditation after licensure.

TERMINAL - OFFICE-BASED OPIOID TREATMENT			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OBOT	Office-Based Opioid Treatment Facility	DO, MD, APRN	*Category III only. Required background check on Owners, RP and employees. APRN may only treat 30 patients.

TERMINAL - PAIN MANAGEMENT CLINIC			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
PMC	Pain Management Clinic	DO, MD	*Category III only. Required background check on Owners, RP and employees.
GPMC	Grandfathered Pain Management Clinic **Approved by the Medical and Pharmacy Boards in 2011	DO, MD	*Category III only. Required background check on Owners, RP and employees.

TERMINAL - PHARMACY - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CF	Central Fill Pharmacy	RPH	
CH	Charitable Pharmacy	RPH	Must provide Tax Exempt paperwork
CP	Clinic Pharmacy	RPH	
DM	Durable Medical Equipment	RPH	
DR	Drug Repository	RPH	Must provide Tax Exempt paperwork
FL	Fluid Therapy	RPH	
HS	Hospital	RPH	
II	Independent Community Retail (1 Outlet)	RPH	
IL	Large Chain Retail (12+ Outlets)	RPH	
IP	Pharmacy Servicing Institutions	RPH	*May included Mental Health Pharmacies & Nursing Home Inpatient Pharmacies
IS	Small Chain Retail (2-11 Outlets)	RPH	
KI	Kiosk	RPH	
MD	Multi-Disciplinary	RPH	**MAY INCLUDE COMPOUNDING
MO	Mail Order Pharmacy	RPH	
NU	Nuclear Pharmacy	RPH	
ONC	Oncology Pharmacy	RPH	
SP	Specialty Pharmacy - High \$ Drugs	RPH	**MAY INCLUDE COMPOUNDING

TERMINAL - PHARMACY - LIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CR	Consulting Pharmacy- NO DRUGS ON SITE	RPH	*Category II only
CRP	Contract Remote Order Entry - NO DRUGS ON SITE	RPH	*Category II only
MTM	Medication Therapy Management - NO DRUGS ON SITE	RPH	*Category II only

TERMINAL – PHARMACY SUPPLIED CONTINGENCY STOCK - UNLIMITED			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CI	Correctional Institution	RPH	
CS	Community Pharmacy	RPH	
HC	Hospice Facility	RPH	
HS	Hospital	RPH	
MH	Mental Health Institution	RPH	
NH	Nursing Home		

MANUFACTURER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
MF	Manufacturer	Management	

OUTSOURCER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OSC	Outsourcing Facility - sterile compounding at wholesale, not patient specific	RPH	Must provide FDA inspection report

REPACKAGER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
RE	Repackager	Management	US FDA Registration

THIRD-PARTY LOGISTICS			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
3PL	Third-Party Logistics - stores and distributes drug but does not have ownership	Management	If out of state, must have licensure from home state or VAWD Accreditation.

WHOLESALE			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
BC	Bulk Pharmaceutical Chemical Seller	Management	
BG	Buying Group - A group of Wholesalers/Stores that leverage for better pricing	Management	
BR	Broker	Management	If out of state, must have licensure from home state.
CM	Compressed Medical Gases	Management	
CN	Clinic Wholesaler: Blood Banks, Health Departments	Management	
DM	Durable Medical Equipment	Management	Home Medical Equipment license/registration if applicable (ORC 4752)
FS	Full Service	Management	
IE	Import/Export - importing drugs from in/out of the country	Management	
LA	Laboratory	Management	
PM	Pre-Packaged Meds	Management	FDA repackaging registration
PU	Public Health Preparedness	Management	
SD	Samples Distributor	Management	
VW	Virtual Wholesaler- NO DRUGS ONSITE	Management	If out of state, must have licensure from home state or VAWD Accreditation.

WD	Waste Disposal/Reverse Distributor	Management	Must provide DEA & EPA registration
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11:49 a.m. Ms. Southard presented the Technician Criminal Records Checks Resolution to the Board for approval.

R-2019-282 Mr. Cox moved that the Board approve the Resolution. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

Resolution: Pharmacy Technician Criminal Records Checks

Approved 5/6/2019

An applicant seeking initial registration as a pharmacy technician trainee, registered pharmacy technician, or certified pharmacy technician may satisfy the criminal records checks requirements set forth in section 4729:3-2-02 of the Ohio Administrative Code by obtaining BCI&I and FBI criminal records checks in which their fingerprint impressions were obtained no earlier than twenty-four months prior to the date the application for registration is received by the board.

Criminal records checks results already on file with the board will be applied to an applicant's subsequent registration application provided the fingerprint impressions meet the timeframe requirements listed above.

11:55 a.m. Ms. Dehner presented the specific request of Lia Harb (license no. 03-3-31619) to the Board for consideration related to Ms. Harb's summary suspension for failing to comply with the Board's previous Order pertaining to an examination.

R-2019-283 Mr. Passafume moved that the Board approve Lia Harb's request. The motion was seconded by Mr. Cox and approved by the Board: Aye-5, Nay-0.

12:05 p.m. Ms. Dehner presented Campbell Pharmacy's request to remove discipline from their license (Terminal Distributor No. 02-149950) to the he Board for consideration.

R-2019-284 Mr. Cox moved that the Board deny Campbell Pharmacy's request. The motion was seconded by Mr. Newlon and denied by the Board: Aye-3, Nay-2.

12:11 p.m. The Board recessed for lunch.

