



**MINUTES OF THE JULY 8-10, 2019**  
**MEETING OF THE STATE OF OHIO BOARD OF PHARMACY**

**Monday, July 8, 2019**

**10:05 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:

Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh and Richard J. Newlon, *Public Member*, **Absent**

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

**10:06 a.m.** Mr. Wilt presented the 4729-2-02 Appointments for Fiscal Year 2020.

**10:09 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 **Life Paths, LLC, Springdale, Ohio**.

**R-2020-0002** Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**12:50 p.m.** The recess ended and the hearing was opened to the public.

**R-2020-0003** After votes were taken in public session, the Board adopted the following order in the matter of **Life Paths, LLC, Springdale, Ohio**.

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number A-2018-0138)

In The Matter Of:

**Life Paths, LLC.**

Responsible Person Dr. Leonid Macheret  
12103 Sheraton Lane

Springdale, OH 45246  
(License No. 02-2829950)

### INTRODUCTION

The Matter of Life Paths, LLC came for hearing on July 8, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent  
Richard J. Newlon, *Public Member*; Absent

Life Paths, LLC was represented by Levi Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witnesses:

1. Dr. Leonid Macheret
2. Andrea Wagner, Inspector—Franklin Co West

#### Respondent's Witnesses:

1. Dr. Leonid Macheret
2. Tina Lamm
3. Dr. Naila Goldenberg

#### State's Exhibits:

- |     |  |            |
|-----|--|------------|
| 1.  | Notice Letter  | 03.29.2019 |
| 2.  | Request for Hearing  | 04.02.2019 |
| 3.  | Notice of Hearing  | 04.04.2019 |
| 4.  | Application to Operate OBOT  | 10.25.2017 |
| 5.  | Inspection Report  | 01.02.2018 |
| 6.  | Response to Inspection Report  | 01.31.2018 |
| 7.  | Bill of Information (Jessica Marsh)                                  | 09.15.2009 |
| 8.  | Guilty Plea (Jessica Marsh)  | 10.20.2009 |
| 9.  | Sentencing Entry (Jessica Marsh)                                     | 10.31.2014 |
| 10. | Certified Copy of Medical Board Adjudication Order and Notice Letter | 07.01.2019 |

#### Respondent's Exhibits:

- |    |                                |            |
|----|--------------------------------|------------|
| A. | CV of Leonid Macheret, MD      | No Date    |
| B. | Patient Forms Packet           | No Date    |
| C. | Statement of Dr. Macheret, MD  | 07.12.2018 |
| D. | Statement of Tina Lamm         | 07.12.2018 |
| E. | Receipts for Background Checks | Various    |

F.	Bank Statements Showing Charges for Background Checks	Various
G.	Entry Terminating Community Control—Jessica Marsh	02.07.2019
H.	Photos of Key Envelops	Various
I.	Photos of Office Layout	No Date
J.	Letters of Support	Various
K.	Certificates	Various

#### FINDINGS OF FACT

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

1. On or about October 30, 2017, Life Paths, LLC submitted an application with the Board for a Terminal Distributor of Dangerous Drugs (TDDD) License with an Office-Based Opioid Treatment (OBOT) classification.
2. On or about January 2, 2018, an inspection of Life Path, LLC., located at 12103 Sheraton Lane, Springdale, Ohio, was conducted by the Board. During the inspection, the following was found:
  - a. Employee FBI/BCI criminal records checks for all employees were not available for inspection.
  - b. The facility was unsure of the total number of active patients treated for office-based opioid treatment.
  - c. A non-licensed office personnel has keys to the cabinet and safe where the prescription blanks are maintained.
3. One of Life Paths, LLC employees, Jessica Shull, aka Jessica Marsh, has a conviction for Theft, a felony of the fifth degree. *State of Ohio vs. Jessica Marsh*, 2009-CR-0629, Clermont County Court of Common Pleas.
4. Life Paths, LLC failed to report the felony theft conviction of their employee Jessica Shull on their application for a TDDD License with an OBOT classification submitted to the Board on or about October 30, 2017.
5. On the application, submitted on or about October 30, 2017, Life Paths, LLC answered “Yes” to the question inquiring whether the applicant, owner(s), Responsible Person, any agent or employee of the location being licensed, or any officer of the corporation has been the subject of disciplinary action (or any pending action) by any state or federal agency; even if subsequently dismissed or resolved without formal discipline.
  - a. On or about December 10, 2008, Dr. Leonid Macheret’s license to practice medicine in the state of Ohio was suspended by the State Medical Board of Ohio. Dr. Macheret’s license to practice medicine was suspended for engaging in a sexual relationship with a patient, failing to cooperate with the investigation and making a false, fraudulent, deceptive, or misleading statement in relation to the practice of medicine or in securing or attempting to secure a license. Dr. Macheret’s license to practice medicine was reinstated on August 15, 2011 with probationary terms. Dr. Macheret’s license to practice medicine was fully reinstated on August 14, 2013.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (4) of the Findings of Fact Section constitutes a violation of the following division of Section 4729.57(B)(1) of the ORC, as effective September 29, 2017, making any material false statements in an application for a license as a TDDD.
2. Such conduct as set forth in Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, as effective September 29, 2017:
  - a. Violating any rule of the board, ORC Section 4729.57(B)(2); and
  - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and
  - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7).
3. Such conduct as set forth in Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, as effective April 6, 2017, TDDD license requirements:
  - a. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC 4729.55(B); and
  - b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC 4729.55(C); and
  - c. In the case of an applicant who is operating a facility, clinic, or other location described in division (B) of section 4729.553 of the Revised Code that must hold a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification, the applicant meets the requirements to receive that license with that classification, ORC 4729.55(K).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the Section 4729.553 of the ORC:
  - a. To be eligible to receive a license as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification, an applicant shall submit evidence satisfactory to the Board that the applicant's office-based opioid treatment will be operated in accordance with the requirements specified in division (D) of this section and that the applicants meets any other applicable requirements of this chapter, ORC 4729.553(C); and
  - b. The holder of a category III terminal distributor license with an office-based opioid treatment classification shall do all of the following:
    - i. Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the

criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code, ORC 4729.553(D)(3); and

- ii. Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, either of the following:
  - a) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States, ORC 4729.553(D)(4)(a); and
  - c. No person subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification shall knowingly fail to remain in compliance with the requirements of division (D) of this section and any other applicable requirements of this chapter. The Board may impose a fine of not more than five thousand dollars on a person who violates division (B) or (E) of this section. A separate fine may be imposed for each day the violation continues, ORC 4729.553(E) and (F).
5. Such conduct as set forth in paragraph (5) of the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-18-02(C) of the OAC, unless otherwise approved by the Board, no responsible person for a location licensed as a category III TDDD with an OBOT classification under section 4729.552 of the Revised code shall:
  - a. Have been the subject of any of the following by the drug enforcement administration, the substance abuse and mental health services administration or licensing agency of any state or jurisdiction:
    - i. A disciplinary action that resulted in the suspension or revocation of the physician's license, registration or DATA 2000 waiver, OAC 4729-18-02(C)(4)(b)(i).
6. Such conduct as set forth in paragraphs (2)(a), (3) and (4) of the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729-18-03 of the OAC: Physician owner(s), physician officers or owners pursuant to paragraph (C) of this rule are required to have all employees submit to a BCI & I and FBI criminal records check to ensure that no person has been previously convicted of, or pleaded guilty to a theft offense that would constitute a felony as described in division (K)(3) of section 2913.01 of the Revised Code or a felony drug abuse offense as defined in 2925.01 of the Revised Code, OAC 4729-18-03(E).
7. Such conduct as set forth in Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729-18-04 of the Ohio Administrative Code (OAC), Office-Based Opioid Treatment Facilities, Compliance:
  - a. A facility as a TDDD with an OBOT classification and all prescribers practicing at that facility shall comply with the following:
    - i. The requirements for conducting office-based opioid treatment pursuant to Rule 4731-11-12 of the Administrative Code, OAC 4729-18-04(A); and
    - ii. Inspection and corrective action requirements pursuant to Rule 4729-9-09 of the Administrative Code, OAC 4729-18-04(D); and

- iii. All other state and federal laws, regulations, and rules pertaining to the prescribing of controlled substances and the distribution of dangerous drugs, OAC 4729-18-04(E).
8. Such conduct as set forth in paragraph (5) of the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(A) of the OAC:
    - a. Is not of good moral character and habits, OAC Rule 4729-9-19(A)(4); and
    - b. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(A)(7).
  9. Such conduct as set forth in paragraph (5) of the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(B)(3) of the OAC, knowingly employing a person who:
    - a. Is not of good moral character and habits, OAC Rule 4729-9-19(B)(3)(f); and
    - b. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(B)(3)(i).

#### DECISION OF THE BOARD

**Pursuant to Sections 4729.57, 4729.54, 4729.55 and 4729.553 of the Ohio Revised Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by Life Paths, LLC on or about October 25, 2017.**

Pursuant to Section 4729.56 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$3,000.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.

The Board further requires that Life Paths, LLC select a new Responsible Person within ninety (90) days of the effective date of this order, and properly notify the Board of the change in Responsible Person.

Additionally, the Board requires Life Paths, LLC to submit background checks of all employees within sixty (60) days of the effective date of this order. Life Paths, LLC must ensure all future employees have a completed background check on file prior to beginning work and ensure no employees have offenses which would preclude them from working at a TDDD-OBOT.

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 6: pages 69-70.

Megan E. Marchal moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Megan E. Marchal moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Jennifer M. Rudell moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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- 12:53 p.m.** The Board recessed for lunch.
- 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.**
- 2:44 p.m.** The Matter of Douglas Birkhimer was tabled until Wednesday, July 10, 2019, during which the record was held open, so that the respondent could obtain and submit an additional piece of evidence.
- 2:45 p.m.** Mr. Schierholt provided the Executive Director Report.
- 2:46 p.m.** Mr. Schierholt provided the Compliance Report.
- 2:51 p.m.** Mr. Garner and Mr. Cathcart provided the OARRS Report.
- 2:58 p.m.** Ms. Southard provided the Licensing Report.
- 3:02 p.m.** The Board was joined by Cameron McNamee who led a discussion on revisions to rules 4729:3-2-02—Criminal Records Checks.
- R-2020-0004** Ms. Marchal moved that the revisions to 4729:3-2-02 be approved for filing with JCARR and/or CSI. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.
- 3:04 p.m.** Mr. McNamee proposed that Ohio Administrative Code Rules 4729-9-11, 4729-9-14, and 4729-9-22 be rescinded.
- R-2020-0005** Ms. Marchal moved that the Board rescind Ohio Administrative Code Rules 4729-9-11, 4729-9-14, and 4729-9-22. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- 3:05 p.m.** Mr. McNamee presented a resolution for Home Medical Equipment - Criminal Records Check Requirements for approval.
- R-2020-0006** Mr. Weaver moved that the Board approve the resolution. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:
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### **Home Medical Equipment - Criminal Records Check Requirements**

**Adopted July 8, 2019**

The Board hereby adopts the following regarding rule 4729:11-3-01 of the Ohio Administrative Code:

1. The requirement for employees to obtain Federal Bureau of Investigation (FBI) criminal records checks shall not be applied retroactively to current employees of Home Medical Equipment Services Provider licensees.
  2. On or after the effective date of the rule, the requirement to obtain an FBI criminal records check will only apply to new employees at the time of hire and is not a recurring requirement.
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- 3:08 p.m.** Mr. McNamee led a discussion on revisions to rule 4729:5-3-13—Temporary Removal of Dangerous Drugs from a Licensed Location.
- R-2020-0007** Ms. Rudell moved that the revisions to 4729:5-3-13 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 3:11 p.m.** Mr. McNamee began a discussion on revisions to rules 4729:5-5-06—Labeling, 4729:5-5-15—Manner of Issuance, 4729:5-5-03—Filing and Storage of Prescriptions, and 4729:5-5-07—Patient Profiles.
- 3:27 p.m.** The Board tabled the discussion until Wednesday, July 10, 2019, for Mr. McNamee to obtain relevant, additional information related to OARRS.
- 3:28 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-6-01—Definitions—Nuclear Pharmacies and Radiopharmaceuticals, 4729:5-6-02—Applicability, 4729:5-6-03—Preparation, Compounding, Labeling, Dispensing, and Repackaging of Radiopharmaceuticals, 4729:5-6-04—Record Keeping, and 4729:5-8-05—Preparation, Compounding, Dispensing, and Repackaging of Radiopharmaceuticals by a Nonresident Pharmacy.
- R-2020-0008** Ms. Rudell moved that the revisions to 4729:5-6-01, 4729:5-6-02, 4729:5-6-03, 4729:5-6-04, and 4729:5-8-05 be approved for filing with CSI and/or JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- 3:51 p.m.** Ms. Southard proposed the Board adopt a new form titled *Employer-Based Training Program Attestation: To be used by Registered or Certified Pharmacy Technician Applicants ONLY*.
- 4:07 p.m.** The Board tabled approval of the *Attestation* for a later date.
- 4:08 p.m.** Ms. Southard led a discussion related to a prior resolution for Pharmacy Technician Trainee Registration Extensions, which was approved by the Board on January 8, 2019 and Updated on May 6, 2019.

The Board deemed that the resolution should remain as-is and no update was necessary:

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**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.



**4:18 p.m.** Ms. Southard presented a resolution for Responsible Person Requirements for Licensure to the Board for approval.

**R-2020-0009** Ms. Yarosh moved that the Board approve the resolution. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

**RESPONSIBLE PERSON REQUIREMENTS FOR LICENSURE**

**Updated 7/8/2019**

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, July 8, 2019, the Board hereby adopts the following responsible person requirements:

<b>TERMINAL - CLINIC</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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	

<b>TERMINAL - CLINIC - SOLE PRACTITIONER/DENTIST</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
PC	Prescriber Practice-general medical provider	DO, MD, APRN, DDS, OD, RPH	OD must provide therapeutic #

<b>TERMINAL - EMS - LIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
EM	EMS Headquarters	DO, MD, RPH	
EMSS	EMS Satellite	DO, MD, RPH	

<b>TERMINAL - FACILITY - UNLIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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.

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

<b>TERMINAL - FACILITY - LIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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.

<b>TERMINAL - MEDICAL GAS - LIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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	

<b>TERMINAL - NON-RESIDENT PHARMACY - UNLIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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

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

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

<b>TERMINAL - OFFICE-BASED OPIOID TREATMENT</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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.

<b>TERMINAL - PAIN MANAGEMENT CLINIC</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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.

<b>TERMINAL - PHARMACY - UNLIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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

<b>TERMINAL - PHARMACY - LIMITED</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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

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

<b>MANUFACTURER</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
MF	Manufacturer	Management	

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

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

<b>THIRD-PARTY LOGISTICS</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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.

<b>WHOLESALE</b>			
<b>Business Type</b>	<b>Business Type Definition</b>	<b>Approved Credentials for Responsible Person</b>	<b>Special Requirements</b>
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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- 4:19 p.m.** Ms. Southard presented Therese Greco's request for a sixth attempt at the NAPLEX examination.
- R-2020-0010** Ms. Marchal moved the Board approve Therese Greco's request for a sixth attempt to pass the NAPLEX. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:24 p.m.** Ms. Southard presented Laura Dunlap's request for a NAPLEX score transfer from Pennsylvania to Ohio.
- R-2020-0011** Ms. Rudell moved that the Board grant Laura Dunlap's request. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:30 p.m.** Ms. Dehner presented the specific request of Tamara Hacker to the Board for approval.
- The Board tabled the matter for a later date.
- 4:42 p.m.** The Board recessed for the day.
- 

### **Tuesday, July 9, 2019**

- 9:01 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:
- Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.
- Joshua M. Cox, 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 and Karrie Southard, *Director of Licensing*, to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matters of **Jennifer Williams, Maumee, Ohio; Rhonda Rea, Salem, Ohio; and Richard Darlington, West Chester, Ohio.**
- R-2020-0012** Ms. Rudell 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. Newlon and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**9:43 a.m.** The recess ended and the hearing was opened to the public.

