



MINUTES OF THE DECEMBER 9-11, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, December 9, 2019

10:01 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; 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.

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*.

10:01 a.m. Mr. Wilt presented the following resolution to Mr. Jarrod W. Grossman, the Executive Director of the Pharmacists Rehabilitation Organization:

The State of Ohio
Board of Pharmacy

Resolution Of The Board

WHEREAS, Jarrod W. Grossman, the Executive Director of the Pharmacists Rehabilitation Organization, PRO, has shown exemplary judgment, dedication, and commitment to the clients of PRO, to the Board, and to the Citizens of the State of Ohio;

WHEREAS, the Board recognizes that, Jarrod W. Grossman's tireless commitment, from January 1, 2012 to December 31, 2019, has significantly contributed to the safe return to the practice of pharmacy countless colleagues in recovery from substance use disorder through monitoring, advocacy, and support, allowing the Board to fulfill its mission of acting efficiently, consistently, and impartially in the public interest to pursue optimal standards of practice;

BE IT RESOLVED that we, the undersigned Members of the State of Ohio Board of Pharmacy, in the Board's one-hundred thirty-fifth year, do hereby express our profound appreciation to Jarrod W. Grossman for his dedication and service to the Board and the citizens of Ohio;

BE IT FURTHER RESOLVED that this resolution be spread upon the minutes of the State of Ohio Board of Pharmacy and a copy presented to:

Jarrod W. Grossman, PharmD, RPh
On this 9th day of December, 2019
at the State of Ohio Board of Pharmacy, Columbus, Ohio

- 10:10 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 **Sarah Kathleen Wallace, Fort Thomas, KY.**
- R-2020-0249** 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: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.
- 11:49 a.m.** The recess ended and the hearing was opened to the public.
- R-2020-0250** After votes were taken in public session, the Board adopted the following order in the matter of **Sarah Kathleen Wallace, Fort Thomas, KY.**
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ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0346)

In The Matter Of:

Sarah Kathleen Wallace
126 Ohio Avenue
Fort Thomas, KY 41075
(Application No. APP-000264449)

INTRODUCTION

The Matter of Sarah Kathleen Wallace came for hearing on December 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; 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.

Sarah Kathleen Wallace was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Sarah Kathleen Wallace—Respondent

Respondent's Witnesses:

1. Amy Wildermuth, RPh
2. Allison McMain-Alcoholics Anonymous Sponsor
3. Sandra Pletz, RPh

State's Exhibits:

- | | |
|---|------------|
| 1. Notice Letter | 08.14.2019 |
| 2. Request for Hearing | 08.18.2019 |
| 3. Scheduling Order | 08.28.2019 |
| 4. Application for Reciprocity | 04.30.2019 |
| 5. Certified Copy of Tennessee Discipline | 07.02.2019 |
| 5a. Consent Order for Reinstatement | 12.10.2018 |
| 5b. Consent Order | 04.12.2017 |
| 6. Statement of Respondent | 06.14.2019 |
| 7. Pharmacy Tech Application | No Date |

Respondent's Exhibits:

- | | |
|--|------------|
| A. Narrative | No Date |
| B. Intensive Outpatient Program-Solutions in Living-Letter/Program Details | 09.11.2018 |
| C. Certificate of Completion | 08.01.2017 |