- 1:19 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-17-01, 4729:1-2-03, 4729:2-3-03, 4729:5-17-02, 4729:1-3-06—Dispensing of epinephrine autoinjectors by pharmacists, 4729:2-3-0, 4729:2-3-06—Dispensing of epinephrine of autoinjectors by pharmacy interns, and 4729:5-5-18—Multi-Med dispensing by an outpatient pharmacy.
- R-2019-285** Mr. Passafume moved that the revisions to 4729:5-17-01, 4729:1-2-03, 4729:2-3-03, 4729:5-17-02, 4729:1-3-06, 4729:2-3-0, 4729:2-3-06, and 4729:5-5-18 be approved for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0.
- 1:36 p.m.** Mr. McNamee and Ms. Wai led a discussion on a letter from the American Academy of Pediatrics which supported the Board of Pharmacy’s proposed rule to place Kratom into the Schedule I category.
- 1:41 p.m.** Mr. McNamee and Ms. Wai presented a letter from Pharmaceutical Research and Manufacturers of America (PhRMA) requesting that they be exempt from REMS. After discussion, the Board declined to make an exemption to the rule.
- 1:46 p.m.** Mr. McNamee and Ms. Wai began a discussion on revisions to rules 4729: 5-19-01 Clinics and Prescriber Offices-Definitions, 4729: 5-19-02—Personally Furnishing Dangerous Drugs, 4729:5-19-03—Security, Control and Storage of Dangerous Drugs, and 4729:5-19-04—Record Keeping. The Board tabled the discussion for May 7, 2019.
- 2:03 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-20-01—Veterinary Clinics-Definitions, 4729:5-20-02—Personally Furnishing Dangerous Drugs, 4729:5-20-03—Security and Control of Dangerous Drugs, and 4729:5-20-04—Record Keeping.
- R-2019-286** Mr. Passafume moved that the revisions to 4729:5-20-01, 4729:5-20-02, 4729:5-20-03 and 4729:5-20-04 be approved for filing with CSI and/or JCARR. The motion was seconded by Mr. Newlon and approved by the Board: Aye-6, Nay-0.
- 2:16 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-15-01—Animal Shelters-Definitions, 4729:5-15-02—Security and Control of Dangerous Drugs, and 4729:5-15-03—Records Keeping.
- R-2019-287** Mr. Passafume moved that the revisions to 4729:5-15-01, 4729:5-15-02, and 4729:5-15-03 be approved for filing with CSI and/or JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- 2:21 p.m.** Mr. McNamee and Ms. Wai began a discussion on revisions to rules 4729:7-2-01—Definitions-Pharmacy Compounding, 4729: 7-2-02—Sterile Compounding Exemptions, 4729:7-2-03—Drugs Compounded in a Pharmacy, 4729:7-2-04—Record Keeping, 4729:7-2-05—Drugs Compounded for Veterinarian Office Use, and 4729:5-8-04—Drugs Compounded by a Nonresident Pharmacy.
- 3:02 p.m.** The Board recessed for a break.
- 3:13 p.m.** Mr. McNamee and Ms. Wai continued the discussion on revisions to rules 4729:7-2-01—Definitions-Pharmacy Compounding, 4729: 7-2-02—Sterile Compounding Exemptions, 4729:7-2-03—Drugs Compounded in a Pharmacy, 4729:7-2-04—Record Keeping, 4729:7-2-05—Drugs

Compounded for Veterinarian Office Use, and 4729:5-8-04—Drugs Compounded by a Nonresident Pharmacy. The Board tabled the discussion for May 7, 2019.

R-2019-288 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. 2017-2255
Angela Howell
License No. 03-1-22381
3510 Northfield Road
Dayton, Ohio 45415**

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 Angela Howell, for the purpose of resolving all issues between the parties relating to the Board investigation of the Angela Howell's failure to complete the continuing education requirements. Together, the Board and Angela Howell 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. Angela Howell is an Ohio-licensed pharmacist under license number 03-1-22381.

FACTS

1. On or about September 21, 2017, the Board initiated an investigation of Angela Howell, pharmacist license number 03-1-22381, related to failure to complete the continuing education requirements.
2. On or about November 29, 2017, the Board sent a Notice of Opportunity for Hearing to Angela Howell, 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 December 28, 2017, Angela Howell timely requested an administrative hearing, which was subsequently scheduled for June 4, 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. Angela Howell neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 29, 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. Angela Howell agrees to pay to the Board a monetary penalty in the amount of \$500.00. This fine will be attached to your license records 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 and process the items in your cart.
4. Angela Howell must obtain, within 90 days from the effective date of this Agreement, 66 hours of approved continuing pharmacy education (6.6 CEUs). Of the total required, at least 4 hours (.4 CEUs) must be obtained in law, and 4 hours (.4 CEUs) must be obtained in patient or medication safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Angela Howell agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Angela Howell understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Angela Howell 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. Angela Howell waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws her request for a hearing in this matter 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-2019-289 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. 2018-0144
License No. 03-119153
Christopher Holzman
20352 Wildwood Lane
Strongsville, OH 44136**

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 Christopher Holzman, for the purpose of resolving all issues between the parties relating to the Board's investigation of matters contained within a Notice of Opportunity for Hearing/Proposal to Deny Application for Technician Registration dated December 21, 2018. Together, the Board and Christopher Holzman 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. Christopher Holzman is a licensed pharmacist in the state of Ohio under license number 03-119153.

FACTS

1. On or about November 28, 2017, the Board initiated an investigation of Christopher Holzman, licensed pharmacist number 03-119153, related to Christopher Holzman stealing pseudoephedrine tablets from the Fairview General Hospital, located at 18100 Lorain Avenue Cleveland, Ohio 44118, from January 2015 through November 28, 2017.
2. On or about December 21, 2018, the Board sent a Notice of Opportunity for Hearing to Christopher Holzman, 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 January 4, 2019, Christopher Holzman, by and through counsel, timely requested a hearing.