**R-2020-0013** After votes were taken in public session, the Board adopted the following order in the matter of **Jennifer Williams, Maumee, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2017-2159)

In The Matter Of:

**Jennifer Williams**

7103 Saddleback Rd.

Maumee, Ohio 43537

(License No. 03-1-22788)

**INTRODUCTION**

The Matter of Jennifer Williams came for hearing on July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent

Jennifer Williams was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witnesses:**

1. Karrie Southard, *Director of Licensing*

**Respondent's Witnesses:**

1. None

**State's Exhibits:**

1. Notice Letter  
11.27.2017
2. Statement of Deficiency  
07.05.2017

- |    |                                 |            |
|----|---------------------------------|------------|
| 3. | Attestation of Respondent       | 02.09.2017 |
| 4. | CPE Activity Monitor Transcript | Various    |
| 5. | Additional CEU Classes          | 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 March 1, 2013 through September 15, 2016, Jennifer Williams completed 2.1 units (21 hours) of continuing education. Records of the Board indicate that Jennifer Williams was 3.9 units (39 hours) deficient of the 6.0 units (60 hours) of continuing education required for compliance, see Attachment A attached hereto and incorporated as though fully set forth herein.
2. In response to a Board audit inquiry, Jennifer Williams submitted a signed affidavit acknowledging failed to complete the continuing education unit hours required.
3. During an investigation by an Agent of the Board, it was also discovered on Jennifer Williams' 2017 renewal application that she falsely answered "Yes" to the certification statement that stated, "I certify the Continuing Pharmacy Education information submitted via this process is true and accurate".

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of section 4729-7-02 of the OAC, requirements for renewal of a pharmacist identification card.
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of section 4729.16 of the ORC, as effective July 16, 2015:
  - a. Guilty of unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
  - b. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).

DECISION OF THE BOARD

Jennifer Williams must obtain, within 180 days from the effective date of this Agreement, 7.0 units (70 hours) of approved continuing pharmacy education, and an additional 0.4 units (4 hours) in law and 0.4 units (4 hours) in patient safety, none of which may be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$750. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.

Megan E. Marchal moved for Findings of Fact; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Action of the Board; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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**R-2020-0014** After votes were taken in public session, the Board adopted the following order in the matter of **Richard Darlington, West Chester, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2017-2232)

In The Matter Of:

**Richard Darlington**  
6906 Southampton Lane  
West Chester, Ohio 45069  
(License No. 03-1-05988)

**INTRODUCTION**

The Matter of Richard Darlington came for hearing on July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent

Richard Darlington was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

#### SUMMARY OF EVIDENCE

##### State's Witnesses:

1. Karrie Southard, *Director of Licensing*

##### Respondent's Witnesses:

1. None

##### State's Exhibits:

- |    |                                    |            |
|----|------------------------------------|------------|
| 1. | Notice Letter                      | 11.29.2019 |
| 2. | Attestation by Respondent          | 03.01.2017 |
| 3. | CPE Activity Monitoring Transcript | Various    |
| 4. | Notice of Deficiency               | 09.01.2017 |

##### 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 March 1, 2013 through September 15, 2016, Richard Darlington completed 4.0 units (40 hours) of continuing education. Records of the Board indicate that Richard Darlington was 2.0 (20 hours) deficient of the 6.0 (60 hours) of continuing education units required for compliance, see Attachment A attached hereto and incorporated as though fully set forth herein.
2. During an investigation by an Agent of the Board, it was also discovered on Richard Darlington's 2017 renewal application that he falsely answered "Yes" to the certification statement that stated "I certify the Continuing Pharmacy Education information submitted via this process is true and accurate".

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Facts Section constitutes a violation of section 4729-7-02 of the OAC, requirements for renewal of a pharmacist identification card.
2. Such conduct as set forth in the Findings of Facts Section constitutes a violation of the following divisions of section 4729.16 of the ORC, as effective July 16, 2015:

- a. Guilty of unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
- b. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5); and
- c. Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code, ORC 4729.16(A)(10).

DECISION OF THE BOARD

Richard Darlington must obtain, within 90 days from the effective date of this Agreement, 4.0 units (40 hours) of approved continuing pharmacy education, .6 of those units (6 hours) must be in law, none of which may also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov)

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$750.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart

Megan E. Marchal moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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**R-2020-0015** After votes were taken in public session, the Board adopted the following order in the matter of **Rhonda Rea, Salem, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2017-2231)

In The Matter Of:

**Rhonda Rea**  
1155 Jennings Avenue

Salem, Ohio 44460  
(License no. 03-1-24580)

### INTRODUCTION

The Matter of Rhonda Rae came for hearing on July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent

Rhonda Rae was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witnesses:

1. Karrie Southard, *Director of Licensing*

#### Respondent's Witnesses:

1. None

#### State's Exhibits:

- |  |            |
|--|------------|
| 1. Notice Letter                       | 11.29.2017 |
| 2. Statement of Respondent             | No Date    |
| 3. Statement of Deficiency             | 09.01.2017 |
| 4. Attestation of Continuing Education | 02.21.2017 |
| 5. CPE Monitoring Activity Transcript  | 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 March 1, 2013 through September 15, 2016, Rhonda Rea completed 3.2 units (32 hours) of continuing education. Records of the Board indicate that Rhonda Rea was 2.8 (28 hours) deficient of the 6.0 (60 hours) of continuing education units required for compliance.

2. In response to a Board audit inquiry, Rhonda Rea submitted a signed affidavit acknowledging she failed to complete the continuing education unit hours required.
3. During an investigation by an Agent of the Board, it was also discovered on Rhonda Rea's 2017 renewal application that she falsely answered "Yes" to the certification statement that stated "I certify the Continuing Pharmacy Education information submitted via this process is true and accurate".

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of section 4729-7-02 of the OAC, requirements for renewal of a pharmacist identification card.
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of section 4729.16 of the ORC, as effective July 16, 2015:
  - a. Guilty of unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
  - b. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).

#### DECISION OF THE BOARD

Rhonda Rea must obtain, within 90 days from the effective date of this Agreement, 5.6 units (56 hours) of approved continuing pharmacy education, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$750.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.license.ohio.gov](http://www.license.ohio.gov) and process the items in your cart.

Megan E. Marchal moved for Findings of Fact; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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**9:50 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 **All About the Animals Veterinary Clinic, Zanesville, Ohio.**

**R-2020-0016** Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**10:53 p.m.** The recess ended and the hearing was opened to the public.

**R-2020-0017** After votes were taken in public session, the Board adopted the following order in the matter of **All About the Animals Veterinary Clinic, Zanesville, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number 2017-2274)

In The Matter Of:

**All About the Animals Veterinary Clinic**

c/o Dr. Brian Williams

3070 East Pike

Zanesville, OH 43701

(License no. 02-2803100)

**INTRODUCTION**

The Matter of All About the Animals Veterinary Clinic came for hearing on July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPH; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

All About the Animals Veterinary Clinic was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Jason Doty—Agent

Respondent's Witnesses:

1. None

State's Exhibits:

- |     |  |            |
|-----|--|------------|
| 1.  | Notice Letter                          | 04.23.2018 |
| 2.  | Request for Hearing                    | 05.21.2018 |
| 3.  | Entry Setting Hearing Date             | 01.24.2019 |
| 4.  | Initial Application (with attachments) | 05.21.2017 |
| 5.  | Records for Charge 1-a                 | Various    |
| 6.  | Records for Charge 1-b                 | Various    |
| 7.  | Records for Charge 1-c                 | Various    |
| 8.  | Records for Charge 1-d                 | Various    |
| 9.  | Records for Charge 2-a                 | Various    |
| 10. | Records for Charge 2-b                 | Various    |
| 11. | Records for Charge 2-c                 | Various    |
| 12. | Veterinary Board Application           | 06.22.2010 |
| 13. | Veterinary Renewal Applications        | 03.03.2016 |
| 14. | Letter from Respondent                 | None       |
| 15. | Entry Setting Hearing Date             | 06.07.2019 |

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 the application submitted on or about September 11, 2017, Dr. Brian Williams answered "Yes" to the question inquiring whether the applicant, owner, Responsible Person, any agent or any employee of the location being licensed, or any officer of the corporation, has a record of arrest or charges pending or have a conviction of a felony, misdemeanor or traffic violation (even if expunged, dismissed or sealed) or the equivalent thereof in another jurisdiction.

- a. On or about February 21, 2004, Dr. Brian Williams was charged with operating a vehicle under the influence of alcohol and/or a drug of abuse (OVI), a misdemeanor offense, in Muskingum County Court. Dr. Brian Williams refused to submit to a breath test. On or about May 26, 2004, Dr. Brian Williams plead no contest to OVI. Dr. Brian Williams was sentenced to 30 days in jail, 36 months of probation, required to attend 2 AA meetings per week for 12 months, required to complete a behavioral health evaluation and payment of \$1250 in fines and court costs. Case No. TRC 0400852.
  - b. On or about September 1, 2012, Dr. Brian Williams was charged with OVI, a misdemeanor offense, in Muskingum County Court. Dr. Brian Williams submitted to a breath test that registered .132 blood alcohol content, over the legal limit of .08. On or about February 25, 2013, Dr. Brian Williams plead no contest to OVI. Dr. Brian Williams was sentenced to 10 days in jail, required to complete an alcohol assessment and a \$1100 fine. TRC 1206109.
  - c. On or about November 26, 2013, Dr. Brian Williams was charged with OVI, a misdemeanor offense, in Muskingum County Court. The officer was dispatched to a traffic crash involving Dr. Brian Williams' car and a train. The officer observed Dr. Brian Williams' vehicle on the railroad tracks. The train was unable to come to complete stop before striking Dr. Brian Williams' vehicle. Dr. Brian Williams refused treatment and fled on foot. Dr. Brian Williams returned to the scene and refused to take a breath test, stating his two-hour window had passed. On or about December 2, 2013, Dr. Brian Williams plead no contest to OVI. On or about June 9, 2014, Dr. Brian Williams was sentenced to 30 days in jail, required to obtain behavioral health counseling, 1-year intensive probation and a \$1600 fine. TRC 1308218.
  - d. On or about March 22, 2014, Dr. Brian Williams was charged with OVI, a misdemeanor offense, in Muskingum County Court. Dr. Brian Williams refused to submit to a breath test. On or about March 28, 2014, Dr. Brian Williams plead no contest to OVI. On or about June 9, 2014, Dr. Brian Williams was sentenced to 33 days in jail, behavioral health counseling, 1-year intensive probation and a \$1600 fine. TRC 1402194.
2. On the application submitted on or about September 11, 2017, Dr. Brian Williams failed to disclose three (3) prior OVI arrests in Franklin County.
    - a. On or about March 15, 2002, Dr. Brian Williams was charged with OVI, a misdemeanor offense, in Franklin County Municipal Court. Dr. Brian Williams submitted to a breath test that registered .143 blood alcohol content, over the legal limit of .08. On or about July 23, 2002, Dr. Brian Williams plead no contest to the amended charge of reckless operation. Dr. Brian Williams was sentenced to Maryhaven outpatient services and given limited driving privileges. 2002 TRC 126179.
    - b. On or about October 10, 2003, Dr. Brian Williams was charged with OVI and failure to comply, both misdemeanor offenses, in Franklin County Municipal Court. Dr. Brian Williams refused to submit to a breath test. On or about January 22, 2004, Dr. Brian Williams plead guilty to an amended charge of reckless operation and failure to

comply. Dr. Brian Williams was sentenced to 90 days suspended, 1-year probation, 3 days of inpatient, 20 hours of community service and a \$450 fine. On or about October 28, 2004, a revocation hearing was held when Dr. Brian Williams failed to disclose to his probation officer his conviction for OVI in Muskingum county in case #TRC 0400852, and he was sentenced to 90 days in jail. 2003 TRC 204670-1

- c. On or about October 16, 2008, Dr. Brian Williams was charged with OVI, a misdemeanor offense, in Franklin County Municipal Court. Dr. Brian Williams submitted a breath sample that registered .133 blood alcohol content, over the legal limit of .08. On or about December 10, 2008, Dr. Brian Williams plead guilty to OVI. Dr. Brian Williams was sentenced to 10 days in jail, 1-year probation and a \$525 fine. Dr. Brian Williams failed to report for enforcement of his sentence and a bench warrant was issued. On or about February 11, 2009, Dr. Brian Williams was sentenced to serve 10 days in Oriana House. 2008 TRC 198119.
3. During an interview with an Agent from the Board, Dr. Brian Williams disclosed multiple suicide attempts. Dr. Brian Williams advised of three (3) suicide attempts since graduating Vet school and two (2) while attending college.
    - a. Several months after Dr. Brian Williams' September 1, 2012 OVI, he attempted suicide by utilizing euthanasia solution.
    - b. The OVI arrest on or about November 26, 2013 was also a suicide attempt. Dr. Brian Williams told the Agent he drove his vehicle onto railroad tracks because he was "done".
    - c. The OVI arrest on or about March 22, 2014 was also a suicide attempt. Dr. Brian Williams told the Agent he was "on a mission to be done with life that night".
  4. During an interview with an Agent from the Board, Dr. Brian Williams explained that the Vet Board does not know about the multiple OVI's. Dr. Brian Williams said that isn't a question in the renewal process.
    - a. The Board Agent verified with the Vet Board that Dr. Brian Williams disclosed one prior OVI which occurred on October 16, 2008 on his initial Vet Board application.
    - b. Dr. Brian Williams submitted a renewal application every second year, on March 23, 2012, March 6, 2014 and March 3, 2016. On each subsequent application, the legal question asked "Have you been convicted of any criminal offense or are under court order to undergo treatment in lieu of conviction since your last renewal or issuance of your initial license?". For each renewal application in 2012, 2014 and 2016, Dr. Brian Williams noted "NO" in regards to prior convictions.

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph 2 of the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.57 of the ORC:

- a. Making any material false statements in an application for a license as a TDDD, ORC Section 4729.57(A)(1); and
  - b. Violating any rule of the board, ORC Section 4729.57(A)(2); and
  - c. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(A) of the OAC:
    - a. Is not of good moral character and habits, OAC Rule 4729-9-19(A)(4); and
    - b. Is abusing alcohol or drugs, OAC Rule 4729-9-19(A)(5); and
  3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(B)(3) of the OAC, knowingly employing a person who:
    - a. Is not of good moral character and habits, OAC Rule 4729-9-19(B)(3)(f); and
    - b. Is abusing alcohol or drugs, OAC Rule 4729-9-19(B)(3)(g).

DECISION OF THE BOARD

**Pursuant to Section 4729.57 of the Ohio Revised Code, Rule 4729-9-19 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby refuses to grant the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by Dr. Brian Williams on or about May 21, 2017 unless the Board receives within 180 days of the date of this Order a change of Responsible Person to a qualified Responsible Person other than Dr. Brian Williams. If no change of Responsible Person application is received within 180 days of the date of this Order, replacing Dr. Brian Williams, the application will be deemed abandoned.**

Fred M. Weaver moved for Findings of Fact; Megan Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

Fred M. Weaver moved for Conclusions of Law; Jennifer M. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

Jennifer M. Rudell moved for Action of the Board; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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**10:56 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 **Advanced Family Medicine, Grove City, Ohio.**

**11:18 a.m.** The Board tabled the Matter of Advanced Family Medicine.

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**11:19 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 **Julia Chowdhury, Ada, Ohio.**

**R-2020-0018** Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**11:45 p.m.** The recess ended and the hearing was opened to the public.

**R-2020-0019** After votes were taken in public session, the Board adopted the following order in the matter of **Julia Chowdhury, Ada, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number A-2019-0124)

In The Matter Of:

Julia Chowdhury (Ali)  
402 West College Ave., Unit 1319  
Ada, OH 45810  
(License No. 06-016598)

**INTRODUCTION**

The Matter of Julia Chowdhury came for hearing on July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Julia Chowdhury was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

#### SUMMARY OF EVIDENCE

##### State's Witnesses:

1. Homer Chapa—Board Agent

##### Respondent's Witnesses:

1. None

##### State's Exhibits:

- |    |                                      |            |
|----|--------------------------------------|------------|
| 1. | Notice Letter                        | 03.14.2019 |
| 2. | Statement of Respondent to the Board | 02.12.2019 |
| 3. | Statement of Respondent to Employer  | 01.23.2019 |
| 4. | Statement of Lynn Flower             | 02.11.2019 |
| 5. | Statement of Andrea Williams         | 02.11.2019 |
| 6. | Copies of Fraudulent Prescriptions   | 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. From on or about April 20, 2018 through December 10, 2018, Julia Chowdhury called in false prescriptions for herself to CVS Pharmacies, with whom she was employed. Julia Chowdhury called in the following prescriptions:
  - a. On or about April 23, 2018, Julia Chowdhury called in a fraudulent prescription for herself to CVS Pharmacy #04447, located at 900 Bellefontaine Road, Lima, Ohio, for Tretinoin 0.01% gel, three refills. Julia Chowdhury used Dr. Susan Kaufman as the prescriber. The prescription was not authorized by Dr. Kaufman.
  - b. On or about August 22, 2018, Julia Chowdhury called in a fraudulent prescription for herself to CVS Pharmacy #04447, located at 900 Bellefontaine Road, Lima, Ohio, for ortho tri-cyclen (Tri Femynor), #28, three refills. Julia Chowdhury used Dr. Susan Kaufman as the prescriber. The prescription was not authorized by Dr. Kaufman.
  - c. On or about December 6, 2018, Julia Chowdhury called in a fraudulent prescription for herself to CVS Pharmacy #11213, located at 126 N. Main Street, Bluffton, Ohio,

for Peridex Rinse, two refills. Julia Chowdhury used Dr. Jeffery Blandford as the prescriber. The prescription was not authorized by Dr. Blandford.