D. Jarrod Grossman, PharmD, RPh—Executive Director of Pharmacists Rehabilitation Organization (PRO)	11.17.2019
E. Baeteena Black, PHD—Program Director of Tennessee Pharmacy Recovery Network	11.21.2019
F. Penny Nerderman-PRO Advocate	No Date
G. Sandra Pletz, RPh—Pharmacist at Skilled Care Pharmacy Mason, Ohio	No Date
H. Joseph Wittrok, PharmD, Owner/CEO of Lifeline Pharmacy	No Date
I. Jodi Hoffman, PharmD-Pharmacist Manager at Lifeline Pharmacy Hamilton, Ohio	No Date
J. Allison McMain-Alcoholics Anonymous Sponsor	No Date
K. Zac Tample, PharmD-Pharmacist at Lifeline Pharmacy Hamilton, Ohio	11.08.2019
L. Tennessee Pharmacist License	No Date
M. Tennessee Consent Order for Reinstatement-Signed December 7 th 2018	12.07.2018
N. Tennessee Pharmacy Recovery Network Aftercare Contract-Signed December 24 th 2018	12.24.2018
O. Kentucky Pharmacist License-active date September 24 th 2019	No Date
P. Kentucky Professionals Recovery Network-Monitoring Agreement-signed September 17 th 2019	09.16.2019
Q. Continuing Pharmacy Education	11.21.2019
R. Pharmacists Rehabilitation Organization (PRO) Contract-Signed April 6 th 2018	04.06.2018
S. Urine Drug Screen Report-April 2018-current	Various
T. PRO Quarterly Reports-April 2018-current	Various
U. Meeting Sheets-April 2018-current	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 Sarah Kathleen Wallace's NABP application for Transfer of Pharmacist License to the state of Ohio, Sarah Kathleen Wallace answered "Yes" to question 1 that inquired whether she ever voluntarily surrendered her pharmacist license or any pharmacist registration issued by a federal or state controlled substance authority. On the same application, Sarah Kathleen Wallace answered "Yes" to question 2 that inquired whether her pharmacist license in any jurisdiction had ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority.
 - a. On or about April 12, 2017, Sarah Kathleen Wallace voluntarily surrendered her license to practice pharmacy in the state of Tennessee for chemical dependency and substance abuse (license #39637). On or about December 10, 2018, Sarah Kathleen Wallace agreed to terms set forth in a Consent Order for Reinstatement with the Tennessee Board of Pharmacy. As part of the Order, Sarah Kathleen Wallace agreed, in part, to the following terms:
 - i. Sarah Kathleen Wallace's license shall remain revoked until she satisfies all CE requirements, completes the Multi-State Pharmacy Jurisprudence examination, and pays all license renewal fees and penalties.
 - ii. Once the above requirements had been satisfied, Sarah Kathleen Wallace's license would remain on probation for a period of five years during which time she must comply with all terms and conditions as outlined in the December 10, 2018 Order. Case No. 2016051731.
2. Sarah Kathleen Wallace fulfilled the terms required for reinstatement as set forth in the December 10, 2018 Consent Order for Reinstatement. On or about April 3, 2019, Sarah Kathleen Wallace's license to practice pharmacy in the state of Tennessee was reinstated and placed on probation for a term of five years.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Sections 4729.08(B) and 4729.09(B) of the ORC, not of good habits.
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and

- b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of 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 4729.16 (A)(2)(e); and
 - d. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
3. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729:1-4-01 of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy 4729:1-4-01(B)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(k); and
 - d. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the NABP reciprocity application 39637, pending Ohio pharmacist application no. APP-000264449, submitted by Sarah Kathleen Wallace to practice pharmacy in Ohio. Sarah Kathleen Wallace may sit for Reciprocity Hearing within six months of this Order. Upon completion of Reciprocity and confirmation all other licensure requirements have been met, Sarah Kathleen Wallace's license to practice pharmacy in Ohio will issue, subject to a period of probation for five years beginning on the effective date of this Order. Sarah Kathleen Wallace's probationary period is subject to the following conditions:

1. Sarah Kathleen Wallace must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Sarah Kathleen Wallace 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 Sarah Kathleen Wallace in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Sarah Kathleen Wallace 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 Sarah Kathleen Wallace reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Sarah Kathleen Wallace shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Sarah Kathleen Wallace reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Sarah Kathleen Wallace must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Sarah Kathleen Wallace's progress towards recovery and what Sarah Kathleen Wallace has been doing during the previous three months.
6. Other terms of probation are as follows:
 - a. Sarah Kathleen Wallace must meet at least annually with the Board's Probation Committee, the first meeting to be held December 7, 2020.
 - b. The State of Ohio Board of Pharmacy hereby declares that Sarah Kathleen Wallace's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - c. Sarah Kathleen Wallace may not serve as a responsible pharmacist or designated representative at any Board-licensed facility, including medical marijuana dispensaries or home medical equipment providers.
 - d. Sarah Kathleen Wallace may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Sarah Kathleen Wallace may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - f. Sarah Kathleen Wallace must, during the first six months of practice, work only with a pharmacist whose license is in good standing.
 - g. Sarah Kathleen Wallace must not violate the drug laws of Ohio, any other state, or the federal government.