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 into this Settlement Agreement as though fully set forth herein.
2. Christopher Holzman neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 21, 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. Christopher Holzman agrees to pay to the Board a fine in the amount of \$1,000.00. 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 and process the items in your cart.
4. Christopher Holzman must obtain, execute, and provide to the Board within 30 days from the effective date of this Agreement, a new five-year Pharmacists Rehabilitation Organization, Inc. (PRO) contract, and must comply with all conditions and recommendations as set forth in the PRO contract. Copies of contract must be e-mailed to legal@pharmacy.ohio.gov.
5. Christopher Holzman agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Christopher Holzman understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Christopher Holzman 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. Christopher Holzman waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws her request for a hearing in this matter 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-2019-290 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. 2016-2003
WDDD License No. 01-1613150
Heritage Healthcare Services
3675 Dolson Court
Carroll, OH 43112**

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 Heritage Healthcare Services (Heritage), for the purpose of resolving all issues between the parties relating to the Board investigation of accepting adulterated controlled substances from organizations that did not originally purchase them from Heritage and destroying controlled substances without prior approval from the Board. Together, the Board and Heritage are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.56 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 4729.52 of the Ohio Revised Code.
2. Heritage Healthcare Services is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-1613150.

FACTS

1. On or about August 26, 2016, the Board initiated an investigation of Heritage Healthcare Services, Wholesale Distributor of Dangerous Drugs license number 01-1613150, related to Heritage Healthcare Service’s accepting adulterated controlled substances from organizations that did not originally purchase them from Heritage and destroying controlled substances without prior approval from the Board

2. On or about April 13, 2018 the Board sent a Notice of Opportunity for Hearing to Heritage Healthcare Services, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about May 10, 2018, Heritage Healthcare Services timely requested an administrative hearing, which was subsequently scheduled for December 12, 2018. Due to on-going negotiations, the administrative hearing was scheduled for June 3, 2019.

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. Heritage Healthcare Services neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 13, 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. Heritage Healthcare Services agrees to pay to the Board a monetary penalty the amount of \$10,000. 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 and process the items in your cart.
4. Heritage Healthcare Services, in conjunction with their filing of a Discontinuation of Business, shall comply with all of the requirements pursuant to the Discontinuation of Business.
5. Heritage Healthcare Services agrees that it will not reapply for a license or registration with the Board.
6. Heritage Healthcare Services 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. Heritage Healthcare Services agrees to comply with all federal and state requirements related to Wholesale 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 Heritage Healthcare Services 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 Heritage Healthcare Services by the Board and will NOT discharge Heritage Healthcare Services from any obligation under the terms of this Agreement.

8. Heritage Healthcare Services agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Heritage Healthcare Services 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 Heritage Healthcare Services will operate.
11. Heritage Healthcare Services waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws its request for a hearing in this matter and waives any right to 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.

R-2019-291

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

**IN THE MATTER OF:
CASE NO. 2017-1018A
License No. 02-1090450
Heritage Healthcare Services, Inc.
3675 Dolson Court NW
Carroll, OH 43112**

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 Heritage Healthcare Services, Inc. (Heritage), for the purpose of resolving all issues between the parties relating to the Board investigation of the failure to provide supervision and control of dangerous drugs, failing to report the theft of dangerous drugs and adjusting the

inventory to cover up the theft of dangerous drugs. Together, the Board and Heritage 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. Heritage is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1090450.

FACTS

1. On or about January 6, 2017, the Board initiated an investigation of Heritage, Terminal Distributor of Dangerous Drugs license number 02-1090450, related to Heritage’s failure to provide supervision and control of dangerous drugs and the theft of dangerous drugs.
2. On or about April 13, 2018 the Board sent a Notice of Opportunity for Hearing to Heritage, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about May 10, 2018, Heritage Healthcare Services timely requested an administrative hearing, which was subsequently scheduled for December 12, 2018. Due to on-going negotiations, the administrative hearing was scheduled for June 3, 2019.

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. Heritage neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 13, 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. Heritage agrees to pay to the Board a monetary penalty the amount of \$5,000. 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 and process the items in your cart.

4. Heritage, in conjunction with their filing of a Discontinuation of Business, shall comply with all of the requirements pursuant to the Discontinuation of Business.
 5. Heritage agrees that it will not reapply for a license or registration with the Board.
 6. Heritage 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. Heritage 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 Heritage 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 Heritage by the Board and will NOT discharge Heritage from any obligation under the terms of this Agreement.
 8. Heritage agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 9. Heritage 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 Heritage will operate.
 11. Heritage 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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- 3:40 p.m.** Ms. Reed provided the Medical Marijuana Update and the Ohio Medical Marijuana Control Program Update.
- 3:46 p.m.** Ms. Reed led a discussion on Active Ingredient Reporting Requirements. Specifically discussed were content thresholds under which non-plant products may be considered to have zero THC and CBD content (lower limit thresholds).
- R-2019-292** Mr. Cox moved that if a reasonable threshold is established for THC products through Ohio's Hemp Program (SB 57), that the Board apply the same THC threshold. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6, Nay-0.
- R-2019-293** Mr. Cox moved that Board apply a separate standard for the lower limit CBD threshold than for THC and that the appropriate limit is 0.1% CBD by weight. The motion was seconded by Mr. Passafume and approved by the Board: Aye-6, Nay-0.
- R-2019-294** 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 Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Wilt-yes; Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; and Passafume-yes.
- 5:03 p.m.** The Board returned to public session.
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- R-2019-295** After votes were taken in public session, the Board adopted the following order in the matter of **Natalie Williams, Toledo, 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-2019-0057 & I-2018-1604)

In The Matter Of Natalie Williams:

Natalie Williams, Certified Pharmacy Technician
5444 Dorr Street, Apt. F1
Toledo, OH 43615
(License No. 09-202646)

INTRODUCTION

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on May 2, 2018. The Matter of Natalie Williams came for hearing before Hearing Examiner Susan Sullivan on January 31, 2019, at which time Natalie Williams did not appear, nor did anyone

appear on her behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about March 19, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on May 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr, RPh; Jennifer M. Rudell, RPh; and Shawn C. Wilt, 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 through 5, the hearing transcript, and Hearing Examiner Sullivan's Report and Recommendation.