- d. On or about December 7, 2018, Julia Chowdhury called in a fraudulent prescription for herself to CVS Pharmacy #04447, located at 126 N. Main Street, Bluffton, Ohio, for Diflucan, 150mg, three refills. Julia Chowdhury used Dr. Susan Kaufman as the prescriber. The prescription was not authorized by Dr. Kaufman.
2. On or about February 12, 2019, Julia Chowdhury was interviewed by an agent from the Board. Julia Chowdhury made the following statements:
    - a. Julia Chowdhury admitted to calling in the fraudulent prescriptions under Dr. Susan Kaufman's name and DEA information. Julia Chowdhury also admitted that she had never been a patient of Dr. Kaufman.
    - b. Julia Chowdhury admitted to calling in a fraudulent prescription under Dr. Jeffery Blanford's name and DEA information.

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a), (1)(b), (1)(c), and (1)(d) of the Findings of Fact Section each constitutes a violation of Section 2925.22 of the ORC, Deception to Obtain a Dangerous Drug, a felony of the fifth degree.
2. Such conduct as set forth in paragraphs (1)(a), (1)(b), (1)(c), and (1)(d) of the Findings of Fact Section each constitutes a violation of Section 2925.23 of the ORC, Illegal Processing of Drug Documents, a felony of the fifth degree.
3. 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, each violation constituting a minor misdemeanor:
  - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (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. 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).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729:2-4-01 of the OAC as effective November 20, 2017:



- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:2-4-01(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 4729:2-4-01(B)(2)(e); and
- c. Committed an act involving moral turpitude that constitutes a misdemeanor or felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729:2-4-01(B)(2)(j); 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, 4729:2-4-01(B)(2)(k).

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Julia Chowdhury 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 revokes permanently the Pharmacy Intern License, No. 06-016598, held by Julia Chowdhury effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacy Intern License, No. 06-016598, held by Julia Chowdhury effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (3a), (3b), and (3c) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacy Intern License, No. 06-016598, held by Julia Chowdhury effective as of the date of the mailing of this Order.**

**On the basis of the Findings of Fact and section (4a), (4b), (4c) and (4d) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacy Intern License, No. 06-016598, held by Julia Chowdhury effective as of the date of the mailing of this Order.**

Megan E. Marchal moved for Findings of Fact; Jennifer M. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Fred M. Weaver seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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**11:48 a.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-5-03—Filing and Storage Prescriptions and 4729:5-5-13—Serial Numbering of Prescriptions.

**R-2020-0020** Mr. Miller moved that the revisions to 4729:5-5-03 and 4729:5-5-13 be approved for filing with CSI and JCARR. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6, Nay-0.

**11:51 a.m.** Mr. McNamee presented Premier Health’s Drug Bag Exchange Program to the Board for approval.

The Board tabled the discussion for the August 2019 Board Meeting to invite Premier Health to present on its request.

**12:09 p.m.** Ms. Dehner presented Emmylou Melton’s request to continue her Administrative Hearing to the Board for approval.

The Board granted Emmylou Melton’s request and a Continuance Notice was subsequently issued.

**R-2020-0021** Ms. Rudell 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. Weaver and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**3:13 p.m.** The Board was joined by Assistant Attorney General Henry Appel to continue an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matter of **Advanced Family Medicine, Grove City, Ohio.**

**R-2020-0022** Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Weaver and a roll-call vote was

conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**3:29 p.m.** The recess ended and the hearing was opened to the public.

**R-2020-0023** After votes were taken in public session, the Board adopted the following order in the matter of Julia **Advanced Family Medicine, Grove City, Ohio.**

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**ORDER OF THE STATE BOARD OF PHARMACY**

(Case Number A-2019-0099)

In The Matter Of:

**Advanced Family Medicine**

Dr. James Johnson  
4160 Broadway  
Grove City, OH 43123  
(License no. 02-2794350)

**INTRODUCTION**

The Matter of Advanced Family Medicine came for hearing on Tuesday, July 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Advanced Family Medicine was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witnesses:**

1. Jason Doty—Agent

**Respondent's Witnesses:**

1. None

**State's Exhibits:**

- |   |            |
|---|------------|
| 1. Notice Letter                                | 03.29.2019 |
| 2. Application to Operate OBOT                  | 08.10.2017 |
| 3. Certified Copy of Records from Medical Board |            |

	October 2017 Consent Agreement	
	October 2008 Consent Agreement (Step II)	
	July 2008 Consent Agreement (Superseding Step I)	
	December 2007 Consent Agreement (Step I)	Various
4.	Drug Test Results	10.23.2017
5.	Alcohol Test Results	09.25.2017
6.	Certified Copy of Records from Medical Board Including November 14, 2018 Medical Board Action	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 December 12, 2007, Dr. James Johnson entered a consent agreement with the State of Ohio Medical Board suspending his medical license for at least 180 days.
2. On or about October 8, 2008, Dr. James Johnson entered a consent agreement with the State of Ohio Medical Board reinstating medical license subject to probationary terms, conditions, and limitations for at least (5) years.
3. On or about October 9, 2013, Dr. James Johnson probation was terminated by the State of Ohio Medical Board on your medical license.
4. On or about August 10, 2017, Dr. James Johnson signed as the Responsible Person on an application for a category III TDDD with an OBOT classification.
5. On or about September 20, 2017, an agent of the Board met with Dr. James Johnson around 9:30am at Advanced Family Medicine, located at 4160 Broadway, Grove City, Ohio for a planned inspection of the facilities. Dr. James Johnson was observed by the agent to be impaired both physically and mentally. The following was observed:
  - a. Dr. James Johnson was unsteady as he walked down a hallway, swaying back and forth; and
  - b. Dr. James Johnson slurred his words and mumbled as he spoke to the agent; and
  - c. Dr. James Johnson admitted to taking a Xanax .5mg tablet at 12:30am and another Xanax .5mg tablet at 1:00am on September 20, 2017; and

- d. Dr. James Johnson admitted he also took Seroquil, Gabapentin, Zoloft, and Propranolol; and
  - e. Dr. James Johnson admitted to taking (2) Gabapentin 800mg tablets at 11:00pm the prior night (September 19, 2017); and
  - f. Dr. James Johnson admitted to drinking wine the prior night.
6. On or about October 11, 2017, Dr. James Johnson entered a consent agreement with the State of Ohio Medical Board suspending his certificate to practice osteopathic medicine and surgery indefinitely for at least (1) year.
  7. On or about November 14, 2018, Dr. James Johnson entered a consent agreement with the State of Ohio Medical Board reinstating his medical license subject to probationary terms, conditions, and limitations for at least (5) years.

#### CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, as effective September 29, 2017:
  - a. Violating any rule of the board, ORC Section 4729.57(B)(2); and
  - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and
  - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7).
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, as effective April 6, 2017, TDDD license requirements:
  - a. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC 4729.55(B); and
  - b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC 4729.55(C); and
  - c. In the case of an applicant who is operating a facility, clinic, or other location described in division (B) of section 4729.553 of the Revised Code that must hold a category III terminal distributor of dangerous drugs license with an office-based

opioid treatment classification, the applicant meets the requirements to receive that license with that classification, ORC 4729.55(K).

3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the Section 4729.553 of the ORC:
  - a. To be eligible to receive a license as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification, an applicant shall submit evidence satisfactory to the Board that the applicant's office-based opioid treatment will be operated in accordance with the requirements specified in division (D) of this section and that the applicants meets any other applicable requirements of this chapter, ORC 4729.553(C); and
  - b. The holder of a category III terminal distributor license with an office-based opioid treatment classification shall do all of the following:
    - i. Be in control of a facility that is owned and operated solely by one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, unless the state board of pharmacy has exempted the holder from this requirement, ORC 4729.553(D)(1); and
    - ii. Comply with the requirements for conducting office-based opioid treatment, as established by the state medical board in rules adopted under section 4731.056 of the Revised Code, ORC.553(D)(2); and
  - c. No person subject to licensure as a category III terminal distributor of dangerous drugs with an office-based opioid treatment classification shall knowingly fail to remain in compliance with the requirements of division (D) of this section and any other applicable requirements of this chapter. The Board may impose a fine of not more than five thousand dollars on a person who violates division (B) or (E) of this section. A separate fine may be imposed for each day the violation continues, ORC 4729.553(E)and (F).
4. Such conduct as set forth in paragraphs (1) and (6) of the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-18-02(C) of the Ohio Administrative Code (OAC), unless otherwise approved by the Board, no responsible person for a location licensed as a category III TDDD with an OBOT classification under section 4729.552 of the Revised code shall:
  - a. Have been the subject of any of the following by the drug enforcement administration, the substance abuse and mental health services administration or licensing agency of any state or jurisdiction:
    - i. A disciplinary action that resulted in the suspension or revocation of the physician's license, registration or DATA 2000 waiver, OAC 4729-18-02(C)(4)(b)(i); and

5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-18-02(C)(1) of the OAC, a location licensed as a TDDD with an OBOT classification shall have a responsible person at all times.
6. Such conduct as set forth in paragraphs (1) and (6) of the Findings of Fact Section constitutes a violation of Rule 4729-5-11(C)(8)(b)(i) of the OAC, no responsible person for locations licensed as a TDDD shall have ever been subject to disciplinary action that resulted in the suspension of the person's professional license.
7. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(A) of the OAC:
  - a. Is not of good moral character and habits, OAC Rule 4729-9-19(A)(4); and
  - b. Is addicted to or abusing alcohol or drugs, OAC Rule 4729-9-19(A)(5); and
  - c. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(A)(7).
8. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(B)(3) of the OAC, knowingly employing a person who:
  - a. Is not of good moral character and habits, OAC Rule 4729-9-19(B)(3)(f); and
  - b. Is addicted to or abusing alcohol or drugs, OAC Rule 4729-9-19(B)(3)(g); and
  - c. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(B)(3)(i).

#### DECISION OF THE BOARD

**Pursuant to Section 4729.57 of the Ohio Revised Code, Rule 4729-9-19 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby denies the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by Dr. James Johnson on or about August 10, 2017.**

**Pursuant to Chapter 4729-9-01(I) of the Ohio Administrative Code, Advanced Family Medicine may not reapply for any State of Ohio Board of Pharmacy license for a minimum of 12 months.**

Fred M. Weaver moved for Findings of Fact; Megan E. Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

Jennifer M. Rudell moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Fred M. Weaver moved for Action of the Board; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED

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**3:35 p.m.** The Board was joined by Erin Reed, *Director of Medical Marijuana*. Ms. Reed Provided the Medical Marijuana Dispensary Control Program Update.

**3:53 p.m.** Ms. Reed presented the members of the *Advertising and Marketing Health Claim Review Committee* to the Board for Approval.

**R-2020-0024** Mr. Newlon moved that the Board approve members of the Committee. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0. The following members were approved for the *Advertising and Marketing Health Claim Review Committee*:

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#### **Advertising and Marketing Health Claim Review Committee**

**Chair: Stephanie Abel, PharmD, BCPS**

Pain and Palliative Medicine Clinical Pharmacy Specialist at OSU  
Member Ohio Medical Marijuana Advisory Committee

**Jan Scaglione, M.T., PharmD, D.ABAT**

Clinical Toxicologist, Cincinnati Drug and Poison Information Center, Cincinnati, OH  
Adjunct Faculty, James L. Winkle College of Pharmacy, University of Cincinnati, Cincinnati, OH

**Bridget Protus, PharmD, MLIS, BCGP, CDP**

Director of Drug Information for Optum Hospice Pharmacy Services.

**Gerilyn Waters, PharmD**

Drug Policy Development Specialist, UC Health Corporate Pharmacy

**Harrison Weed, MD**

Internal Medicine at OSU  
Chair of Pharmacy and Therapeutics Committee

**Kathy Burns, MS, APRN-CNS, AGCNS-BC**

Benign Hematology Clinical Nurse Specialist at OSU



**Krissy Reinstatler, PharmD**

Drug Information at UC Health

Staffing - PGY-2 Pain and Palliative Care Pharmacy Resident(s) at OSU (1 – 2 each academic year)

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

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**Wednesday, July 10, 2019**

**8:58 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:

Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh and Richard J. Newlon, *Public Member*, **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*.

**8:59 a.m.** The Board heard an oral address by both parties in the Matters of BCCO, LLC. – John Stock on behalf of BCCO, LLC, Henry Appel on behalf of the State.

**9:19 a.m.** The Board heard an oral address by both parties in the Matters of ATCL1, LLC, ATCL2, LLC, and Curated Leaf—John Izzo on behalf of ATCL1, LLC, ATCL2, LLC, and Curated Leaf, Henry Appel on behalf of the State.

**9:39 a.m.** The Board recessed for a break.

**9:49 a.m.** The Board was joined by Jenni Wai, *Chief Pharmacist*, and Paul Schad, *Compliance Specialist*, who provided an update on the inspections at RXQ Compounding, LLC

**9:56 a.m.** Pursuant to Sections 4729.561, 4729.571, and 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy was joined by Tom Pyles, *Chief of Investigations*, for the purpose of whether to consider a summary suspension related to one pharmacist, one Terminal Distributors of Dangerous Drugs, and one Wholesale Distributors of Dangerous Drugs as authorized by Section 3719.121.

- R-2020-0025** After hearing Mr. Pyles discuss the significant facts regarding the activities of PharMEDium Services, LLC, Wholesale Distributor of Dangerous Drugs (WDDD), Ms. Yarosh moved that the Board summarily suspend the WDDD license belonging to PharMEDium Services, LLC (License No. 01-2514650), Memphis, TN. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- R-2020-0026** After hearing Mr. Pyles discuss the significant facts regarding the activities of Rita McElwain-Kelley, pharmacist, Mr. Weaver moved pursuant to Section 3719.121(B) that the Board summarily suspend the pharmacist license belonging to Rita McElwain-Kelley (License No. 03-119249), Flushing, Ohio. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.
- R-2020-0027** After hearing Mr. Pyles discuss the significant facts regarding the activities of Spring Valley Family Pharmacy, Terminal Distributor of Dangerous Drugs (TDDD), Ms. Yarosh moved that the Board summarily suspend the TDDD license belonging to Spring Valley Family Pharmacy (License No02-2788400), Gallipolis, Oh. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 10:15 a.m.** Mr. McNamee led a discussion on revisions to rule 4729:5-20-01—Veterinary Clinics-Definitions, 4729:5-20-02—Personally Furnishing Dangerous Drugs, and 4729:5-20-04—Record Keeping.
- R-2020-0028** Ms. Yarosh moved that the revisions to 4729:5-20-01, 4729:5-20-02, and 4729:5-20-04 be approved for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- R-2020-0029** Ms. Marchal moved that the Board Meeting Minutes of June 3-4, 2019, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.
- R-2020-0030** Ms. Yarosh moved that the Conference Call Minutes of June 12, 2019 of be approved as written. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- R-2020-0031** Mr. Weaver moved that the Conference Call Minutes of June 18, 2019 of be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- R-2020-0032** Mr. Miller moved that the Conference Call Minutes of June 26, 2019 of be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- R-2020-0033** Mr. Miller moved that the Conference Call Minutes of July 3, 2019 of be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- R-2020-0034** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:
-

**IN THE MATTER OF:  
CASE NO. A-2019-0147**

**Jason Walgrave, RPh  
License No. 03-129532  
5912 Iron Court  
Waterville, OH 43566**

**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 Jason Walgrave, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of leaving the pharmacy unattended by a pharmacist. Together, the Board and Jason Walgrave, RPh 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. Jason Walgrave, RPh is an Ohio-licensed pharmacist under license number 03-129532.