- h. Sarah Kathleen Wallace must abide by the rules of the State of Ohio Board of Pharmacy.
 - i. Sarah Kathleen Wallace must comply with the terms of this Order.
 - j. Sarah Kathleen Wallace's license is deemed not in good standing until successful completion of the probationary period.
7. Sarah Kathleen Wallace must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Sarah Kathleen Wallace to possible additional sanctions, including and up to revocation of license.
8. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Sarah Kathleen Wallace's license.

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

Megan E. Marchal moved for Findings of Fact; Jennifer m. Rudell seconded the motion. Motion passed (Aye-7/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Richard J. Newlon seconded the motion. Motion passed (Aye-7/Nay-0).

Kilee S. Yarosh moved for Decision of the Board; Joshua M. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

12:00 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 **Dongjin Kang, Toledo, Ohio.**

R-2020-0251 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: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

12:53 p.m. The recess ended and the hearing was opened to the public.

R-2020-0252 After votes were taken in public session, the Board adopted the following order in the matter of **Dongjin Kang, Toledo, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0255)

In The Matter Of:

Dongjin Kang, RPh

1215 Elysian Ave

Toledo, OH 43607

(License No. 03-236690)

INTRODUCTION

The Matter of Dongjin Kang came for hearing on December 9, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; 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.

Dongjin Kang was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Dongjin Kang—Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- | | | |
|-----|--------------------------|------------|
| 1a. | Notice Letter | 07.25.2019 |
| 1b. | Confidential Patient Key | 07.25.2019 |
| 2. | Request for Hearing | 07.30.2019 |
| 3. | Scheduling Order | 08.1.2019 |

4.	Telephone Script for Augmentin	11.17.2018
5.	Product Verification	01.24.2019
6.	Soft Stop Warning	01.24.2019
7.	Data Entry Verification	01.24.2019
8.	Patient Profile for Patient #1	01.24.2019
9.	Packaging for Prescription Bottle	11.17.2018
10.	Drug Information for Augmentin	12.20.2018

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 November 17, 2018, while working at CVS Pharmacy #10246, located at 4121 Monroe Street, Toledo, Ohio, Dongjin Kang entered prescription information and dispensed prescription #671344. Prescription #671344 was entered into the pharmacy's software system as "Amoxicillin/Clavulanate 600-42.9 mg/5ml susp, #400ml, Take 15ml by mouth 2 times daily, *discard the remainder* for 10 days". The prescription should have been dispensed to read "Take 1.5ml by mouth 2 times daily". Due to an error Dongjin Kang made when he received the prescription information from the prescriber and calculated the dose, minor-Patient 1 received 10 times the prescribed dose and nearly 3 times the maximum recommended dose for a pediatric patient of similar age and weight. Dongjin Kang also incorrectly entered Patient 1's name and address into the software system.
2. Dongjin Kang failed to perform a proper drug utilization review (DUR) and dispensed 40ml/day of Amoxicillin/Clavulanate when the recommended daily dose was 12ml/day for Patient 1. Dongjin Kang bypassed a high dose warning that was flagged on the pharmacy's DUR software. Overriding the DUR software resulted in ignoring that the prescription was dispensed at a dose ten times higher than necessary for a pediatric patient weighing 31 pounds.
3. After receiving the prescription, Patient 1's mother called the pharmacy to speak with Dongjin Kang about the high dose. Dongjin Kang stated that the dose was correct. Patient 1's mother administered the medication. Patient 1's mother calculated the dose herself and called to speak with Dongjin Kang a second time. Dongjin Kang recalculated the dose and the error was discovered.

4. Patient 1 ingested the medication one time and experienced diarrhea.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact Section constitutes a violation of section 3715.52(A)(2) of the ORC, the adulteration or misbranding of any food, drug, device or cosmetic.
2. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact Section constitutes a violation of section 3715.64(A)(1), Misbranded drug – its labeling is false or misleading in any particular.
3. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact Section constitutes a violation of division of section 3715.64(A)(10)(a) of the ORC, Misbranding: It is a drug and its container is so made, formed, or filled as to be misleading.
4. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact Section constitutes a violation of the following divisions of Section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Engaged in 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 other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC 4729.16(A)(2)(l).
5. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018:
 - a. Engaged in unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - d. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and

- e. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m); and
 - f. Failed to conform to prevailing standards of care of similar pharmacists under the same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729:1-4-01(B)(2)(p).
6. Such conduct as set forth in paragraph (2) of the Findings of Fact Section also constitutes a violation of Rule 4729-5-20(A)(5) of the OAC, prospective drug utilization review.