DECISION OF THE BOARD

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Sullivan's Findings of Facts (1) through (5), including those that specifically relate to the Board's Notice letter dated May 2, 2018.

CONCLUSIONS OF LAW

The Board confirms and approves Conclusions of Law (1), (2), and (3) as set forth by Hearing Examiner Sullivan.

The Board further modifies the Report and Recommendation to include a finding of the violations of law as set forth in the Notice of Hearing dated May 2, 2018, paragraphs:

- (3) Not of good moral character and habits, in violation of ORC Section 4729.90(B)(2) and OAC Rule 4729:3-1-01(G).

This violation of law is supported based on the evidence in the record.

ORDER OF THE BOARD

In the Matter of Natalie Williams, the Board finds pursuant to Section 4729.96 of the Ohio Revised Code, and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole and the Board's experience with cases of this nature, the Board amends and modifies the Hearing Examiner's recommendation of a two-year suspension with reinstatement after eighteen months. The Board Orders:

On the basis of the Findings of Facts and Conclusions of Law, the State of Ohio Board of Pharmacy hereby suspends, for a minimum of two years from the date of this order, the registration as a certified pharmacy technician, No. 09-202646, of Natalie Williams. The Respondent may apply for reinstatement after eighteen months. Further, Respondent,

prior to applying for registration, must first show successful completion of terms and conditions of cases of this type as set forth in Exhibit A, attached hereto and incorporated as though fully set forth herein. The documentation may be provided by emailing the documents to legal@pharmacy.ohio.gov or mailing to State of Ohio Board of Pharmacy, Attn: Legal Department, 77 S. High Street, 17th Floor, Columbus, Ohio 43215.

Mr. Wilt moved to confirm and approve the Report and Recommendation of Hearing Examiner Sullivan, with the modifications as set forth herein. Mr. Passafume seconded the motion. Motion passed (Aye - 6/Nay – 0).

SO ORDERED.

R-2019-296 After votes were taken in public session, the Board adopted the following order in the matter of **Ashley Davis, Cleveland, Ohio.**

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

(Case Number I-2018-1485 & A-2018-0128)

In The Matter Of Ashley Davis:

Ashley Davis, Pharmacy Technician Trainee

843 E. 149th Street

Cleveland, Ohio 44110

(DENIED Registration No. 09-102053)

INTRODUCTION

A Proposal to Deny Application/Notice of Opportunity for Hearing (Notice) was issued by the Board on May 14, 2018. The Matter of Ashley Davis came for hearing before Hearing Examiner Linda Mosbacher on January 14, 2019 at which time Ashley Davis did not appear, nor did anyone on her behalf. The State of Ohio was represented by Lisa Hayward, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about April 8, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on May 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Joshua M. Cox, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr, RPh; Shawn C. Wilt, 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) through (9), the hearing transcript, and Hearing Examiner Mosbacher's Report and Recommendation.

DECISION OF THE BOARD

FINDINGS OF FACT & CONCLUSIONS OF LAW

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Mosbacher's Findings of Facts, paragraphs (1) through (18), including those that specifically relate to the Board's Notice letter dated May 14, 2018.

The Board confirms and approves Conclusions of Law (1) through (11) as set forth in the Hearing Examiner's Report and Recommendation as they relate to the Board's May 14, 2018 Notice letter. The Board modifies the Report and Recommendation to include a finding of the violations of law as set forth in the Notice letter dated May 14, 2018, paragraphs:

- (1) Theft of dangerous drugs, ORC Section 2913.02;
- (2) Possession of a Schedule II controlled substance, ORC Section 2925.11(A);
- (3) Not of good moral character and habits, in violation of ORC Section 4729.92(A)(1) and OAC Rule 4729:31-01(G);
- (4)(d) Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.94 of the Revised Code, OAC Rule 4729.96(A)(2)(g);
- (5)(b) Violated any state or federal law, regardless of the jurisdiction, OAC Rule 4729:3-4-01(B)(2);
- (5)(e) Committed acts that constitute moral turpitude (4776.10 ORC) or gross immorality, OAC 4729:3-4-01 (B)(5); and
- (5)(g) Has engaged in unprofessional conduct, OAC Rule 4729:3-4-01(B)(8).

The Board further finds respondent violated Rule 4729.96(A)(2)(c), as set forth in paragraph (4)(b) of the Notice of Hearing, as amended: Is abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy.

All eight violations of law are supported based on the evidence in the record as set forth in the Hearing Examiner's Report and Recommendation. Specifically, Agent Newton's testimony that Ashley Davis was seen on surveillance camera taking a bottle of Hydrocodone and going off camera and Ashley Davis' admission that she stole Hydrocodone from the pharmacy, as found in the transcript (p. 7-10), and the indictment and guilty plea as found in State's Exhibits 3, 4, and 5.

ORDER OF THE BOARD

Pursuant to Section 4729.96 of the Ohio Revised Code, and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby confirms, approves, and adopts the Hearing Examiner's Recommendation and permanently denies the pending registration as a pharmacy technician trainee of Ashley Davis, 09-102053. Ashley Davis may not be employed by any facility in the capacity of a pharmacy technician trainee. The Board Orders:

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (1) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (2) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (3) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (5), paragraph (4)(a) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (4)(b) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (4)(c) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (4)(d) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (7), paragraph (5)(a) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (5)(b) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (8), paragraph (5)(c) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (9), paragraph (5)(d) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (5)(e) as set forth above in, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Hearing Examiner's Conclusion of Law (10), paragraph (5)(f) as it relates to the Notice dated May 14, 2018, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (11) and the Board's additional finding of Conclusion of Law paragraph (5)(g) as set forth above, the State of Ohio Board of Pharmacy hereby denies permanently the pharmacy technician trainee registration, No. 09-102053, held by Ashley Davis, effective as of the date of the mailing of this order.

Ms. Marchal moved to confirm and approve the Report and Recommendation of Hearing Examiner Mosbacher, with the modifications as set forth herein. Mr. Miller seconded the motion. Motion passed (Aye - 7/Nay - 0).