**FACTS**

1. On or about January 14, 2019, the Board initiated an investigation of Jason Walgrave, RPh, pharmacist license number 03-129532, related to Jason Walgrave’s leaving the pharmacy unattended by a pharmacist.
2. On or about June 13, 2019 the Board sent a Notice of Opportunity for Hearing to Jason Walgrave, Rph, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

**TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Jason Walgrave, RPh, neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 13, 2019; 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. Jason Walgrave, RPh agrees to pay to the OSBP the amount of amount of \$250.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Jason Walgrave, RPh agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Jason Walgrave, RPh understands that he has the right to be represented by counsel for review and execution of this agreement.
6. Jason Walgrave, RPh 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.
7. Jason Walgrave, RPh waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2020-0035** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE NO. A-2019-0023**

**Gregory Paine**

**License No. 03-136194**

1278 Poplar Hill Dr.  
Lebanon, OH 45036

**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 Gregory Paine, for the purpose of resolving all issues between the parties relating to the Board investigation of Gregory Paine's error in dispensing Together, the Board and Gregory Paine 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. Gregory Paine is an Ohio-licensed pharmacist under license number 03-136194.

**FACTS**

1. On or about September 29, 2018, the Board initiated an investigation of Gregory Paine, pharmacist license number 03-136194, related to Gregory Paine's error in dispensing of prescription #2584131.
2. On or about June 13, 2018 the Board sent a Notice of Opportunity for Hearing to Gregory Paine, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

**TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Gregory Paine neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 13, 2019; 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. Gregory Paine agrees to pay to the Board a fine 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 Settlement Agreement. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Gregory Paine must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
5. Gregory Paine agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Gregory Paine understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Gregory Paine 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. Gregory Paine waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2020-0036**

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

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**IN THE MATTER OF:**  
**CASE No. A-2018-0066**

Schaeffel Jenkins, CPhT  
**License No. 09-303118**

4315 E 119th St  
Cleveland, OH 44105  
Cuyahoga County

### 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 **Schaeffel Jenkins**, for the purpose of resolving all issues between the parties relating to the Board investigation of **criminal charges filed against Ms. Jenkins**. Together, the Board and **Schaeffel Jenkins** are referred to hereinafter as “the parties.”

### JURISDICTION

1. Pursuant to Section 4729.96 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 registration issued pursuant to Sections 4729.90 of the Ohio Revised Code to work as a registered pharmacy technician in the State of Ohio.
2. **Schaeffel Jenkins** is an Ohio-registered certified pharmacy technician under registration number 09-303118.

### FACTS

1. On or about **April 11, 2018**, the Board initiated an investigation of Schaeffel Jenkins, certified pharmacy technician, license number 09-303118, related to **Schaeffel Jenkins’** criminal charges.
2. On or about **May 2, 2018** the Board sent a Notice of Opportunity for Hearing to **Schaeffel Jenkins**, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
3. On or about **May 25, 2018**, **Schaeffel Jenkins** timely requested an administrative hearing, which was subsequently scheduled for **June 26, 2018**. The hearing was continued multiple times at both Jenkins and the Board’s requests. The hearing is ultimately set for **May 13, 2019**.
4. Paragraph One of the Allegations in the notice letter is amended (or deemed to be amended) to state that: “On or about April 15, 2019, Schaeffel Jenkins pleaded guilty and was convicted in the Cuyahoga County Court of Common Pleas to one count of Obstructing Official Business, 2921.31 of the O.R.C., a misdemeanor of the second degree.”

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. **Schaeffel Jenkins** admits that paragraph one of the Allegations (as amended) is accurate, as she did plead guilty to one count of Obstructing Official Business and that paragraph two of the Allegations is accurate as she failed to disclose on her application a 2017 conviction for “open container prohibited,” in violation of 617.07 of the City of Cleveland Code of Ordinances, as stated in the Notice of Opportunity for hearing letter dated **May 2, 2018** and the Board finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. **Schaeffel Jenkins** agrees that the Board summarily suspended her registration as a certified pharmacy technician on or about **May 2, 2018** and that the Board lifted the summary suspension on or about April 17, 2019, for a total suspension time of 350 days.
4. **Schaeffel Jenkins** agrees to a suspension of 350 days, being given full credit for the 350 days she was suspended from **May 2, 2018** through **April 17, 2019**.
5. **Schaeffel Jenkins** agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. **Schaeffel Jenkins** understands that she has the right to be represented by counsel for review and execution of this agreement.
7. **Schaeffel Jenkins** 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. **Schaeffel Jenkins** 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.



12. This Agreement shall become effective upon the date of the Board President's signature below.
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**R-2020-0037** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE No. A-2018-0015**

**Samantha A. Schlater, RN, APRN**  
n.k.a. Samantha Kanavel  
495 W. Highland Drive  
Zanesville, Ohio 43701

**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 Samantha Schlater, RN, APRN n.k.a. Samantha Kanavel, RN, APRN, for the purpose of resolving all issues between the parties relating to the Board investigation of unlawful access to the OARRS database. Together, the Board and Samantha Kanavel, RN, APRN are referred to hereinafter as "the parties."

**JURISDICTION**

1. Pursuant to Section 4729.86 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to restrict a person from obtaining further information from the drug database known as the Ohio Automated Rx Reporting System (OARRS).
2. Samantha Kanavel signed the OARRS user agreement on May 6, 2017 and is an authorized user of the OARRS database.

**FACTS**

1. On or about June 21, 2017, the Board initiated an investigation of Samantha Kanavel's unlawful access of the OARRS database.
2. On or about May 8, 2019, the Board sent a Notice of Opportunity for Hearing to Samantha Kanavel, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
3. On or about May 13, 2019, Samantha Kanavel timely requested an administrative hearing, which was subsequently scheduled for July 8, 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. Samantha Kanavel neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated May 8, 2019; 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. Samantha Kanavel's access to the OARRS database shall be suspended for an indefinite period but not less than six months, beginning from the date of the Ohio Board of Nursing Consent Agreement, November 29, 2018, and continuing until the reinstatement of Ms. Kanavel's nursing license. Samantha Kanavel must provide certified documents from the Ohio Board of Nursing indicating the suspension of her nursing license has concluded no later than thirty days of the end of the suspension.
4. Samantha Kanavel's access to the OARRS database shall be placed on probation for a period of two years with the following conditions:
  - a. Samantha Kanavel must obey all federal, state, and local laws, and laws and rules governing the use of the OARRS database in Ohio. Any violations shall immediately be reported to the Board.
  - b. Samantha Kanavel must submit to the Board documentation of full compliance with the requirements imposed by the Muskingum County Court of Common Pleas in *State v. Samantha Schlater, CR2018-0298*. Proof of compliance must be submitted within thirty days of the completion of her terms.
  - c. Samantha Kanavel must submit to the Board documentation of full compliance with the Ohio Board of Nursing Consent Agreement, dated November 29, 2018, and report any changes or modifications thereto.
  - d. Samantha Kanavel must immediately report any violation of the terms of probation to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov). Failure to self-report a violation will be treated as a violation of the Board's Order and could result in additional sanctions against OARRS database access.
  - e. A violation of any term of probation may result in additional action before the Board, up to and including revocation of Samantha Kanavel's OARRS database access.

5. Samantha Kanavel understands that any additional violation of the OARRS database laws and rules or a violation of any other state or federal law will be considered a violation of the Agreement and may result in a hearing before the Board and/or additional criminal and/or administrative charges resulting in a penalty that could include permanent revocation of OARRS access.
6. Samantha Kanavel must obtain, within six months from the effective date of this Agreement, ten hours of approved continuing education in advanced pharmacology. Copies of completed continuing education hours must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
7. Samantha Kanavel agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Samantha Kanavel understands that the Board will not consider any request for deviation from the terms and conditions of this Agreement until a minimum of one year has passed from the effective date of this Agreement.
9. Samantha Kanavel understands that she has the right to be represented by counsel for review and execution of this agreement.
10. Samantha Kanavel 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 Pharmacy Board on applications for a license.
11. Samantha Kanavel 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 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.

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

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**R-2020-0038** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE No. A-2019-0044**

**Robert J. Brauer, D.O.**  
17828 Lost Trail  
Chagrin Falls, Ohio 44023

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Robert J. Brauer, D.O., for the purpose of resolving all issues between the parties relating to the Board investigation of unlawful access to the OARRS database. Together, the Board and Robert J. Brauer, D.O., are referred to hereinafter as “the parties.”

**JURISDICTION**

1. Pursuant to Section 4729.86 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to restrict a person from obtaining further information from the drug database known as the Ohio Automated Rx Reporting System (OARRS).
2. Robert J. Brauer signed the OARRS user agreement on February 24, 2012 and is an authorized user of the OARRS database.

**FACTS**

1. On or about September 29, 2017, the Board initiated an investigation of Robert Brauer’s unlawful access of the OARRS database.
2. On or about March 7, 2019, the Board sent a Notice of Opportunity for Hearing to Robert Brauer, 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 March 21, 2019, Robert Brauer, through counsel, timely requested an administrative hearing, which was subsequently scheduled for June 3, 2019. The matter was continued, and the hearing was scheduled for September 9, 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. Robert Brauer neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 19, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Robert Brauer agrees to pay a fine of \$500.00 to the State of Ohio Board of Pharmacy. The fine shall be paid no later than thirty (30) days from the date of this order.
4. Robert Brauer understands that any violation of the OARRS database laws and rules, or a violation of any other state or federal law will be considered a violation of the Agreement and may result in a hearing before the Board and/or additional criminal and/or administrative charges resulting in a penalty that could include permanent revocation of OARRS access.
5. Robert Brauer must obtain, within six months from the effective date of this Agreement, ten (10) hours of approved continuing education in ethics, professionalism, the proper use of the OARRS database, and/or general medical practices. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for re-licensure for the Continuing Medical Education period(s) in which they are completed. Copies of completed continuing education courses must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov) within 90 days of completion.
6. Robert Brauer agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Robert Brauer understands that the Board will not consider any request for deviation from the terms and conditions of this Agreement until a minimum of one year has passed from the effective date of this Agreement.
8. Robert Brauer understands that she has the right to be represented by counsel for review and execution of this agreement.
9. Robert Brauer 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.
10. Robert Brauer 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 waives any right to an appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2020-0039** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
Case No. A-2018-0018**

**Glen Rock Medical Pharmacy  
License No. 02-2624300  
c/o Nadya Forgacz  
210 Rock Road  
Glen Rock, NJ 07452**

**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 Glen Rock Medical Pharmacy, for the purpose of resolving all issues between the parties relating to the Board investigation of the negative answer to the legal question on its initial application. Together, the Board and Glen Rock Medical Pharmacy 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. Glen Rock Medical Pharmacy is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2624300.

**FACTS**

1. On or about November 8, 2017, the Board initiated an investigation of Glen Rock Medical Pharmacy, Terminal Distributor of Dangerous Drugs license number 022624300, related to Glen Rock Medical Pharmacy's negative answer to the legal question on its initial application.

2. On or about June 20, 2019 the Board sent an Amended Notice of Opportunity for Hearing to Glen Rock Medical Pharmacy, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

#### **TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Glen Rock Medical Pharmacy neither admits nor denies the allegations stated in the Amended Notice of Opportunity for Hearing letter dated June 20, 2019; 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. Glen Rock Medical Pharmacy agrees to pay to the Board a fine in the amount of \$1,500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Glen Rock Medical Pharmacy 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 submitted by the current owners of Glen Rock Medical Pharmacy under license number 02-2624300.
5. Glen Rock Medical Pharmacy 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 Glen Rock Medical Pharmacy 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 Glen Rock Medical Pharmacy by the Board and will NOT discharge Glen Rock Medical Pharmacy from any obligation under the terms of this Agreement.
6. Glen Rock Medical Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Glen Rock Medical Pharmacy understands that it has the right to be represented by counsel for review and execution of this agreement.

8. Glen Rock Medical Pharmacy 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.
  9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
  10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
  11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
  12. This Agreement shall become effective upon the date of the Board President's signature below.
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**R-2020-0040** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE NO. A-2019-0109**

**Aultman Infusion Services  
License No. 02-0736200  
c/o Leonard Sedon, Jr.  
2821 Woodlawn NW  
Canton, OH 44708**

**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 Aultman Infusion Services (Aultman), for the purpose of resolving all issues between the parties relating to the Board investigation of issues involving the sterile compounding of dangerous drugs. Together, the Board and Aultman 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. Aultman is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0736200.



**FACTS**

1. On or about February, 23 2017, the agents from the Board initiated an investigation of Aultman's, Terminal Distributor of Dangerous Drugs license number 02-0736200, related to Aultman's sterile compounding of dangerous drugs.
2. On or about February 28, 2019 the Board sent a Notice of Opportunity for Hearing to Aultman, 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 March 6, 2019, Aultman timely requested an administrative hearing, which was subsequently scheduled for July 10, 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. Aultman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated February 28, 2019; 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. Aultman 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](http://www.elicense.ohio.gov) and process the items in your cart.
4. Aultman 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.
5. Aultman 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 Aultman

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 Aultman by the Board and will NOT discharge Aultman from any obligation under the terms of this Agreement.

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

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**R-2020-0041** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE No. A-2019-0135**

**Douglas Rush, M.D.**  
1515 Maple Drive  
Cambridge, Ohio 43725

**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 Douglas Rush, M.D. for the purpose of resolving all issues between the parties relating

to the Board investigation of unlawful access to the OARRS database. Together, the Board and Douglas Rush, M.D., are referred to hereinafter as “the parties.”

### **JURISDICTION**

1. Pursuant to Section 4729.86 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to restrict a person from obtaining further information from the drug database known as the Ohio Automated Rx Reporting System (OARRS).
2. Douglas Rush, M.D. signed the OARRS user agreement on February 12, 2012 and is an authorized user of the OARRS database.

### **FACTS**

1. On or about September 18, 2017, the Board initiated an investigation of Douglas Rush, M.D.’s unlawful access of the OARRS database.
2. On or about April 22, 2019, the Board sent a Notice of Opportunity for Hearing to Douglas Rush, M.D., 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 April 30, 2019, Douglas Rush, M.D., through counsel, timely requested an administrative hearing, which was subsequently scheduled for June 8, 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. Douglas Rush, M.D. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated April 22, 2019; 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. Douglas Rush, M.D. agrees to pay a fine of \$500.00 to the State of Ohio Board of Pharmacy. The fine shall be paid no later than thirty (30) days from the date of this order. Payment must be made by means of a personal check made payable to “State of Ohio Board of Pharmacy,” and mailed with a copy of this Agreement to, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126.

4. Douglas Rush, M.D. understands that any violation of the OARRS database laws and rules, or a violation of any other state or federal law will be considered a violation of the Agreement and may result in a hearing before the Board and/or additional criminal and/or administrative charges resulting in a penalty that could include permanent revocation of OARRS access.
5. Douglas Rush, M.D. must obtain, within six months from the effective date of this Agreement, ten (10) hours of approved continuing education in ethics, professionalism, the proper use of the OARRS database, and/or general medical practices. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for re-licensure for the Continuing Medical Education period(s) in which they are completed. Copies of completed continuing education courses must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov) within 90 days of completion.
6. Douglas Rush, M.D. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Douglas Rush, M.D. understands that he has the right to be represented by counsel for review and execution of this agreement.
8. Douglas Rush, M.D. 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 applications for a new license.
9. Douglas Rush, M.D. waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2020-0042** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

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**IN THE MATTER OF:  
CASE NO. A-2018-0102**

**Sven Du Choudry, R.Ph.**  
**License No. 03-224576**  
20110 West River Road  
Grand Rapids, OH 43522

**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 Sven Du Choudry for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time Sven Du Choudry's license was lapsed. Together, the Board and Sven Du Choudry 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. Sven Du Choudry is an Ohio-licensed pharmacist under license number 03-224576.

**FACTS**

1. On or about October 15, 2018, the Board initiated an investigation of Sven Du Choudry, pharmacist license number 03-224576, related to Sven Du Choudry's practice of pharmacy during the time his license was lapsed.
2. On or about May 31, 2019 the Board sent a Notice of Opportunity for Hearing to Sven Du Choudry, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

**TERMS**

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

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

2. Sven Du Choudry neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated May 31, 2019, 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. Sven Du Choudry agrees to pay to the OSBP the amount of amount of \$200.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Sven Du Choudry agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Sven Du Choudry understands that he has the right to be represented by counsel for review and execution of this agreement.
6. Sven Du Choudry 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.
7. Sven Du Choudry waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

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

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**R-2020-0043**

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

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**IN THE MATTER OF:  
CASE NO. A-2019-0073**

**Opeyemi Adeweso, RPh**

**License No. 03-126041**

6950 Mayfield Road  
Gates Mills, OH 44040

**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 Opeyemi Adeweso for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time Opeyemi Adeweso's license was lapsed. Together, the Board and Opeyemi Adeweso 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. Opeyemi Adeweso is an Ohio-licensed pharmacist under license number 03-126041.