DECISION OF THE BOARD

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 \$500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

Dongjin Kang 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

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1b., 4, 5, 6, 7, 8, and 9.

Fred M. Weaver moved for Findings of Fact; Megan E. Marchal seconded the motion. Motion passed (Aye-7/Nay-0).

Donald R. Miller moved for Conclusions of Law; Fred M. Weaver seconded the motion. Motion passed (Aye-7/Nay-0).

Megan E. Marchal moved for Decision of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

- 2:01 p.m.** Mr. Garner provided the OARRS Report.
- 1:22 p.m.** Mr. Cathcart presented a policy titled *Release of De-Identified Data & Statistics* to the Board for consideration.
- R-2020-0253** Ms. Rudell moved that the Board approve the *Release of De-Identified Data & Statistics* policy. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7, Nay-0. The following Form was adopted by the Board:

I. PURPOSE OF POLICY

The purpose of this policy is to provide guidance on how the Board of Pharmacy releases de-identified data for research and educational purposes from the Medical Marijuana Patient and Caregiver Registry and Ohio Automated Rx Reporting System (OARRS).

II. RELATED LAWS

ORC 3796.08(B): The board shall not make public any information reported to or collected by the board under this section that identifies or would tend to identify any specific patient.

Information collected by the board pursuant to this section is confidential and not a public record. The board may share identifying information with a licensed retail dispensary for the purpose of confirming that a person has a valid registration. Information that does not identify a person may be released in summary, statistical, or aggregate form.

ORC 4729.80(C): Information contained in the database and any information obtained from it is confidential and is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

OAC 3796:7-2-10: Any document that is a patient record or that contains information that is required to be kept confidential according to any state or federal law, for purposes of the administrative hearing only, may be provided to a representative of record or to a witness in the proceeding, but shall not be disseminated to any other person unless the confidential information is redacted.

OAC 4729-37-10: The Board of Pharmacy may provide or present database statistics and law enforcement outcomes based on a request for information pursuant to section 4729.80 of the Revised Code. The information shall not identify a person and will be provided as determined by the Board of Pharmacy in summary, statistical, or aggregate form.

III. DEFINITIONS

- A. De-Identified Data: Prescription or recommendation level data with identifiers blinded for patients, prescribers, recommenders, dispensaries, and pharmacies.

- B. **Statistics & Aggregate Data:** Data which is compiled at an aggregated level such that individual prescription or recommendation records are not identifiable (e.g., number of prescriptions by county).

IV. DE-IDENTIFIED DATA

- A. **De-identified OARRS data is intended to be used for (bona fide) research projects.**
- B. **De-identified OARRS data is not public record.**
- C. **Researchers not associated with a state agency must submit a research protocol and an Institutional Review Board (IRB) approval.**
- D. **Researchers associated with a state agency must submit a request in writing signed by their agency director.**
- E. **All researchers must sign a Memorandum of Understanding (MOU).**
- F. **Protocols/Requests/MOUs must include:**
 - 1. **The reason for the study and anticipated outcome (e.g., publication or presentation at scientific meetings, etc.).**
 - 2. **Agreement that the use of data is limited to the research project terms. If data is to be re-used, another approval is requested.**
 - 3. **Agreement that the data cannot be transferred/shared with anyone outside of the specific research project for which it is approved.**
 - 4. **Agreement that research results will be reported to the Board of Pharmacy and that the Board of Pharmacy may use the results for Board related purposes (e.g., reports to legislature).**
 - 5. **Research results may be published with prior approval of the Director of OARRS; however, de-identified data as received from the State Board of Pharmacy may not be released as part of the publication.**
- G. **De-identified data will be released in standard, quarterly data files. Custom de-identified files will not be generated, without prior approval of the OARRS Administrator in consultation with the Director of Information Services.**

V. STATISTICS AND AGGREGATE DATA

- A. **Director of OARRS will develop a process for validating statistics and aggregate data.**
- B. **All statistics and aggregate data will be validated using the validating process.**