SO ORDERED.

5:03 p.m. Board recessed for the day.

Tuesday, May 7, 2019

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; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; and Jennifer M. Rudell, RPh.

Kilee S. Yarosh, RPh, **Absent**

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; 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 **Dominic Pileggi, Cambridge, MA.**

R-2019-297

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: Wilt-yes; Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; and Rudell-yes.

10:37 a.m.

The recess ended and the hearing was opened to the public.

R-2019-298

After votes were taken in public session, the Board adopted the following order in the matter of **Dominic Pileggi, Cambridge, MA.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2019-0011)

In The Matter Of:
Dominic Pileggi
591 Franklin St., #1
Cambridge, MA 02139
(License No. 03-234002)

INTRODUCTION

The Matter of Dominic Pileggi came for hearing on May 7, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; and Jennifer M. Rudell, RPh.

Dominic Pileggi was present, not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Dominic Pileggi

Respondent's Witnesses:

1. Dominic Pileggi

State's Exhibits:

- | | |
|---|------------|
| 1. Summary Suspension/Notice of Opportunity for Hearing
01.09.2019 | |
| 2. Cover Letter for Notice of Opportunity for Hearing Dated January 9, 2019 | 03.11.2019 |
| 3. Request for Hearing | 04.04.2019 |
| 4. Scheduling Order | 04.04.2019 |
| 5. Dominic Pileggi Written Contentions to the Board | No Date |
| 6. Dominic Pileggi Letter to the Board Dated March 4, 2019 | 03.04.2019 |
| 7. Letter from the Commonwealth of Massachusetts Board of Registration
in Pharmacy | 04.09.2019 |
| 8. Summary Suspension/Notice of Opportunity for Hearing
Dated November 12, 2014; Order of the Board Dated June 4, 2015;
Order of the Board Dated January 13, 2016 | Various |

Respondent's Exhibits:

- A. 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 October 18, 2014, Dominic Pileggi engaged in the practice of pharmacy while intoxicated at the University of Cincinnati Medical Center. On November 4, 2014, Dominic Pileggi's license to practice pharmacy in the State of Ohio was summarily suspended.
2. On or about May 6, 2015, the Board suspended indefinitely Dominic Pileggi's license to practice pharmacy in the State of Ohio. The Board order provided reinstatement of the license to practice pharmacy in Ohio would be considered upon the successful completion of several conditions, including alcohol addiction treatment, but no earlier than November 12, 2015.

3. On or about December 8, 2015, the Board reinstated Dominic Pileggi's license to practice pharmacy in the State of Ohio, subject to a period of probation for five years beginning on December 8, 2015. The order provided "any violation of Chapter 4729 of the ORC, any administrative code violation, or a violation of any other state or federal law will be considered a violation of this Order."
4. On or about January 4, 2019, the Board was notified Dominic Pileggi arrived at the Tufts Medical Center in Boston, Massachusetts to begin practicing pharmacy while under the influence of alcohol. It was reported the incident occurred in November 2018.
5. On or about January 4, 2019, a Board agent conducted a telephone interview with Dominic Pileggi. During the interview, Dominic Pileggi stated he began consuming alcohol on November 15, 2018, and continued consuming alcohol into the early morning of November 16, 2018. Pileggi provided he went into work on November 16, 2018 where it was reported he smelled of alcohol. Pileggi agreed to go home, and then subsequently entered himself into an intensive outpatient treatment program. Pileggi admitted he was addicted to alcohol and experienced a relapse.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (4) and (5) of the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
2. Such conduct as set forth in paragraphs (3), (4), and (5) of the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Failed to comply with an order of the board or a settlement agreement, ORC Section 4729.16(A)(2)(k).
3. Such conduct as set forth in paragraphs (4) and (5) of the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729:1-4-01 of the OAC as effective May 1, 2018:

- a. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and/or
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or
4. Such conduct as set forth in paragraphs (3), (4) and (5) of the Findings of Fact Section constitutes a violation of each of the following division of Rule 4729:1-4-01 of the OAC as effective May 1, 2018:
- a. Failed to comply with an order of the board or a settlement agreement, OAC Rule 4729:1-4-01(B)(2)(k).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Dominic Pileggi on January 9, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-234002, held by Dominic Pileggi and such suspension is effective as of the date of the mailing of this Order.

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

Further, after the effective date of this Order, but no earlier than April 1, 2021, the Board will consider any petition filed by Dominic Pileggi for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

1. Dominic Pileggi must maintain a current address with the Board throughout the duration of the suspension.
2. Dominic Pileggi must adhere to the terms of the Massachusetts Board of Registration in Pharmacy, Bureau of Health Professions Licensure, Pharmacy Substance Use Disorder Program (PSUD). Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Dominic Pileggi to potential sanctions up to and including revocation of license. The PSUD 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 Dominic Pileggi 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.
 - f. The PSUD 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.
 - g. 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.
 - h. The PSUD shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Dominic Pileggi 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 Dominic Pileggi reappear before the Board for possible additional sanctions, including and up to revocation of license.
 4. Dominic Pileggi shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Dominic Pileggi reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Dominic Pileggi must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Dominic Pileggi to possible additional sanctions, including and up to revocation of license.

6. Dominic Pileggi must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
7. Dominic Pileggi must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Dominic Pileggi must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
10. Violation of any term of suspension, including but not limited to any violation of the PSUD contract may result in additional action before the Board up to and including revocation of your pharmacy license.
11. Any violation of any other state or federal law or Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, or any administrative code violation or a violation of will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
12. If Dominic Pileggi's employment is related to the practice of pharmacy, Dominic Pileggi must notify employer of the terms of Dominic Pileggi's suspension and this Board's Order.
13. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Dominic Pileggi's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibit: 7.