**FACTS**

1. The Board initiated an investigation of Opeyemi Adeweso, pharmacist license number 03-126041, related to Opeyemi Adeweso's practice of pharmacy during the time her license was lapsed.
2. On or about June 17, 2019 the Board sent a Notice of Opportunity for Hearing to Opeyemi Adeweso, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

**TERMS**

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Opeyemi Adeweso neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated June 17, 2019, 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. Opeyemi Adeweso agrees to pay the Board a monetary penalty in the amount of \$600.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Agreement. To pay this fine you must login to [www.elicense.ohio.gov](http://www.elicense.ohio.gov) and process the items in your cart.
4. Opeyemi Adeweso agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Opeyemi Adeweso understands that she has the right to be represented by counsel for review and execution of this agreement.
6. Opeyemi Adeweso 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.
7. Opeyemi Adeweso waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

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**R-2020-0044** Mr. Wilt announced the Citation (Case No. 2017-2344) issued to Barry Paulson on January 5, 2018 is dismissed.

**R-2020-0045** Mr. Wilt announced the Citation (Case No. 2016-1801) issued to Aspire Rx on March 16, 2017 is dismissed.

**R-2020-0046** Mr. Wilt announced the Citation (Case No. A-2019-0219) issued to Casa Grande Pharmacy on May 24, 2017 is dismissed.

**R-2020-0047** Mr. Wilt announced the Citation (Case No. A-2018-0075) issued to AcariaHealth Pharmacy Inc. on April 29, 2019 is dismissed.

**10:50 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-2020-0048** Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

**11:53 a.m.** The recess ended and the hearing was opened to the public.

**R-2020-0049** After votes were taken in public session, the Board adopted the following order in the matter of **Douglas Birkhimer, Westerville, Ohio.**

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**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 originally on May 7, 2019 and was subsequently resumed on July 8, 2019 and the record was held open for additional testimony and evidence which was presented on July 10, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Jennifer M. Rudell, R.Ph.; Megan E. Marchal, R.Ph.; Donald R. Miller, R.Ph.; Fred M. Weaver, R.Ph.; and Kilee S. Yarosh, R.Ph.

Joshua M. Cox, R.Ph. and Richard J. Newlon, *Public Member*, were absent.

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
9. Adjudication Order	05.10.2019
10. Drug Test	05.26.2019
11. Order Reopening Hearing	06.06.2019
12. Medication Labels	Various
13. Original E-Prescription Received by Kroger Pharmacy 965	01.08.2019

Respondent's Exhibits:

A. Birkhimer Emergency Room Records	09.12.2018
B. Birkhimer Kroger E-Prescription	01.08.2019

DECISION OF THE BOARD

The State of Ohio Board of Pharmacy, having already issued its Decision as to the Findings of Fact and Conclusions of Law in the Board Order issued on May 10, 2019, further finds the hair test to have been positive for a substance for which Douglas Birkhimer did not have a prescription and also finds that the prescription provided for the substances prescribed to Douglas Birkhimer was illegally dispensed by Douglas Birkhimer both as to form of the medication and due to the fact that it was dispensed at a facility without a valid Terminal Distributor of Dangerous Drugs License. Accordingly, the Board hereby maintains the indefinite suspension of Douglas Birkhimer's Pharmacist License No. 09-124341 for a minimum of two years, with the addition of the following terms:

Further, after 2 years from the date of the May 10, 2019 Order, the Board will consider any petition filed by Douglas Birkhimer for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

- A. Douglas Birkhimer must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health

and Addiction Services (ODMHAS) treatment provider or a treatment monitor acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Douglas Birkhimer to potential sanctions up to and including revocation of license. The contract must provide that:

- a. Random, observed urine drug screens shall be conducted at least once each month.
  - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
  - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
  - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
  - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Douglas Birkhimer 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 intervener/sponsor/monitor 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 program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
- B. Douglas Birkhimer 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 Douglas Birkhimer reappear before the Board for possible additional sanctions, including and up to revocation of license.

- C. Douglas Birkhimer 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 Douglas Birkhimer reappear before the Board for possible additional sanctions, including and up to revocation of license.
- D. Douglas Birkhimer must immediately report any violation of the terms of this suspension to the Board by contacting [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov). Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Douglas Birkhimer to possible additional sanctions, including and up to revocation of license.
- E. Douglas Birkhimer must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- F. Douglas Birkhimer 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.
- G. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider or treatment monitor may result in additional action before the Board up to and including revocation of your pharmacy license.
- H. Any violation of Chapters 2925., 3715., 3719., 3796., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.

In addition to the terms set forth above, the Board maintains its Decision as to the following terms, as stated in the Board's May 10, 2019 Order:

- I. Douglas Birkhimer may petition for reinstatement of his license no earlier than April 1, 2020, once he has supplied proof of the following, in addition to the items outlined above, 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 4729:1-5 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:

- J. 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
- K. Douglas Birkhimer may never be a preceptor; and
- L. 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.

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 wall certificate should be sent by certified mail, return receipt requested.

Douglas Birkhimer, 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.

The Board 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: 7, 12, and 13, and also grants Respondent's Motion to Seal Exhibits A and B.

Donald R. Miller moved for Action of the Board; Megan E. Marchal seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2020-0050** Ms. Rudell 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, at the conclusion of which the Board would adjourn. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes; and Yarosh-yes.

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**R-2020-0051** After votes were taken in public session, the Board adopted the following order in the matter of **BCCO, LLC**.

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

(Case Number 2018-M1069)  
In the Matter of Applicant:  
BCCO, LLC  
717 W. Fair Ave.  
Lancaster, OH 43130  
Account No./Application No.: 469-1069  
Application District: Southwest-4  
Application Dispensary Address: 2046 Valley Street, Dayton, OH

&

(Case Number 2018-M1111)  
In the Matter of Applicant:  
BCCO, LLC  
8890 Diley Road  
Canal Winchester, OH 43110  
Account No./Application No.: 469-1111  
Application District: Southwest-1

Application Dispensary Address: 614 Race Street, Cincinnati, OH

### INTRODUCTION

The Matter of BCCO, LLC came for hearing before Hearing Examiner Gregory Trout on March 14, 2019. BCCO, LLC was represented by John Stock and Kristopher Chandler; the State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Matter came for consideration by the Board on July 10, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Donald R. Miler, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh. Both parties gave an oral address to the Board on this date in advance of the Board's consideration.

### BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 1) Transcript of the March 14, 2019 proceedings;
- 2) The following Joint Exhibits admitted by the Hearing Examiner:
  - Joint Exhibit 1a: 2018-M1111—*Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Full List of Application Scores by District*;
  - Joint Exhibit 1b: 2018-M1069—*Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Full List of Application Scores by District*;
  - Joint Exhibit 2a: Request for Hearing (Application ID 1111 / Hamilton County);
  - Joint Exhibit 2b: Request for Hearing (Application ID 1069 / Montgomery County);
  - Joint Exhibit 3: Ohio Medical Marijuana Control Program Request for Applications;
  - Joint Exhibit 4: State of Ohio Board of Pharmacy Dispensary Districts;
  - Joint Exhibit 5: Medical Marijuana Dispensary Licensing Report;
  - Joint Exhibit 6: Ohio Medical Marijuana Control Program Provisional Dispensary Licenses: Overview & Recommendations – June 4, 2018;
  - Joint Exhibit 7: List of Applicant Scores for District SW-1 and District SW-4;
  - Joint Exhibit 8: Medical Marijuana Dispensaries Rank by State;
  - Joint Exhibit 9: BCCO, LLC Scorecards for Application ID 869, Application ID 642, Application ID 542, Application ID 1111, Application ID 507, Application ID 989, Application ID 561, and Application ID 1069;
  - Joint Exhibit 10: Key Indicators – Business Plan;
  - Joint Exhibit 11: Key Indicators – Operations (Compliance and Enforcement);
  - Joint Exhibit 12: Key Indicators – Patient Care Operations;
  - Joint Exhibit 13: Key Indicators – Patient Care Plan;
  - Joint Exhibit 14: Score Sheet for BCCO, LLC Application ID 1111;
  - Joint Exhibit 15: Score Sheet for BCCO, LLC Application ID 1069;
  - Joint Exhibit 16: Score Sheet for Pure Ohio Wellness LLC Application ID 507;
  - Joint Exhibit 17: Score Sheet for Cannascend Alternative, LLC Application ID 989;

- Joint Exhibit 18: Score Sheet for Schottenstein Aphria III LLC Application ID 561;
- Joint Exhibit 19: Score Sheet for Care Med Associates, LLC Application ID 869;
- Joint Exhibit 20: Score Sheet for Green Rx, LLC Application ID 642;
- Joint Exhibit 21: Score Sheet for Pharmacann Ohio LLC Application ID 542;
- Joint Exhibit 22: BCCO, LLC Application ID 1111\*; and
- Joint Exhibit 23: BCCO, LLC Application ID 1069\*.

**\* Joint Exhibits 22 and 23 were admitted under seal.**

- 3) The following BCCO, LLC Exhibits admitted by the Hearing Examiner:
- Exhibit 1: Ohio Medical Marijuana Control Program, State of Ohio Board of Pharmacy, First Period Question and Answer Responses, Question 206;
  - Exhibit 2: Ohio Medical Marijuana Control Program Dispensary Application Instructions;
  - Exhibit 3: Pharmacann Ohio LLC Application ID 542 in District SW-1;
  - Exhibit 4: Care Med Associates, LLC Application ID 869 in District SW-1;
  - Exhibit 5: Population density map of Hamilton County, Ohio prepared by the U.S. Census Bureau, identifying the location of the three awarded provisional dispensary license and BCCO, LLC Application ID 1111;
  - Exhibit 6: Zoomed-in population density map of Hamilton County, Ohio prepared by the U.S. Census Bureau, identifying the location of the three awarded provisional dispensary license and BCCO, LLC Application ID 1111;
  - Exhibit 7: Population density map of Columbia Township, Hamilton County, Ohio prepared by the U.S. Census Bureau, identifying the location Care Med Associates, LLC (#1 in District SW-1) and Pharmacann Ohio LLC (#3 in District SW-1);
  - Exhibit 8: Population density map of Hamilton County, Ohio prepared by the U.S. Census Bureau, identifying the location of Green Rx, LLC (#2 in District SW-1);
  - Exhibit 9: Population density map of Hamilton County, Ohio prepared by the U.S. Census Bureau, identifying the location of every applied for dispensary application;
  - Exhibit 10: Google map showing the distance between Care Med Associates, LLC (#1 in District SW-1) and Pharmacann Ohio LLC (#3 in District SW-1);
  - Exhibit 11: Ohio Medical Marijuana Control Program, State of Ohio Board of Pharmacy, First Period Question and Answer Responses, Question 167;
  - Exhibit 12: Ohio Medical Marijuana Control Program News Release, *Ohio Department of Commerce Announces Pharmacann Ohio LLC as Level I Cultivator Provisional License Recipient*;
  - Exhibit 13: Ohio Medical Marijuana Control Program News Release, *Ohio Department of Commerce Announces Recipient of Level II Cultivator Provisional License*;
  - Exhibit 14: Provisional Dispensary License Allocation; and
  - Exhibit 15: Columbia Township Medical Marijuana Dispensary Zone.
- 4) The following State of Ohio Exhibit admitted by the Hearing Examiner:
- Exhibit A: Affidavit of Erin Reed, Senior Legal Counsel, State of Ohio Board of Pharmacy.



- 5) The following filings in the administrative record:
- Request for Hearing (Application 1111 / Hamilton County), dated July 4, 2018;
  - Request for Hearing (Application 1069 / Montgomery County), dated July 4, 2018;
  - Notice of Appearance filed by the State of Ohio, Case No. 2018-M1069, filed July 5, 2018;
  - Notice of Appearance filed by the State of Ohio, Case No. 2018-M1111, filed July 5, 2018;
  - Journal Entry with Notice of Hearing and Order of Consolidation, Case Nos. 2018-M1069 and 2018-M1111, filed October 1, 2018;
  - Amended Journal Entry with Notice of Hearing and Order of Consolidation, Case Nos. 2018-M1069 and 2018-M1111, filed October 5, 2018;
  - State of Ohio Witness & Exhibit List, filed December 4, 2018;
  - BCCO, LLC Notice: (1) List of Witnesses; (2) List of Exhibits; and (3) Reservation of Right to Supplement List of Exhibits Upon Receipt of the State of Ohio Board of Pharmacy's Response to BCCO, LLC's Public Records Request, filed December 4, 2018;
  - Second Amended Journal Entry / Revised Hearing Schedule, Case Nos. 2018-M1069 and 2018-M1111, filed December 14, 2018;
  - BCCO, LLC Supplemental Notice: (1) List of Witnesses and (2) List of Exhibits, filed February 28, 2019;
  - State of Ohio Amended Witness & Exhibit List, filed February 28, 2019;
  - BCCO, LLC Pre-Hearing Brief, filed March 7, 2019;
  - BCCO, LLC Post-Hearing Brief, filed April 5, 2019;
  - State of Ohio Closing Brief, filed April 5, 2019;
  - Report and Recommendation, Case Nos. 2018-M1069 and 2018-M1111, filed April 19, 2019;
  - BCCO, LLC Request for Extension of Time to Respond to Report and Recommendation, Case Nos. 2018-M1069 and 2018-M1111, dated May 1, 2019;
  - Order of the State of Ohio Board of Pharmacy Granting Extension of Time to Respond to Report & Recommendations, filed May 3, 2019;
  - BCCO, LLC's Written Objections to Hearing Examiner's Report and Recommendation and Request to Make Oral Presentation to the Board, filed May 20, 2019; and
  - Correspondence to BCCO, LLC from the State of Ohio Board of Pharmacy granting BCCO LLC's request to address the Board, dated May 29, 2019.

#### DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts in its entirety Hearing Examiner Trout's Report and Recommendation, as it relates to the Board's June 21, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to BCCO, LLC for Application ID 1069 and Application ID 1111, including the Findings of Fact and Conclusions of Law, subject to the following modification:

The Board modifies the Report and Recommendation on page 2 from "The matter was timely appealed pursuant to the process granted in Chapter 119. of the Ohio Revised Code, specifically

Section 119.12[)]" to, "The matter was timely appealed pursuant to the process granted in Chapter 119. of the Ohio Revised Code, specifically Section 119.09." R.C. 119.12 pertains to the appeal process of a party adversely affected by an order of an agency issued pursuant to an adjudication. R.C. 119.09 pertains to an adjudication hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

**The Board confirms and approves the Report and Recommendation of Hearing Examiner Trout, affirming the Board's license award process, which includes a denial of Dispensary Provisional Licenses to BCCO, LLC Application ID 1069 and Application ID 1111.**

Ms. Marchal moved to confirm and approve the Report and Recommendation of Hearing Examiner Trout, with the modifications set forth herein. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2020-0052** After votes were taken in public session, the Board adopted the following order in the matter of **ATCL 1, LLC.**

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**ORDER OF THE STATE BOARD OF PHARMACY**  
**APPROVING IN PART & MODIFYING IN PART**  
**THE REPORT & RECOMMENDATION OF HEARING EXAMINER**  
(Case Number 2018-M843)

In The Matter Of Applicant:  
ATCL 1, LLC  
1 Canal Square Plaza  
Akron, OH 44303  
Account No./Application No.: 441-843  
Application District: Northeast-3  
Application Dispensary Address: 527 West Market Street, Akron, OH

**INTRODUCTION**

The Matter of ATCL 1, LLC came for hearing before Hearing Examiner Ronda Shamansky on February 19, 2019 and February 20, 2019. ATCL 1, LLC was represented by John Izzo; the State of Ohio was represented by Jared Erb and Henry G. Appel, Assistant Attorneys General. The Matter came for consideration by the Board on July 10, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Donald R. Miler, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh. Both parties gave an oral address to the Board on this date in advance of the Board's consideration.