- C. Requests for Medical Marijuana dispensation data will not include dispensation information regarding traditional pharmaceuticals.
- D. Preliminary statistics and aggregate data may be released to Board of Pharmacy employees or other state agencies with a notice that emphasizes the data has not been validated and should not be used in any publication, speech, presentation, or otherwise publicly released. An estimated timeframe for validation of the data shall be included.
1. Any electronically transmitted or printed materials containing preliminary statistics or aggregate data must be accompanied by the following verbiage, printed in red, bold typeface in a conspicuous manner: **This document contains preliminary OARRS statistics or aggregate data. This data has not been verified for accuracy and is subject to revision. The data has not received final approval by the Director of OARRS and is provided on the condition that it is used for discussion purposes only and shall not be otherwise publicly released.**
- E. Director of OARRS will develop a process for organizing and storing statistics and aggregate data. This process shall include an index, description of the data, validation status of the data, requests for the data, or description of where the data has been published (e.g., OARRS/Board of Pharmacy webpage), and methods for reproducing the data (e.g., queries and Tableau workbooks). Requests will be handled in the following manner:
1. Requests for OARRS Statistics or aggregate data will be made using a Board of Pharmacy Request Form.
 2. Requests may be made by Board of Pharmacy staff, other state agencies, or the public.
 3. Requests from the public are limited to existing validated data. Requests for new statistics or aggregate data may not be accepted from the public.
 4. Prior to releasing statistics or aggregate data, staff shall validate that no unit of data provided represents fewer than five patients, prescribers, or pharmacies. In the event that a unit of data does represent fewer than five patients, prescribers, or pharmacies, values may be redacted, or the data may be represented in larger groupings.
 5. Timeframes for data will be no less than one month. Data shall be grouped in standard years, months, or quarters.
 6. Drugs will be identified by generic name only. Specific brands will not be identified.
 7. Requests for new statistics must be requested a minimum of ten business days in advance. Staff will notify requestor as soon as it is determined whether additional time is needed to fulfill the request.
 8. Upon receiving a request, staff will research existing verified data to determine if any can be used as-is or whether modifications are required to fulfill the request.
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- 2:13 p.m.** Mr. Griffin provided the Compliance Report.
- 2:18 p.m.** Ms. Southard provided the Licensing Report.
- 2:24 p.m.** Ms. Dehner and Ms. Southard provided an update on the State of Ohio Board of Pharmacy's effort to educate institutions and educational agencies on FERPA's Health and Safety Exception.
- 2:30 p.m.** Ms. Reed provided the Medical Marijuana Program Update.
- 2:41 p.m.** Ms. Reed led a discussion on the Medical Marijuana Control Program's licensing refunds.
- 2:43 p.m.** Ms. Ghitman presented proposed updates to the Pharmacy Tech Training Program's current standard of: Standard 2.1.b.(2) Current: have at least 5 years of experience in pharmacy practice (or practice as a technician) prior to entering the position.
- R-2020-0254** Mr. Cox moved that the Board update the Pharmacy Tech Training Program's current standard. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0. The following standard was adopted by the Board:

Prior to entering the position, have at least 5 years of experience actively engaged in the duties of a pharmacist or technician in a state-licensed or federal (i.e. military base or VA) pharmacy. Experience earned as a pharmacy intern will be accepted.

- 2:47 p.m.** Ms. Southard presented updates to the resolution titled *Refund Policy* to the Board for approval.
- R-2020-0255** Mr. Weaver moved that the Board approve the updated *Refund Policy*. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0. The following policy was adopted by the Board:

REFUND POLICY

(As adopted 5/6/2014 [R-2014-213] and amended 10/3/2016 [R-2016-027])

All refunds must be requested by the applicant using the Refund Request Form within 30 days of the date payment was received by the Board. The Board may choose to not require a formal

request to be submitted when known technical errors have occurred with licensing and/or payment systems.

All fees for medical marijuana dispensary and employee licenses and medical marijuana patient and caregiver registrations are non-refundable pursuant to OAC 3796. The Board may grant refunds to applicants when known technical errors have occurred with licensing and/or payment systems.