Mr. Passafume moved for Findings of Fact; Ms. Rudell seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Passafume moved for Conclusions of Law; Ms. Marchal seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Passafume moved for Action of the Board; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

- 10:43 a.m.** Mr. McNamee continued the discussion from the day before on revisions to rules 4729:5-19-01 Clinics and Prescriber Offices-Definitions, 4729: 5-19-02—Personally Furnishing Dangerous Drugs, 4729:5-19-03—Security, Control and Storage of Dangerous Drugs, and 4729:5-19-04—Record Keeping.
- R-2019-299** Mr. Passafume moved that the revisions to 4729:5-19-01, 4729: 5-19-02, 4729:5-19-03, and 4729:5-19-04 be approved for filing with CSI and/or JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0.
- 10:49 a.m.** The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matter of **Igor Skalsky, Brunswick, Ohio.**
- R-2019-300** 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: Wilt-yes; Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; and Rudell-yes.
- 2:01 p.m.** The recess ended and the hearing was opened to the public.
- R-2019-301** After votes were taken in public session, the Board adopted the following order in the matter of **Igor Skalsky, Brunswick, Ohio.**
-

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2018-0131)

In The Matter Of:

Igor Skalsky, DDS
 3915 Center Rd.
 Brunswick, OH 44212

INTRODUCTION

The Matter of Igor Skalsky came for hearing on May 7, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; and Jennifer M. Rudell, RPh.

Igor Skalsky was 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. Igor Skalsky

Respondent's Witnesses:

1. Igor Skalsky

State's Exhibits:

- | | |
|--|------------|
| 1a. Notice Letter | 03.07.2019 |
| 1b. Confidential Patient Key (*to be filed under seal) | No Date |
| 2. Request for Hearing | 03.15.2019 |
| 3. Notice of Hearing | 03.20.2019 |
| 4. OARRS Acceptable Use Policy | 02.24.2012 |
| 5. Indictment | 06.12.2018 |
| 6. Guilty Plea | 10.11.2018 |
| 7. Entry Accepting Guilty Plea | 10.11.2018 |
| 8. Sentencing Entry | 12.04.2018 |
| 9. Sentencing Transcript (*to be filed under seal) | No Date |
| 10. Documents from the Ohio Barber Board (*to be filed under seal) | Various |
| 11. Patient Records for J.C. (*to be filed under seal) | 01.09.2017 |
| 12. OARRS Access for List for Patient J.C. (*to be filed under seal) | Various |
| 13. Patient Records for Patient J.C. (*to be filed under seal) | Various |
| 14a. Dental Board Certification of Records | 04.30.2019 |
| 14b. Dental Board Disciplinary History | Various |
| 15. Second copy of OARRS Acceptable Use Policy, legible highlights | 2.24.2012 |

Respondent's Exhibits:

A. Folder Cover Sheet	No Date
B. Daily Treatment Record	01.09.2017
C. Tooth Charting	No Date
D. License and Insurance Card	No Date
E. Patient Health Record-Front	No Date
F. Patient Health Record-Back	No Date
G. Referral Slip to Dr. Terrence Dentkos	01.24.2017
H. Patient Business Card	01.09.2017
I. TSI-Page 1	No Date
J. TSI-Page 2	02.21.2017
K. TSI-Page 3	No Date
L. Patient License and Insurance Card	No Date
M. EOB from Insurance	02.07.2017
N. Previous Dentist-Dental Works	06.18.2017
O. OARRS-Page 1	01.23.2017
P. OARRS-Page 2	01.23.2017
Q. Insurance for Patient-Signed	No Date
R. OARRS-Page 3	01.23.2017
S. CCFD Treatment Plan-Signed	No Date
T. Reverse of Driver's License and Insurance Card	No Date
U. CCFD Financial Policy	01.23.2017
V. Patient Refusal of Treatment	No Date
W. Radiographs Patients Left	No Date
X. Patients Payment History	No Date
Y. Radiographs Patients Right	No Date
Z. Letter from OSDB-John Oris	09.25.2017
AA. Letter to OSDB-John Oris	06.18.2017
BB. Insurance Claim Form	No Date
CC. ADA Glossary of Administrative Terms-Cover Page	No Date
DD. ADA Glossary-Page 18-"Established Patient"	No Date
EE. OARRS Acceptable Use Policy	No Date
FF. Medical Board Regulatory Statement	No Date

FINDINGS OF FACT

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

1. Igor Skalsky unlawfully accessed the OARRS database to view the OARRS Report of J.C., who had not been Igor Skalsky's patient since January of 2017 and/or was not being seen for treatment when he ran J.C.'s OARRS Report on the following dates:
 - a. May 15, 2017; and

- b. December 3, 2017; and
 - c. January 22, 2018.
2. On or about December 6, 2017 Igor Skalsky unlawfully provided the OARRS report of J.C. to the Ohio State Barber Board.
 3. On October 11, 2018, Igor Skalsky entered a plea of guilty in the Medina County Court of Common Pleas to two counts of "Obtain Drug Database Information" violations Revised Code Section 4729.86(A)(3), felonies of the fifth degree. On or about November 29, 2018 Igor Skalsky was sentenced to: one year of community control, serve thirty days in the Medina County Jail, perform 40 hours of community service, not possess or consume alcohol, submit to drug/alcohol testing, obtain and maintain gainful, verifiable full time employment, no contact with the victim, and pay a \$2,500.00 fine. *State of Ohio v. Igor Skalsky*, 18-CR-0642.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a), (1)(b), and (1)(c) of the Findings of Fact Section each constitutes a violation of 4729.80(A)(5), the Board is authorized to provide information from the database only...on receipt of a request from a prescriber...relating to a current or potential patient if: the prescriber certifies...access is for the purpose of providing medical treatment to the patient who is the subject of the request information provided from drug database-record of requests-confidentiality.
2. Such conduct as set forth in paragraphs (1)(a), (1)(b), and (1)(c) of the Findings of Fact Section each constitutes a violation of Section 4729.86(A)(3) of the ORC, no person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.
3. Such conduct as set forth in paragraph (4) of the Findings of Fact Section constitutes a violation of Section 4729.86(A)(1), no person identified in divisions (A)(1) to (13) , (15) to (22), or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database.
4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 4729.86(C) of the Revised Code, after providing notice and affording an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, the Board may restrict a person from obtaining further information from the drug database if any of the following is the case:
 - a. The person violates division (A)(1), (2), or (3) of this section, ORC Section 4729.86(C)(1)(a); and
 - b. The person creates, by clear and convincing evidence, a threat to the security of information contained in the database; ORC Section 4729.86(C)(1)(b).