### BOARD'S DENIAL OF APPLICANTS' MOTION TO STRIKE

As an initial matter, the Board must rule on Applicants' July 3, 2019 filing, *Applicants' Motion to Strike State's Opposition to Applicant's Objections to the Hearing Examiner's Report and Recommendation* ("Motion to Strike"). This Motion to Strike was filed in response to the State's July 2, 2019 filing, *State's Opposition to Applicants' Objections to the Hearing Examiner's Report and Recommendation* ("State's Opposition"). The Board did not have an opportunity to review the State's Opposition in advance of the Parties' Oral Address, therefore rendering a ruling upon the Motion to Strike moot. The Board finds Applicants were not prejudiced as a result of the filing of the State's Opposition because (1) the Board did not review the State's Opposition, (2) the State presented similar arguments in its closing brief, which was properly filed, and (3) the State presented similar arguments at the oral address before the members of the Board on July 10, 2019. Despite finding the Motion to Strike moot, the Board finds R.C. 119.09 does not prohibit the State from filing memorandum in opposition to a party's objections to a hearing examiner's report and recommendation. The Board has previously considered similar memoranda and will continue to consider a memorandum in opposition to a party's objections.

### BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 1) Transcript of February 19-20, 2019 proceedings;
- 2) The following State of Ohio Exhibits admitted by the Hearing Examiner:
  - Exhibit 1: 2018-M843 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard, dated June 15, 2018;
  - Exhibit 2: 2018-M826 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard, dated June 15, 2018;
  - Exhibit 3: 2018-M941 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard, dated June 15, 2018;
  - Exhibit 4: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M826;
  - Exhibit 5: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M843;
  - Exhibit 6: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M941;
  - Exhibit 7: Ohio Medical Marijuana Control Program Provisional Licenses: Overview & Recommendations Presentation;
  - Exhibit 8: State of Ohio Board of Pharmacy Dispensary Districts Map;
  - Exhibit 9: Ohio Medical Marijuana Control Program Dispensary Application Instructions;

- Exhibit 10: Ohio Medical Marijuana Control Program Model Dispensary Application;
- Exhibit 11: Ohio Medical Marijuana Control Program Dispensary Application – Tax Authorization Form;
- Exhibit 12: Ohio Medical Marijuana Control Program Dispensary Application – Notice of Proper Zoning Form;
- Exhibit 13: Ohio Medical Marijuana Control Program Dispensary Application – Trade Secret Form;
- Exhibit 14: Ohio Medical Marijuana Control Program Dispensary Application – Attestation and Release Authorization;
- Exhibit 15: First Round Question and Answer Responses;
- Exhibit 16: Second Round Question and Answer Responses;
- Exhibit 18: Application Scorecards – District NE-4;
- Exhibit 19: Application Scorecards – District NE-3;
- Exhibit 20: Application Scorecards – District NE-6;
- Exhibit 21: ATCL2, LLC Application ID 826 (Sections A and B)\*;
- Exhibit 22: ATCL 1, LLC Application ID 843 (Sections A and B)\*;
- Exhibit 23: Curated Leaf Application ID 941 (Sections A and B)\*;
- Exhibit 24: ATCL 1, LLC Application ID 843 (Sections C, D, E, and F)\*;
- Exhibit 25: ATCL 2, LLC Application ID 826 (Sections C, D, E, and F)\*;
- Exhibit 26: Curated Leaf Application ID 941 (Sections C, D, E, and F)\*;
- Exhibit 27: ATCL 2, LLC Application ID 826 Average Scores (By Question);
- Exhibit 28: ATCL 1, LLC Application ID 843 Average Scores (By Question);
- Exhibit 29: Curated Leaf Application ID 941 Average Scores (By Question);
- Exhibit 30: Medical Marijuana Dispensary License Report;
- Exhibit 31: Medical Marijuana Dispensaries Rank By State;
- Exhibit 32: Key Indicators;
- Exhibit 33: Ohio Medical Marijuana Control Program Dispensary Application Tips;
- Exhibit 34: Ohio Medical Marijuana Control Program Dispensary Application FAQ;
- Exhibit 35: Gartner – Medical Marijuana Control Program Dispensary Application Data Validation Report;
- Exhibit 43: Email dated October 31, 2017 from Howard Keum\*\*; and
- Exhibit 45: State’s Written Closing Brief.

**\*Exhibits 21, 22, 23, 24, 25, and 26 were admitted under seal.**

**\*\*This exhibit was referred to as Exhibit 44 on page 234 of the transcript, but admitted as Exhibit 43 on page 249 of the transcript.**

3) The following Applicant Exhibits admitted by the Hearing Examiner:

- Exhibit H: Evaluator Scores for Application ID 826, Application ID 952, Application ID 941, Application ID 965, and Application ID 834 (By Question);
- Exhibit V: KDJOH, LLC Application ID 963;

- Exhibit W: Curated Leaf Application ID 952\*;
- Exhibit X: Curated Leaf Application ID 965\*;
- Exhibit Y: Email containing evaluator identities;
- Exhibit Z: Letter from Maxime Kot, Dispensary Permits Consultant; and
- Exhibit AA: Respondent's Written Closing Statement.

**\*Exhibits W and X were admitted under seal.**

- 4) The following filings in the administrative record:
- June 8, 2018: 2018-M952— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 952 Scorecard;
  - June 8, 2018: 2018-M965— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 965 Scorecard;
  - June 15, 2018: 2018-M826— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard;
  - June 15, 2018: 2018-M843— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard;
  - June 15, 2018: 2018-M941— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard;
  - July 2, 2018: 2018-M952—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;
  - July 2, 2018: 2018-M965—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;
  - July 5, 2018: 2018-M952—State of Ohio Notice of Appearance;
  - July 5, 2018: 2018-M965—State of Ohio Notice of Appearance;
  - July 20, 2018: 2018-M826—Hearing Examiner Appointment Letter;
  - July 20, 2018: 2018-M826—Acknowledgement of Hearing Request;
  - July 20, 2018: 2018-M843—Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
  - July 20, 2018: 2018-M941—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
  - July 26, 2018: 2018-M826—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
  - July 31, 2018: 2018-M941—Acknowledgment of Hearing Request;
  - July 31, 2018: 2018-M952—Acknowledgment of Hearing Request;
  - July 31, 2018: 2018-M965—Acknowledgment of Hearing Request;
  - August 2, 2018: 2018-M965—Hearing Examiner Appointment Letter;

- August 2, 2018: 2018-M952—Hearing Examiner Appointment Letter;
- August 2, 2018: 2018-M941—Hearing Examiner Appointment Letter;
- August 30, 2018: 2018-M826—State of Ohio Notice of Appearance;
- August 31, 2018: 2018-M952—Withdrawal of Request for Hearing;
- August 31, 2018: 2018-M965—Withdrawal of Request for Hearing;
- September 5, 2018; 2018-M843—Hearing Examiner Appointment Letter;
- September 5, 2018: Journal Entry Notice of Hearing and Order of Consolidation of Case Nos. 2018-M826, 2018-M843, and 2018-M941;
- September 20, 2018: Journal Entry With Amended Scheduling Order;
- September 24, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 27, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 28, 2018: Applicants' First Request for Issuance of Subpoenas and Subpoenas Duces Tecum;
- October 2, 2018: Applicants' Motion to Quash Subpoenas Requested by the Ohio Board of Pharmacy;
- October 2, 2018: Applicants' Second Request for Issuance of Subpoenas and Subpoenas Duces Tecum;
- October 3, 2018: Motion to Quash Subpoena to Compel Testimony and Produce Documents Issued to Steven Schierholt, Executive Director of The Board of Pharmacy;
- October 9, 2018: The State's Prehearing Brief;
- October 9, 2018: Applicants' Pre-hearing Brief;
- October 10, 2018: KDJOH LLC Objection to Subpoena Duces Tecum;
- October 12, 2018: State Opposition to Respondent Motion to Quash;
- October 12, 2018: Glass City Alternatives, LLC Objection to State Request for Issuance of Subpoena Duces Tecum;
- October 16, 2018: Motion of Great River Botanicals, LLC, Requesting Modification of Subpoena Request of the State of Ohio, and Motion for Protective Order;
- October 16, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC's Motion for Extension of Time to Respond and Motion to Redact Protected Information;
- October 17, 2018: Interested Non-Party KDJOH, LLC's Motion to Quash Subpoena;
- October 18, 2018: Hearing Examiner Decision on Treat & Kure 2, 3, and 4, LLC's Motion for Extension of Time;
- October 22, 2018: State Witness and Exhibit List;
- October 22, 2018: The State's Opposition to Treat & Kure's Motion for Extension of Time;
- October 22, 2018: Applicants' Memorandum Contra to Interested Party KDJOH, LLC's Motion to Quash Subpoena;
- October 22, 2018: The State's Opposition to Applicants Motion to Quash;
- October 22, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC's Supplemental Motion to Protect Redacted Information;
- October 23, 2018: Hearing Examiner Email – KDJOH, LLC's Motion to Quash;

- October 23, 2018: Applicants' Witness & Exhibit List;
- October 24, 2018: Ruling Motion to Quash Subpoenas;
- October 25, 2018: Applicants' Motion for Reconsideration of Hearing Examiners Ruling on Motions to Quash Subpoenas;
- October 26, 2018: Entry Denying Motion for Reconsideration;
- November 2, 2018: Entry of Continuance with Notice of New Hearing Date;
- December 6, 2018: State Notice of Appearance and Substitution of Counsel;
- January 18, 2019: Applicants' Third Request for Issuance of Subpoenas and Subpoena Duces Tecum;
- February 12, 2019: State Witness & Exhibit List;
- March 22, 2019: State's Written Closing Brief;
- March 22, 2019: Applicants' Written Closing Statement;
- April 19, 2019: 2018-M843 Report and Recommendation;
- April 19, 2019: 2018-M826 Report and Recommendation;
- April 19, 2019: 2018-M941 Report and Recommendation;
- April 23, 2019: 2018-M843 Report and Recommendation Cover Letter;
- April 23, 2019: 2018-M826 Report and Recommendation Cover Letter;
- April 23, 2019: 2019-M941 Report and Recommendation Cover Letter;
- May 6, 2019: Applicants' Request for Extension of Time;
- May 10, 2019: Order of the State of Ohio Board of Pharmacy Granting Extension of Time to Respond to Reports & Recommendations; and
- June 7, 2019: Applicants' Objections to the Hearing Examiner's Report and Recommendation.<sup>1</sup>

5) Oral address by the State and Applicant to the Board on July 10, 2019;

#### DECISION OF THE BOARD

After thorough review of the complete administrative record, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 15, 2018 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (the "Notice").

To the extent not already addressed in the Hearing Examiner's Report and Recommendation, the Board reviewed the Notice and finds Applicant was afforded due process, including informing Applicant of the precise nature of the charges to be raised at the adjudication hearing, and the reasons the Board intended to deny Applicant's application for a Medical Marijuana Dispensary License, along with the law(s) or rule(s) directly involved, pursuant to R.C. 119.07. See State Exhibit 1.

#### ORDER OF THE BOARD

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**The Board confirms and approves the Report and Recommendation, subject to the modifications as set forth herein, and affirms the Board's license award process, which includes a denial of a Dispensary Provisional License to ATCL 1, LLC.**

Ms. Marchal moved to confirm and approve the Report and Recommendation of the Hearing Examiner with the exception of the modifications as set forth herein; Ms. Rudell seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2020-0053** After votes were taken in public session, the Board adopted the following order in the matter of **ATCL 2, LLC.**

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

(Case Number 2018-M826)

In The Matter Of Applicant:

ATCL 2, LLC

1 Canal Square Plaza

Akron, OH 44303

Account No./Application No.: 444-826

Application District: Northeast-4

Application Dispensary Address: 906 12 Street N.W. Canton, OH

**INTRODUCTION**

The Matter of ATCL 2, LLC came for hearing before Hearing Examiner Ronda Shamansky on February 19, 2019 and February 20, 2019. ATCL 2, LLC was represented by John Izzo; the State of Ohio was represented by Jared Erb and Henry G. Appel, Assistant Attorneys General. The Matter came for consideration by the Board on July 10, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Donald R. Miler, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh. Both parties gave an oral address to the Board on this date in advance of the Board's consideration.

**BOARD'S DENIAL OF APPLICANTS' MOTION TO STRIKE**

As an initial matter, the Board must rule on Applicants' July 3, 2019 filing, *Applicants' Motion to Strike State's Opposition to Applicant's Objections to the Hearing Examiner's Report and Recommendation* ("Motion to Strike"). This Motion to Strike was filed in response to the State's



July 2, 2019 filing, *State's Opposition to Applicants' Objections to the Hearing Examiner's Report and Recommendation* ("State's Opposition"). The Board did not have an opportunity to review the State's Opposition in advance of the Parties' Oral Address, therefore rendering a ruling upon the Motion to Strike moot. The Board finds Applicants were not prejudiced as a result of the filing of the State's Opposition because (1) the Board did not review the State's Opposition, (2) the State presented similar arguments in its closing brief, which was properly filed, and (3) the State presented similar arguments at the oral address before the members of the Board on July 10, 2019. Despite finding the Motion to Strike moot, the Board finds R.C. 119.09 does not prohibit the State from filing memorandum in opposition to a party's objections to a hearing examiner's report and recommendation. The Board has previously considered similar memoranda and will continue to consider a memorandum in opposition to a party's objections.

#### BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 6) Transcript of February 19-20, 2019 proceedings;
- 7) The following State of Ohio Exhibits admitted by the Hearing Examiner:
  - Exhibit 1: 2018-M843 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard, dated June 15, 2018;
  - Exhibit 2: 2018-M826 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard, dated June 15, 2018;
  - Exhibit 3: 2018-M941 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard, dated June 15, 2018;
  - Exhibit 4: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M826;
  - Exhibit 5: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M843;
  - Exhibit 6: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M941;
  - Exhibit 7: Ohio Medical Marijuana Control Program Provisional Licenses: Overview & Recommendations Presentation;
  - Exhibit 8: State of Ohio Board of Pharmacy Dispensary Districts Map;
  - Exhibit 9: Ohio Medical Marijuana Control Program Dispensary Application Instructions;
  - Exhibit 10: Ohio Medical Marijuana Control Program Model Dispensary Application;
  - Exhibit 11: Ohio Medical Marijuana Control Program Dispensary Application – Tax Authorization Form;
  - Exhibit 12: Ohio Medical Marijuana Control Program Dispensary Application – Notice of Proper Zoning Form;
  - Exhibit 13: Ohio Medical Marijuana Control Program Dispensary Application – Trade Secret Form;

- Exhibit 14: Ohio Medical Marijuana Control Program Dispensary Application – Attestation and Release Authorization;
- Exhibit 15: First Round Question and Answer Responses;
- Exhibit 16: Second Round Question and Answer Responses;
- Exhibit 18: Application Scorecards – District NE-4;
- Exhibit 19: Application Scorecards – District NE-3;
- Exhibit 20: Application Scorecards – District NE-6;
- Exhibit 21: ATCL2, LLC Application ID 826 (Sections A and B)\*;
- Exhibit 22: ATCL 1, LLC Application ID 843 (Sections A and B)\*;
- Exhibit 23: Curated Leaf Application ID 941 (Sections A and B)\*;
- Exhibit 24: ATCL 1, LLC Application ID 843 (Sections C, D, E, and F)\*;
- Exhibit 25: ATCL 2, LLC Application ID 826 (Sections C, D, E, and F)\*;
- Exhibit 26: Curated Leaf Application ID 941 (Sections C, D, E, and F)\*;
- Exhibit 27: ATCL 2, LLC Application ID 826 Average Scores (By Question);
- Exhibit 28: ATCL 1, LLC Application ID 843 Average Scores (By Question);
- Exhibit 29: Curated Leaf Application ID 941 Average Scores (By Question);
- Exhibit 30: Medical Marijuana Dispensary License Report;
- Exhibit 31: Medical Marijuana Dispensaries Rank By State;
- Exhibit 32: Key Indicators;
- Exhibit 33: Ohio Medical Marijuana Control Program Dispensary Application Tips;
- Exhibit 34: Ohio Medical Marijuana Control Program Dispensary Application FAQ;
- Exhibit 35: Gartner – Medical Marijuana Control Program Dispensary Application Data Validation Report;
- Exhibit 43: Email dated October 31, 2017 from Howard Keum\*\*; and
- Exhibit 45: State’s Written Closing Brief.

**\*Exhibits 21, 22, 23, 24, 25, and 26 were admitted under seal.**

**\*\*This exhibit was referred to as Exhibit 44 on page 234 of the transcript, but admitted as Exhibit 43 on page 249 of the transcript.**

- 8) The following Applicant Exhibits admitted by the Hearing Examiner:
- Exhibit H: Evaluator Scores for Application ID 826, Application ID 952, Application ID 941, Application ID 965, and Application ID 834 (By Question);
  - Exhibit V: KDJOH, LLC Application ID 963;
  - Exhibit W: Curated Leaf Application ID 952\*;
  - Exhibit X: Curated Leaf Application ID 965\*;
  - Exhibit Y: Email containing evaluator identities;
  - Exhibit Z: Letter from Maxime Kot, Dispensary Permits Consultant; and
  - Exhibit AA: Respondent’s Written Closing Statement.