This policy applies to the following license/registration types:

- Pharmacist
- Pharmacy Intern
- Pharmacy Technician
- Terminal Distributor of Dangerous Drugs
- Drug Distributor (Manufacturer, Outsourcing Facility, Repackager, Third-Party Logistics Provider, Wholesaler)
- Home Medical Equipment Services Provider

Additionally, this policy applies to the following application types:

- Initial
- Renewal
- Reinstatement
- Change in Business Description* (change of address, ownership, name, and/or category)

Fees received by the Board for maintenance requests (e.g. license verifications, exam reapproval, and duplicate wall certificate, etc.) are non-refundable.

<i>Conditions</i>	<i>Refund Granted?</i>
Duplicate application submitted.	Yes
Applicant submitted application for incorrect license/registration type, applicant identifies error and application has not yet been reviewed by the Board.	Yes
Application submitted and Board determines applicant fails to qualify for licensure/registration.	No
Board determines a lesser category of license is required than requested by the applicant.*	No
Application has been processed and issued (Status = Active).	No

**Applies to Terminal Distributors and Drug Distributors only.*

2:52 p.m. Ms. Southard presented the following resolution to the Board for approval: *Responsible Person Requirements for Licensure*.

R-2020-0256 Mr. Miller moved that the Board approve *Responsible Person Requirements for Licensure*. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0. The following resolution was adopted by the Board:

RESPONSIBLE PERSON REQUIREMENTS FOR LICENSURE

Updated 12/9/2019

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, December 9, 2019, the Board hereby adopts the following responsible person requirements:

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

RT	Clinical Trials	DO, MD, DVM, OD, DDS	OD must provide therapeutic #
SC	Sports Training Facility	DO, MD, APRN	
UR	Urgent Care + Convenience Care Clinic	DO, MD, APRN	

TERMINAL - CLINIC - SOLE PRACTITIONER/DENTIST

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

TERMINAL - EMS - LIMITED

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

TERMINAL - FACILITY - UNLIMITED

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

TERMINAL - FACILITY - VETERINARY MEDICINE

Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
VT	Veterinary Practice, Zoo, Veterinary Hospital	DVM	

TERMINAL - FACILITY - LIMITED

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

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

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

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

TERMINAL - OPIOID TREATMENT PROGRAM

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

TERMINAL - OFFICE-BASED OPIOID TREATMENT

Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
OBOT	Office-Based Opioid Treatment Facility	DO, MD, APRN	*Category III only. Required background check on Owners, RP and employees.

TERMINAL - PAIN MANAGEMENT CLINIC

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

TERMINAL - PHARMACY - UNLIMITED

Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
CF	Central Fill Pharmacy	RPH	
CH	Charitable Pharmacy	RPH	Must provide Tax Exempt paperwork
CP	Clinic Pharmacy	RPH	
DM	Durable Medical Equipment	RPH	

DR	Drug Repository	RPH	Must provide Tax Exempt paperwork
FL	Fluid Therapy	RPH	
HS	Hospital	RPH	
II	Independent Community Retail (1 Outlet)	RPH	
IL	Large Chain Retail (12+ Outlets)	RPH	
IP	Pharmacy Servicing Institutions	RPH	*May included Mental Health Pharmacies & Nursing Home Inpatient Pharmacies
IS	Small Chain Retail (2-11 Outlets)	RPH	
KI	Kiosk	RPH	
MD	Multi-Disciplinary	RPH	**MAY INCLUDE COMPOUNDING
MO	Mail Order Pharmacy	RPH	
NU	Nuclear Pharmacy	RPH	
ONC	Oncology Pharmacy	RPH	
SP	Specialty Pharmacy - High \$ Drugs	RPH	**MAY INCLUDE COMPOUNDING

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

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

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

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

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

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

WHOLESALER			
Business Type	Business Type Definition	Approved Credentials for Responsible Person	Special Requirements
BC	Bulk Pharmaceutical Chemical Seller	Management	
BG	Buying Group - A group of Wholesalers/Stores that leverage for better pricing	Management	
BR	Broker	Management	If out of state, must have licensure from home state.
CM	Compressed Medical Gases	Management	
CN	Clinic Wholesaler: Blood Banks, Health Departments	Management	
DM	Durable Medical Equipment	Management	Home Medical Equipment license/registration if applicable (ORC 4752)
FS	Full Service	Management	
IE	Import/Export - importing drugs from in/out of the country	Management	
LA	Laboratory	Management	
PM	Pre-Packaged Meds	Management	FDA repackaging registration
PU	Public Health Preparedness	Management	
SD	Samples Distributor	Management	