DECISION OF THE BOARD

Pursuant to Section 4729.86(C)(3) of the Ohio Revised Code and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Igor Skalsky as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby permanently revokes Igor Skalsky's access to the Ohio Automated RX Reporting System.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby permanently revokes Igor Skalsky's access to the Ohio Automated RX Reporting System.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby permanently revokes Igor Skalsky's access to the Ohio Automated RX Reporting System.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby permanently revokes Igor Skalsky's access to the Ohio Automated RX Reporting System.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1b, 9, 10, 11, 12, and 13 and all of Respondent's similarly situated exhibits with the exception of CC, DD, and EE. The Board additionally orders any reference to the patient name or other identifier be stricken from the record, the only reference to patient should be as "patient one" or "J.C."

Mr. Wilt moved for Findings of Fact; Ms. Rudell seconded the motion. Motion passed (Aye7-/Nay-0).

Mr. Cox moved for Conclusions of Law; Mr. Passafume seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Wilt moved for Action of the Board; Mr. Miller seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

2:04 p.m.

The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matter of **Douglas Birkhimer, Westerville, Ohio.**

R-2019-302

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: Wilt-yes; Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; and Rudell-yes.

3:54 p.m. The recess ended and the hearing was opened to the public.

R-2019-303 After votes were taken in public session, the Board adopted the following order in the matter of **Douglas Birkhimer, Westerville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0053)

In The Matter Of:

Douglas Birkhimer, R.Ph.

6048 Carnation Drive
Westerville, OH 43081
(License No. 03-124341)

INTRODUCTION

The Matter of Douglas Birkhimer came for hearing on May 7, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Shawn C. Wilt, RPh; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; and Jennifer M. Rudell, RPh.

Douglas Birkhimer was represented by Douglas A. Funkhouser. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Douglas Birkhimer

Respondent's Witnesses:

1. Douglas Birkhimer

State's Exhibits:

- | | |
|------------------------|------------|
| 1. Notice Letter | 01.31.2019 |
| 2. Request for Hearing | 02.12.2019 |
| 3. Scheduling Order | 02.13.2019 |

4. Summary Suspension of TDDD	12.13.2018
5. Statement of Respondent	01.25.2019
6. Consent Agreement with TDDD	01.29.2019
7. List of Medications Dispensed	12.13.2018-01.25.2019
8. Copy of Notice Posted on Door	No Date

Respondent's Exhibits:

- A. 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 December 12, 2018, Douglas Birkhimer was notified as the owner, that pursuant to its authority under Sections 4729.57 and 4729.571 of the ORC, the Board issued a Notice of Opportunity for Hearing summarily suspending the Terminal Distributor of Dangerous Drugs License of Medical Center West Pharmacy (MCWP), 5212 W. Broad Street, Columbus, Ohio 43228, License Number 02-2661450. When Douglas Birkhimer was informed of MCWP's summary suspension, the Board Agent explained that the practice of pharmacy could no longer occur at MCWP until further notice, and that all prescriptions should be transferred. Douglas Birkhimer acknowledged this information as well as clarified that no pharmacy practice could occur at MCWP.
2. From on or about December 18, 2018 to January 25, 2019, Douglas Birkhimer filled, dispensed and sold prescriptions for dangerous drugs from a location, MCWP, 5212 W. Broad Street, Columbus, Ohio 43228, knowing that it did not have a valid Terminal Distributor of Dangerous Drugs License from the State of Ohio Board of Pharmacy. The dates of sale are as follows:
 - a. December 19, 2018- (2) prescriptions; and
 - b. December 24, 2018- (1) prescription; and
 - c. December 26, 2018- (4) prescriptions; and
 - d. December 28, 2018- (1) prescription; and
 - e. December 31, 2018- (16) prescriptions; and
 - f. January 2, 2019- (13) prescriptions; and
 - g. January 3, 2019- (8) prescriptions; and

- h. January 4, 2019- (8) prescriptions; and
 - i. January 5, 2019- (3) prescriptions; and
 - j. January 7, 2019- (16) prescriptions; and
 - k. January 8, 2019- (5) prescriptions; and
 - l. January 9, 2019- (18) prescriptions; and
 - m. January 10, 2019- (9) prescriptions; and
 - n. January 11, 2019- (7) prescriptions; and
 - o. January 14, 2019- (17) prescriptions; and
 - p. January 15, 2019- (26) prescriptions; and
 - q. January 16, 2019- (6) prescriptions; and
 - r. January 17, 2019- (12) prescriptions; and
 - s. January 18, 2019- (3) prescriptions; and
 - t. January 21, 2019- (11) prescriptions; and
 - u. January 22, 2019- (3) prescriptions; and
 - v. January 23, 2019- (8) prescriptions; and
 - w. January 24, 2019- (7) prescriptions.
3. On or about January 24, 2019, Douglas Birkhimer spoke with agents from the Board regarding his actions in the location since the suspension became effective. Douglas Birkhimer stated he had been in the pharmacy cleaning, getting drugs ready to go back to the reverse distributor, transferring prescriptions, and speaking to patients. Douglas Birkhimer did not acknowledge any dispensing at that time and led Board Agents to believe MCWP had not been operational as a pharmacy. After this misrepresentation to Board staff, agents from the Board discovered MCWP had dispensed at least twenty-five (25) controlled substances from January 7, 2019 to January 22, 2019.
4. On or about January 25, 2019, Douglas Birkhimer reported to Board agents that he did receive and read the Board Order suspending the TDDD license of Medical Center West Pharmacy that was issued in December 2018. Douglas Birkhimer admitted that he had

dispensed from MCWP's location during the timeframe in which the license was suspended and he also admitted to lying to agents on January 24, 2018 about whether the practice of pharmacy had occurred at MCWP following its suspension.