**\*Exhibits W and X were admitted under seal.**

- 9) The following filings in the administrative record:

- June 8, 2018: 2018-M952—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 952 Scorecard;
- June 8, 2018: 2018-M965—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 965 Scorecard;
- June 15, 2018: 2018-M826— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard;
- June 15, 2018: 2018-M843— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard;
- June 15, 2018: 2018-M941— Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard;
- July 2, 2018: 2018-M952—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;
- July 2, 2018: 2018-M965—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;
- July 5, 2018: 2018-M952—State of Ohio Notice of Appearance;
- July 5, 2018: 2018-M965—State of Ohio Notice of Appearance;
- July 20, 2018: 2018-M826—Hearing Examiner Appointment Letter;
- July 20, 2018: 2018-M826—Acknowledgement of Hearing Request;
- July 20, 2018: 2018-M843—Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 20, 2018: 2018-M941—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 26, 2018: 2018-M826—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 31, 2018: 2018-M941—Acknowledgment of Hearing Request;
- July 31, 2018: 2018-M952—Acknowledgment of Hearing Request;
- July 31, 2018: 2018-M965—Acknowledgment of Hearing Request;
- August 2, 2018: 2018-M965—Hearing Examiner Appointment Letter;
- August 2, 2018: 2018-M952—Hearing Examiner Appointment Letter;
- August 2, 2018: 2018-M941—Hearing Examiner Appointment Letter;
- August 30, 2018: 2018-M826—State of Ohio Notice of Appearance;
- August 31, 2018: 2018-M952—Withdrawal of Request for Hearing;
- August 31, 2018: 2018-M965—Withdrawal of Request for Hearing;
- September 5, 2018; 2018-M843—Hearing Examiner Appointment Letter;
- September 5, 2018: Journal Entry Notice of Hearing and Order of Consolidation of Case Nos. 2018-M826, 2018-M843, and 2018-M941;
- September 20, 2018: Journal Entry With Amended Scheduling Order;
- September 24, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 27, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 28, 2018: Applicants’ First Request for Issuance of Subpoenas and Subpoenas Duces Tecum;
- October 2, 2018: Applicants’ Motion to Quash Subpoenas Requested by the Ohio Board of Pharmacy;
- October 2, 2018: Applicants’ Second Request for Issuance of Subpoenas and Subpoenas Duces Tecum;

- October 3, 2018: Motion to Quash Subpoena to Compel Testimony and Produce Documents Issued to Steven Schierholt, Executive Director of The Board of Pharmacy;
- October 9, 2018: The State's Prehearing Brief;
- October 9, 2018: Applicants' Pre-hearing Brief;
- October 10, 2018: KDJOH LLC Objection to Subpoena Duces Tecum;
- October 12, 2018: State Opposition to Respondent Motion to Quash;
- October 12, 2018: Glass City Alternatives, LLC Objection to State Request for Issuance of Subpoena Duces Tecum;
- October 16, 2018: Motion of Great River Botanicals, LLC, Requesting Modification of Subpoena Request of the State of Ohio, and Motion for Protective Order;
- October 16, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC's Motion for Extension of Time to Respond and Motion to Redact Protected Information;
- October 17, 2018: Interested Non-Party KDJOH, LLC's Motion to Quash Subpoena;
- October 18, 2018: Hearing Examiner Decision on Treat & Kure 2, 3, and 4, LLC's Motion for Extension of Time;
- October 22, 2018: State Witness and Exhibit List;
- October 22, 2018: The State's Opposition to Treat & Kure's Motion for Extension of Time;
- October 22, 2018: Applicants' Memorandum Contra to Interested Party KDJOH, LLC's Motion to Quash Subpoena;
- October 22, 2018: The State's Opposition to Applicants Motion to Quash;
- October 22, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC's Supplemental Motion to Protect Redacted Information;
- October 23, 2018: Hearing Examiner Email – KDJOH, LLC's Motion to Quash;
- October 23, 2018: Applicants' Witness & Exhibit List;
- October 24, 2018: Ruling Motion to Quash Subpoenas;
- October 25, 2018: Applicants' Motion for Reconsideration of Hearing Examiners Ruling on Motions to Quash Subpoenas;
- October 26, 2018: Entry Denying Motion for Reconsideration;
- November 2, 2018: Entry of Continuance with Notice of New Hearing Date;
- December 6, 2018: State Notice of Appearance and Substitution of Counsel;
- January 18, 2019: Applicants' Third Request for Issuance of Subpoenas and Subpoena Duces Tecum;
- February 12, 2019: State Witness & Exhibit List;
- March 22, 2019: State's Written Closing Brief;
- March 22, 2019: Applicants' Written Closing Statement;
- April 19, 2019: 2018-M843 Report and Recommendation;
- April 19, 2019: 2018-M826 Report and Recommendation;
- April 19, 2019: 2018-M941 Report and Recommendation;
- April 23, 2019: 2018-M843 Report and Recommendation Cover Letter;
- April 23, 2019: 2018-M826 Report and Recommendation Cover Letter;
- April 23, 2019: 2019-M941 Report and Recommendation Cover Letter;
- May 6, 2019: Applicants' Request for Extension of Time;
- May 10, 2019: Order of the State of Ohio Board of Pharmacy Granting Extension of Time to Respond to Reports & Recommendations; and

- June 7, 2019: Applicants' Objections to the Hearing Examiner's Report and Recommendation.<sup>2</sup>

10) Oral address by the State and Applicant to the Board on July 10, 2019;

#### DECISION OF THE BOARD

After thorough review of the complete administrative record, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 15, 2018 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (the "Notice").

To the extent not already addressed in the Hearing Examiner's Report and Recommendation, the Board reviewed the Notice and finds Applicant was afforded due process, including informing Applicant of the precise nature of the charges to be raised at the adjudication hearing, and the reasons the Board intended to deny Applicant's application for a Medical Marijuana Dispensary License, along with the law(s) or rule(s) directly involved, pursuant to R.C. 119.07. See State Exhibit 2.

#### ORDER OF THE BOARD

**The Board confirms and approves the Report and Recommendation, subject to the modifications as set forth herein, and affirms the Board's license award process, which includes a denial of a Dispensary Provisional License to ATCL 2, LLC.**

Ms. Marchal moved to confirm and approve the Report and Recommendation of the Hearing Examiner with the exception of the modifications as set forth herein; Ms. Rudell seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2020-0054** After votes were taken in public session, the Board adopted the following order in the matter of **Curated Leaf**.

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<sup>2</sup>On July 2, 2019, the State filed *State's Opposition to Applicants' Objections to the Hearing Examiner's Report and Recommendation* ("State's Opposition"). As previously noted, the Board did not have an opportunity to review the State's Opposition, and as such, did not consider it when rendering its decision in this Matter.

**ORDER OF THE STATE BOARD OF PHARMACY**  
**APPROVING IN PART & MODIFYING IN PART**  
**THE REPORT & RECOMMENDATION OF HEARING EXAMINER**  
(Case Number 2018-M941)

In The Matter Of Applicant:  
CURATED LEAF  
1 Canal Square Plaza  
Akron, OH 44303  
Account No./Application No.: 446-941  
Application District: Northeast-6  
Application Dispensary Address: 1760 Belmont Avenue, Youngstown, OH

**INTRODUCTION**

The Matter of Curated Leaf came for hearing before Hearing Examiner Ronda Shamansky on February 19, 2019 and February 20, 2019. Curated Leaf was represented by John Izzo; the State of Ohio was represented by Jared Erb and Henry G. Appel, Assistant Attorneys General. The Matter came for consideration by the Board on July 10, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Donald R. Miler, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh. Both parties gave an oral address to the Board on this date in advance of the Board's consideration.

**BOARD'S DENIAL OF APPLICANTS' MOTION TO STRIKE**

As an initial matter, the Board must rule on Applicants' July 3, 2019 filing, *Applicants' Motion to Strike State's Opposition to Applicant's Objections to the Hearing Examiner's Report and Recommendation* ("Motion to Strike"). This Motion to Strike was filed in response to the State's July 2, 2019 filing, *State's Opposition to Applicants' Objections to the Hearing Examiner's Report and Recommendation* ("State's Opposition"). The Board did not have an opportunity to review the State's Opposition in advance of the Parties' Oral Address, therefore rendering a ruling upon the Motion to Strike moot. The Board finds Applicants were not prejudiced as a result of the filing of the State's Opposition because (1) the Board did not review the State's Opposition, (2) the State presented similar arguments in its closing brief, which was properly filed, and (3) the State presented similar arguments at the oral address before the members of the Board on July 10, 2019. Despite finding the Motion to Strike moot, the Board finds R.C. 119.09 does not prohibit the State from filing memorandum in opposition to a party's objections to a hearing examiner's report and recommendation. The Board has previously considered similar memoranda and will continue to consider a memorandum in opposition to a party's objections.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

11) Transcript of February 19-20, 2019 proceedings;

12) The following State of Ohio Exhibits admitted by the Hearing Examiner:

- Exhibit 1: 2018-M843 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard, dated June 15, 2018;
- Exhibit 2: 2018-M826 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard, dated June 15, 2018;
- Exhibit 3: 2018-M941 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard, dated June 15, 2018;
- Exhibit 4: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M826;
- Exhibit 5: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M843;
- Exhibit 6: Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents, Case No. 2018-M941;
- Exhibit 7: Ohio Medical Marijuana Control Program Provisional Licenses: Overview & Recommendations Presentation;
- Exhibit 8: State of Ohio Board of Pharmacy Dispensary Districts Map;
- Exhibit 9: Ohio Medical Marijuana Control Program Dispensary Application Instructions;
- Exhibit 10: Ohio Medical Marijuana Control Program Model Dispensary Application;
- Exhibit 11: Ohio Medical Marijuana Control Program Dispensary Application – Tax Authorization Form;
- Exhibit 12: Ohio Medical Marijuana Control Program Dispensary Application – Notice of Proper Zoning Form;
- Exhibit 13: Ohio Medical Marijuana Control Program Dispensary Application – Trade Secret Form;
- Exhibit 14: Ohio Medical Marijuana Control Program Dispensary Application – Attestation and Release Authorization;
- Exhibit 15: First Round Question and Answer Responses;
- Exhibit 16: Second Round Question and Answer Responses;
- Exhibit 18: Application Scorecards – District NE-4;
- Exhibit 19: Application Scorecards – District NE-3;
- Exhibit 20: Application Scorecards – District NE-6;
- Exhibit 21: ATCL2, LLC Application ID 826 (Sections A and B)\*;
- Exhibit 22: ATCL 1, LLC Application ID 843 (Sections A and B)\*;
- Exhibit 23: Curated Leaf Application ID 941 (Sections A and B)\*;
- Exhibit 24: ATCL 1, LLC Application ID 843 (Sections C, D, E, and F)\*;
- Exhibit 25: ATCL 2, LLC Application ID 826 (Sections C, D, E, and F)\*;

- Exhibit 26: Curated Leaf Application ID 941 (Sections C, D, E, and F)\*;
- Exhibit 27: ATCL 2, LLC Application ID 826 Average Scores (By Question);
- Exhibit 28: ATCL 1, LLC Application ID 843 Average Scores (By Question);
- Exhibit 29: Curated Leaf Application ID 941 Average Scores (By Question);
- Exhibit 30: Medical Marijuana Dispensary License Report;
- Exhibit 31: Medical Marijuana Dispensaries Rank By State;
- Exhibit 32: Key Indicators;
- Exhibit 33: Ohio Medical Marijuana Control Program Dispensary Application Tips;
- Exhibit 34: Ohio Medical Marijuana Control Program Dispensary Application FAQ;
- Exhibit 35: Gartner – Medical Marijuana Control Program Dispensary Application Data Validation Report;
- Exhibit 43: Email dated October 31, 2017 from Howard Keum\*\*; and
- Exhibit 45: State’s Written Closing Brief.

**\*Exhibits 21, 22, 23, 24, 25, and 26 were admitted under seal.**

**\*\*This exhibit was referred to as Exhibit 44 on page 234 of the transcript, but admitted as Exhibit 43 on page 249 of the transcript.**

13) The following Applicant Exhibits admitted by the Hearing Examiner:

- Exhibit H: Evaluator Scores for Application ID 826, Application ID 952, Application ID 941, Application ID 965, and Application ID 834 (By Question);
- Exhibit V: KDJOH, LLC Application ID 963;
- Exhibit W: Curated Leaf Application ID 952\*;
- Exhibit X: Curated Leaf Application ID 965\*;
- Exhibit Y: Email containing evaluator identities;
- Exhibit Z: Letter from Maxime Kot, Dispensary Permits Consultant; and
- Exhibit AA: Respondent’s Written Closing Statement.

**\*Exhibits W and X were admitted under seal.**

14) The following filings in the administrative record:

- June 8, 2018: 2018-M952—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 952 Scorecard;
- June 8, 2018: 2018-M965—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 965 Scorecard;
- June 15, 2018: 2018-M826—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 826 Scorecard;
- June 15, 2018: 2018-M843—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 843 Scorecard;
- June 15, 2018: 2018-M941—Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License and Application ID 941 Scorecard;
- July 2, 2018: 2018-M952—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;
- July 2, 2018: 2018-M965—Notice of Appearance of Counsel; Request for Hearing and to Address The Board; Request for List of Witnesses and Documents;



- July 5, 2018: 2018-M952—State of Ohio Notice of Appearance;
- July 5, 2018: 2018-M965—State of Ohio Notice of Appearance;
- July 20, 2018: 2018-M826—Hearing Examiner Appointment Letter;
- July 20, 2018: 2018-M826—Acknowledgement of Hearing Request;
- July 20, 2018: 2018-M843—Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 20, 2018: 2018-M941—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 26, 2018: 2018-M826—Notice of Appearance of Counsel; Request for Hearing and to Address the Board; Request for List of Witnesses and Documents;
- July 31, 2018: 2018-M941—Acknowledgment of Hearing Request;
- July 31, 2018: 2018-M952—Acknowledgment of Hearing Request;
- July 31, 2018: 2018-M965—Acknowledgment of Hearing Request;
- August 2, 2018: 2018-M965—Hearing Examiner Appointment Letter;
- August 2, 2018: 2018-M952—Hearing Examiner Appointment Letter;
- August 2, 2018: 2018-M941—Hearing Examiner Appointment Letter;
- August 30, 2018: 2018-M826—State of Ohio Notice of Appearance;
- August 31, 2018: 2018-M952—Withdrawal of Request for Hearing;
- August 31, 2018: 2018-M965—Withdrawal of Request for Hearing;
- September 5, 2018; 2018-M843—Hearing Examiner Appointment Letter;
- September 5, 2018: Journal Entry Notice of Hearing and Order of Consolidation of Case Nos. 2018-M826, 2018-M843, and 2018-M941;
- September 20, 2018: Journal Entry With Amended Scheduling Order;
- September 24, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 27, 2018: State Request for Issuance of Subpoena Duces Tecum;
- September 28, 2018: Applicants’ First Request for Issuance of Subpoenas and Subpoenas Duces Tecum;
- October 2, 2018: Applicants’ Motion to Quash Subpoenas Requested by the Ohio Board of Pharmacy;
- October 2, 2018: Applicants’ Second Request for Issuance of Subpoenas and Subpoenas Duces Tecum;
- October 3, 2018: Motion to Quash Subpoena to Compel Testimony and Produce Documents Issued to Steven Schierholt, Executive Director of The Board of Pharmacy;
- October 9, 2018: The State’s Prehearing Brief;
- October 9, 2018: Applicants’ Pre-hearing Brief;
- October 10, 2018: KDJOH LLC Objection to Subpoena Duces Tecum;
- October 12, 2018: State Opposition to Respondent Motion to Quash;
- October 12, 2018: Glass City Alternatives, LLC Objection to State Request for Issuance of Subpoena Duces Tecum;
- October 16, 2018: Motion of Great River Botanicals, LLC, Requesting Modification of Subpoena Request of the State of Ohio, and Motion for Protective Order;
- October 16, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC’s Motion for Extension of Time to Respond and Motion to Redact Protected Information;
- October 17, 2018: Interested Non-Party KDJOH, LLC’s Motion to Quash Subpoena;

- October 18, 2018: Hearing Examiner Decision on Treat & Kure 2, 3, and 4, LLC's Motion for Extension of Time;
- October 22, 2018: State Witness and Exhibit List;
- October 22, 2018: The State's Opposition to Treat & Kure's Motion for Extension of Time;
- October 22, 2018: Applicants' Memorandum Contra to Interested Party KDJOH, LLC's Motion to Quash Subpoena;
- October 22, 2018: The State's Opposition to Applicants Motion to Quash;
- October 22, 2018: Respondents Treat & Kure Dispensary 2, 3, and 4, LLC's Supplemental Motion to Protect Redacted Information;
- October 23, 2018: Hearing Examiner Email – KDJOH, LLC's Motion to Quash;
- October 23, 2018: Applicants' Witness & Exhibit List;
- October 24, 2018: Ruling Motion to Quash Subpoenas;
- October 25, 2018: Applicants' Motion for Reconsideration of Hearing Examiners Ruling on Motions to Quash Subpoenas;
- October 26, 2018: Entry Denying Motion for Reconsideration;
- November 2, 2018: Entry of Continuance with Notice of New Hearing Date;
- December 6, 2018: State Notice of Appearance and Substitution of Counsel;
- January 18, 2019: Applicants' Third Request for Issuance of Subpoenas and Subpoena Duces Tecum;
- February 12, 2019: State Witness & Exhibit List;
- March 22, 2019: State's Written Closing Brief;
- March 22, 2019: Applicants' Written Closing Statement;
- April 19, 2019: 2018-M843 Report and Recommendation;
- April 19, 2019: 2018-M826 Report and Recommendation;
- April 19, 2019: 2018-M941 Report and Recommendation;
- April 23, 2019: 2018-M843 Report and Recommendation Cover Letter;
- April 23, 2019: 2018-M826 Report and Recommendation Cover Letter;
- April 23, 2019: 2019-M941 Report and Recommendation Cover Letter;
- May 6, 2019: Applicants' Request for Extension of Time;
- May 10, 2019: Order of the State of Ohio Board of Pharmacy Granting Extension of Time to Respond to Reports & Recommendations; and
- June 7, 2019: Applicants' Objections to the Hearing Examiner's Report and Recommendation.<sup>3</sup>

15) Oral address by the State and Applicant to the Board on July 10, 2019;

#### DECISION OF THE BOARD

After thorough review of the complete administrative record, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 15, 2018 Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (the "Notice").

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To the extent not already addressed in the Hearing Examiner's Report and Recommendation, the Board reviewed the Notice and finds Applicant was afforded due process, including informing Applicant of the precise nature of the charges to be raised at the adjudication hearing, and the reasons the Board intended to deny Applicant's application for a Medical Marijuana Dispensary License, along with the law(s) or rule(s) directly involved, pursuant to R.C. 119.07. See State Exhibit 3.

ORDER OF THE BOARD

**The Board confirms and approves the Report and Recommendation, subject to the modifications as set forth herein, and affirms the Board's license award process, which includes a denial of a Dispensary Provisional License to Curated Leaf.**

Ms. Marchal moved to confirm and approve the Report and Recommendation of the Hearing Examiner with the exception of the modifications as set forth herein; Ms. Rudell seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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**R-2020-0055** After votes were taken in public session, the Board adopted the following order in the matter of **Marissa Giddens, Toledo, OH.**

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**ORDER OF THE STATE BOARD OF PHARMACY**  
**CONFIRMING AND APPROVING IN PART & MODIFYING IN PART**  
**REPORT & RECOMMENDATION OF HEARING EXAMINER**  
(Case Number A-2018-0073 & I-2018-1229)

In The Matter Of Marissa Giddens:

**Marissa Giddens, Pending Registration for Pharmacy Technician**  
4518 Belmar Avenue  
Toledo, OH 43612  
(Pending Registration No. 09-201338)

INTRODUCTION

A Proposal to Deny/Notice of Opportunity for Hearing (Notice) was issued by the Board on May 4, 2018. The Matter of Marissa Giddens came for hearing before Hearing Examiner Shantae Decarlow on February 14, 2019, at which time Marissa Giddens 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 May 7, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on July 10, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

#### BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered 1 through 8, the hearing transcript, and Hearing Examiner Decarlow'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 Decarlow's Findings of Facts (14) through (20), including those that specifically relate to the Board's Notice letter dated May 4, 2018.

##### CONCLUSIONS OF LAW

The Board confirms and approves Conclusions of Law (22)(b)(i), finding a violation of ORC 4729.96(A)(2)(b), and (22)(ii), finding a violation of ORC 4729.96(A)(2)(g), as set forth by Hearing Examiner Decarlow.

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 4, 2018, paragraphs:

- (1) Section 4729.90(B)(1)(c) ORC and Rule 4729:3-1-01(G) OAC, not of good moral character and habits,
- (2)(b) Section 4729.96(A)(2)(c) ORC, 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,
- (2)(c) Section 4729.96(A)(2)(d) ORC, Violated, conspired to violate, attempted to violate ... of any of the provisions of this chapter...Chapter 2925...of the Revised Code, or any rule adopted by the board under those provisions,
- (3)(a) Rule 4729:3-4-01(B)(1) OAC, engaged in any of the conduct specified in ORC 4729.96(A)(2),

(3)(b) Rule 4729:3-4-01(B)(2) OAC, violated any state or federal law, regardless of the jurisdiction,

(3)(c) Rule 4729:3-4-01(B)(5) OAC, committed acts that constitute moral turpitude (4776.10 ORC) or gross immorality,

(3)(d) Rule 4729:3-4-01(B)(6) OAC, Committed acts of moral turpitude,

(3)(e) Rule 4729:3-4-01(B)(8) OAC, engaged in acts of unprofessional conduct.

All eight violations of law are supported based on the evidence in the record.

#### ORDER OF THE BOARD

The Board finds that the nature of Respondent's conduct goes beyond that of possessing controlled substances to fuel an addiction. While the Board allows a potential pathway back into the pharmacy setting (with probation and other restrictions), this pathway generally has been reserved for licensees whose conduct is solely related to the disease of substance use disorder and for those licensees who have demonstrated a desire to seek treatment and have taken related steps. Respondent has provided this Board no such indication that she either has an addiction or that she is seeking treatment for her abuse of controlled substances. Further, and perhaps more importantly, the opportunity to enter the pharmacy setting is generally not afforded to those licensees who have illegally obtained and supplied controlled substances to others. Additionally, Respondent's actions of being found in possession of stock bottles of promethazine and individually packaged baggies of marijuana go beyond mere dishonesty or unprofessional conduct and permanently erode the trust needed in an individual as a Board licensee for performing any duties in a pharmacy setting.

In the Matter of Marissa Giddens, the Board finds the actions and trafficking of controlled substances coupled with the possession of stock bottles of a controlled substance to be of such an egregious nature as to prevent any future employment in a Board-licensed facility. Accordingly, 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 rejects the Hearing Examiner's recommendation of an indefinite suspension and possibility for reapplication as a registered pharmacy technician. The Board Orders:

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (1) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (2)(b) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (2)(c) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (3)(a) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (3)(b) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (3)(c) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (3)(d) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (14) through (20) and the Board's additional finding of Conclusion of Law paragraph (3)(e) as set forth above in, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (4) through (20) and the Hearing Examiner's Conclusion of Law (22)(b)(i) as it relates to the Notice dated May 4, 2018, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (4) through (20) and the Hearing Examiner's Conclusion of Law (22)(b)(ii) as it relates to the Notice dated May 4, 2018, the State of Ohio Board of Pharmacy hereby permanently denies the pending registered pharmacy**

**technician application for registration, No. 09-201338, submitted by Marissa Giddens, effective as of the date of the mailing of this order.**

Mr. Weaver moved to confirm and approve the Report and Recommendation of Hearing Examiner Decarlow, with the modifications as set forth herein. Ms. Yarosh seconded the motion. Motion passed (Aye - 5/Nay – 0).

SO ORDERED.

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**R-2020-0056** After votes were taken in public session, the Board adopted the following order in the matter of **Nicole Rini, Garfield Heights, OH.**

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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 I-2018-1611 & A-2018-0104)

In The Matter Of Nicole Rini:

**Nicole Rini, Pharmacy Technician Trainee**  
5168 East 128th Street  
Garfield Heights, OH 44125  
(REVOKED Registration No. 09-102409)

**INTRODUCTION**

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on June 22, 2018. The Matter of Nicole Rini came for hearing before Hearing Examiner Karl W. Schedler on February 25, 2019 at which time Nicole Rini did not appear, nor did anyone on her behalf. The State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about April 24, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on July 10, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh, Fred M. Weaver, RPh, Kilee S. Yarosh, RPh.

**BOARD REVIEW OF THE RECORD**

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1)(a) through (12), the hearing transcript, and Hearing Examiner Schedler's Report and Recommendation.

**DECISION OF THE BOARD**

## FINDINGS OF FACT &amp; CONCLUSIONS OF LAW

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Schedler's Findings of Facts, paragraphs (1) through (15), including those that specifically relate to the Board's Notice letter dated June 22, 2018.

The Board confirms and approves Conclusions of Law (1) through (10) as set forth in the Hearing Examiner's Report and Recommendation as they relate to the Board's June 22, 2018 Notice letter. The Board modifies the Report and Recommendation to include a finding of the violation of law as set forth in the Notice letter dated June 22, 2018, paragraph (2)(e), 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).

All violations of law are supported based on the evidence in the record as set forth in the Hearing Examiner's Report and Recommendation. Specifically, the testimony of Charles Bontempo, RPh and John Glinski, Loss Prevention Supervisor, that Nicole Rini appeared under the influence of something (at work), refused to give a urine sample, became loud, used vulgar language, and also was seen on store video with bottle of Alprazolam and appeared to be ingesting the medication. Additionally, there was a 22-pill shortage of Alprazolam discovered; Nicole Rini was the only person who touched the bottle that day. Report and Recommendation p. 4-5. Agent Trey Edwards also testified that Nicole Rini failed to report two misdemeanor convictions on her pharmacy technician trainee application. When called by Agent Edwards, she was completely out of it, slurred her words, and hung up the phone. Transcript p. 17.

## 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 revokes the suspended registration as a pharmacy technician trainee of Nicole Rini, 09-102409. Nicole Rini 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 (15) and the Hearing Examiner's Conclusion of Law (1) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (2) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (3) as it relates to the Notice dated June 22, 2018, the State of Ohio**



**Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (4) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (5) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (6) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (7) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (8) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (9) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Hearing Examiner's Conclusion of Law (10) as it relates to the Notice dated June 22, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

**On the basis of the Findings of Facts (1) through (15) and the Board's additional finding of Conclusion of Law paragraph (2)(e) as set forth above, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102409, held by Nicole Rini, effective as of the date of the mailing of this order.**

Mr. Weaver moved to confirm and approve the Report and Recommendation of Hearing Examiner Schedler, with the modifications as set forth herein. Ms. Rudell seconded the motion. Motion passed (Aye - 5/Nay – 0).

SO ORDERED.

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**R-2020-0057** After votes were taken in public session, the Board adopted the following order in the matter of **Vernon Gomez, Gahanna, OH.**

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

(A-2018-0101 & I-2018-1609)

In The Matter Of:

**Vernon Gomez**  
**Application for Certified Pharmacy Technician**

4089 Parkcove Drive

Gahanna, OH 43230

(DENIED Registration No. 09-309415)

**INTRODUCTION**

A Notice of Opportunity for Hearing was issued by the Board to Vernon Gomez on October 10, 2018 proposing to deny Mr. Gomez's application for registration as a certified pharmacy technician. The Matter of Vernon Gomez came for hearing before Hearing Examiner Shantae Decarlow on February 26, 2019. Respondent appeared *pro se*, on his own 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 May 24, 2019 and, without having received any written objections, the Matter subsequently came for consideration by the Board on July 10, 2019, before the following members of the State of Ohio Board of

Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Donald R. Miler, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.

#### BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's exhibits numbered one through twenty, the hearing transcript, and Hearing Examiner Decarlow'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 Decarlow's Findings of Fact, paragraphs (1) through (13), including those that specifically relate to the Board's Notice letter dated October 10, 2018.

The Board confirms and approves Conclusions of Law (1), (2), (3), (4), (5), 6(a), 6(e)(i), (7), and (8), as set forth in the Hearing Examiner's Report and Recommendation as they relate to the Board's October 10, 2018 Notice letter. The Board modifies the Report and Recommendation to include a finding of the violation of law as set forth in the Notice letter dated October 10, 2018, paragraph 3(a), engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, OAC Rule 4729:3-4-01(B)(1); and paragraph 3(c), committed acts that constitute gross immorality, OAC Rule 4729:3-4-01(B)(5).

All violations of law are supported based upon the evidence in the record as set forth in the Hearing Examiner's Report and Recommendation. Specifically, Vernon Gomez admitted that he was convicted of numerous criminal offenses, which were corroborated by the State's Exhibits showing Vernon Gomez was convicted of Domestic Violence (two convictions), Driving or Physical Control While Under the Influence, Failure to Control; Weaving Full Time and Attention, Criminal Trespass (two convictions), Operating Vehicle Under the Influence of Alcohol or Drugs, and Operating a Vehicle Under the Influence. The Board disapproves Conclusion of Law 6(d)(i), because the Respondent was not convicted of a felony, or crime of moral turpitude, as defined in R.C. 4776.10. The Board disapproves Conclusion of Law 6(d)(ii), because the Board did not assert as a potential violation of law of R.C. 4729(A)(2)(c) in the Notice letter.

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 as follows:

**On the basis of the Findings of Facts and Conclusions of Law, the State of Ohio Board of Pharmacy hereby denies, for a minimum of twelve months from the date of this Order, the application to register as a certified pharmacy technician, No. 09-309415, of Vernon Gomez.**

Ms. Marchal moved to confirm and approve, with the modifications set forth herein, the Report and Recommendation of Hearing Examiner Decarlow, with the modifications as set forth herein. Ms. Yarosh seconded the motion. Motion passed (Aye – 5/Nay – 0).

SO ORDERED.

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**R-2020-0058** After votes were taken in public session, the Board adopted the following order in the matter of **Pamela Applegate, Columbus, OH.**

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

(Case Number A-2018-0124 & I-2018-1290)

In The Matter Of Pamela Applegate:

**Pamela Applegate, Registered Pharmacy Technician.**

585 Station Road  
Columbus, OH 43228  
(Registration No. 09-206102)

**INTRODUCTION**

The Matter of Pamela Applegate came for hearing before Hearing Examiner Anna L. Bates on January 22, 2019 at which time Pamela Applegate appeared Pro Se. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

The matter came for consideration on July 10, 2019 by the following members of the State of Ohio Board of Pharmacy (Board): Shawn Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; D. Rich Miller, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

**BOARD REVIEW OF THE RECORD**

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered one through fourteen, the hearing transcript, and Hearing Examiner Bates's Report and Recommendation.

**DECISION OF THE BOARD**

After thorough review of all documents related to the case, the Board hereby adopts Hearing Examiner Bates' Findings of Facts as they relate to the Board's Notice of Proposal to Deny/Notice of Opportunity of Hearing dated September 6, 2018. The Board further modifies and adopts the Conclusions of Law as set forth by Hearing Examiner Bates. The modifications refer to Hearing

Examiner Bates' Conclusions of Law. The Board finds Pamela Applegate did violate paragraphs (1), (2)(a), (b), and (c), and (3)(a), (b), (c), and (d), as they relate to the Board's Notice of Proposal to Deny/Notice of Opportunity of Hearing dated September 6, 2018, and evidence in the record supports such a finding.

Pursuant to Section 4729.96 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adopts the recommendation of the Hearing Examiner and issues the certified technician registration, No. 09-206102, to Pamela Applegate.

The Board modifies the Hearing Examiner's recommendation and grants Ms. Applegate's registration and places her on non-reporting probation for a term of two (2) years. The Board Orders that Ms. Applegate must meet with the probation committee upon request.

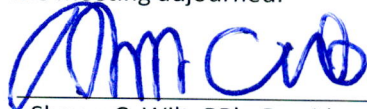
Ms. Yarosh moved to confirm and approve the Report and Recommendation of Hearing Examiner Bates, with the exceptions of the modifications as set forth herein. Mr. Weaver seconded the motion. Motion passed (Aye – 5/Nay – 0).

SO ORDERED.

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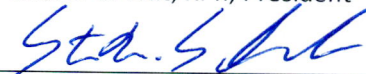
**R-2020-0059** Ms. Rudell moved that the Board adjourn. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5, Nay-0.

**1:21 p.m.** The meeting adjourned.



Shawn C. Wilt, RPh, President

Date: 8-15-19



Steven W. Schierholt, Executive Director

Date: 8/12/19