The Board further finds the facts were not disputed by either party at hearing and were stipulated to during both the State and Respondent's presentation of the case.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (2)(a) through (w), inclusive, of the Findings of Fact Section each constitutes a violation of division (E)(1)(a) of section 4729.51 of the ORC, as effective September 29, 2017, no person shall sell or distribute, at retail, dangerous drugs.
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 (A)(2)(b); and
 - 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, ORC 4729.16(A)(2)(e); and
 - c. Failed to comply with an order of the board or a settlement agreement, ORC 4729.16(A)(2)(k); and
 - d. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
3. Such conduct as set forth in the Findings of Fact section constitutes a violation of each of the following divisions of Rule 4729:1-4-01 of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-04(B)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-04(B)(2)(e); and
 - c. Failed to comply with an order of the board or a settlement agreement, OAC Rule 4729:1-4-04(B)(2)(k); and
 - d. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations,

speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-04(B)(2)(m); and

- e. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-04(B)(2)(p).

DECISION OF THE BOARD

The State of Ohio Board of Pharmacy hereby removes the Summary Suspension Order issued to Douglas Birkhimer on January 31, 2019 and imposes an indefinite suspension for a minimum of two years. Douglas Birkhimer, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license (wall certificate) to the office of the State of Ohio Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Douglas Birkhimer's suspension is conditioned upon the results of a hair test no later than ten days from the date of this Board Order to be administered by a Board-approved provider, with the results to be released and provided to the Board from the provider:

- A. If the hair test results are positive for any substance for which Douglas Birkhimer does not have a valid prescription, Douglas Birkhimer must appear before the full Board at the meeting following the Board's receipt of the hair test results. Notice of opportunity for hearing reopening the matter of Douglas Birkhimer will be sent via certified mail to confirm date of appearance.
- B. If the hair test results are negative, other than for any substance for which Douglas Birkhimer has a valid prescription, Douglas Birkhimer's license will remain suspended for a minimum of two years from the date of this Board Order. Douglas Birkhimer may petition for reinstatement of his license no earlier than April 1, 2020, once he has supplied proof of the following to the Board:
 - 1. Successful passing of the Multistate Pharmacy Jurisprudence Exam taken within six months of the date of his reinstatement petition; and
 - 2. Hair test results of a second hair test, to be administered by a Board-approved provider with the results released and supplied to the Board from the provider. The hair test will be scheduled on a date of the Board's choosing at or near a time when Douglas Birkhimer has alerted the Board about his intention to petition for reinstatement; and
 - 3. In the event Douglas Birkhimer's license remains in suspended status for three years from the date of the January 31, 2019 summary suspension, Douglas Birkhimer will also be required to take and pass the North American Pharmacist Licensure Examination (NAPLEX); and

4. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement; and
5. Douglas Birkhimer must maintain a current address with the Board throughout the duration of the suspension.

Additional restrictions to be permanently placed on Douglas Birkhimer's license at the time of reinstatement include at a minimum:

- C. Douglas Birkhimer may never serve as a Responsible Person as that term is used in Chapter 4729. of the Revised Code and related rules; and
- D. Douglas Birkhimer may never be a preceptor; and
- E. Douglas Birkhimer may never apply to own or operate any type of Terminal Distributor of Dangerous Drugs.

Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Douglas Birkhimer's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibit: 7.

Mr. Passafume moved for Findings of Fact; Ms. Rudell seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Passafume moved for Conclusions of Law; Ms. Marchal seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Passafume moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

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- R-2019-304** Mr. Wilt moved that the Probation Meeting Minutes of April 1, 2019 of be approved as written. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7, Nay-0.
- R-2019-305** Mr. Wilt moved that the Board Meeting Minutes of April 1, 2019 of be approved as written. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0.

- R-2019-306** Mr. Wilt moved that the Conference Call Minutes of April 17, 2019 of be approved as written. The motion was seconded by Mr. Cox and approved by the Board: Aye-7, Nay-0.
- R-2019-307** Mr. Newlon moved that the Conference Call Minutes of April 24, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.
- 4:00 p.m.** Ms. Reed continued the overview of the Ohio Medical Marijuana Control Program.
- R-2019-308** Mr. Wilt moved to nominate Ms. Rudell to be the Vice President of the Board for Fiscal Year 2020. The motion was seconded by Mr. Passafume and approved by the Board: Aye-5, Nay-0, Abstain-1.
- R-2019-309** Ms. Marchal moved to nominate Mr. Wilt to be the President of the Board for Fiscal Year 2020. The motion was seconded by Mr. Passafume and approved by the Board: Aye-5, Nay-0, Abstain-1.
- 4:26 p.m.** Ms. Reed continued the overview of the Ohio Medical Marijuana Control Program.
- 4:41 p.m.** Ms. Reed provided an update on Medical Marijuana Time Variances, and proposed the Board assemble a committee to determine the validity of continuances.
- R-2019-310** Mr. Wilt moved that the Board approve the assembly of a Time Variance Committee to consist of Jesse Wimberly, Erin Reed, and Curt Passafume. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0.
- R-2019-311** 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 Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Wilt-yes; Miller-yes; Newlon-yes; Passafume-yes; and Rudell-yes.
- 5:18 p.m.** Executive Session concluded and the meeting adjourned.


Fred M. Weaver, RPh, President

Date: 6/20/19


Steven W. Schierhalt, Executive Director

Date: 6/28/19