VW	Virtual Wholesaler- NO DRUGS ONSITE	Management	If out of state, must have licensure from home state or VAWD Accreditation.
WD	Waste Disposal/Reverse Distributor	Management	Must provide DEA & EPA registration

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- 2:55 p.m.** Ms. Southard presented the Non-Physician Owner Request of the Columbus Suboxone Doctors (App-000300446) to the Board for consideration.
- R-2020-0257** Ms. Marchal moved that the Board approve the Non-Physician Owner Request of the Columbus Suboxone Doctors. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.
- 2:57 p.m.** Ms. Southard presented Chelsea Liebowitz's request for an extension of time to take the MPJE to the Board for consideration.
- R-2020-0258** Mr. Weaver moved that the Board deny Chelsea Liebowitz's request. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0.
- 3:18 p.m.** The Board recessed for a break.
- 3:34 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-5-19—Central Fill Pharmacies, 4729: 5-9-19—Central Fill Pharmacies, 4729: 5-3-17—Automated Pharmacy Systems, 4729: 5-3-18—Dangerous Drug Recall Procedures, 4729:5-9-20—Remote Medication Order Processing, 4729: 5-5-20—Remote Outpatient Prescription Processing, and 4729: 5-4-02—Duty to Report.
- Joshua M. Cox; RPh, absent.
- R-2020-0259** Mr. Weaver moved that the Board approve revisions to rules 4729:5-5-19—Central Fill Pharmacies, 4729: 5-9-19—Central Fill Pharmacies, 4729: 5-3-17—Automated Pharmacy Systems, 4729: 5-3-18—Dangerous Drug Recall Procedures, 4729:5-9-20—Remote Medication Order Processing, 4729: 5-5-20—Remote Outpatient Prescription Processing, and 4729: 5-4-02—Duty to Report for filing with CSI. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- 4:29 p.m.** The Board recessed for the day.
- Tuesday, December 10, 2019**
- 9:05 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*; Joshua M. Cox, RPh; 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.

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*.

9:06 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 **Christopher Jaroscak, Avon Lake, Ohio.**

R-2020-0260 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: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

2:27 a.m. The recess ended and the hearing was opened to the public.

R-2020-0261 After votes were taken in public session, the Board adopted the following order in the matter of **Christopher Jaroscak, Avon Lake, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(M-2019-0081)

In The Matter Of:

Christopher Jaroscak, R.Ph.

317 Belmar Boulevard
Avon Lake, Ohio 44012
(License No. 03-328743)
(License No. MME.05200155)

INTRODUCTION

The Matter of Christopher Jaroscak came for hearing on December 10, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Joshua M. Cox, RPh; Rich D. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Christopher Jaroscak was represented by Richard D. Noble. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Christopher Jaroscak, R.Ph
2. Thomas Williams

Respondent's Witnesses:

1. Christopher Jaroscak, R.Ph

State's Exhibits:

- 1a. Summary Suspension/Notice of Opportunity for Hearing
- 1b. Identifier Key
2. Request for Hearing
3. Notice of Hearing
4. Written Statement, Christopher Jaroscak, dated July 17, 2019
5. Written Statement, Individual #1, dated July 17, 2019
6. Written Statement, Individual #4, dated July 19, 2019
7. Inventory Record; Property Impound Report; Chain of Custody
8. Photographs (14 photographs total)
9. Lab Results
10. Lab Results

Respondent's Exhibits:

- A. Curriculum Vitae, Christopher Jaroscak
- B. The Landings Family & Psychological Center Report, dated August 23, 2019
- C. Dr. Jose Mendoza records
- D. Dr. Alison Flowers records
- E. Dr. Alison Flowers Report, dated December 5, 2019
- F. 12-Step Attendance Records
- G. In-House Drug Screen Results Form, dated August 1, 2019 and December 2, 2019
- H. Letters of Reference

I. Christopher Jaroscak's Memorandum to the Ohio Board of Pharmacy

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. Christopher Jaroscak, while employed as a medical marijuana employee of The Botanist, located at 3840 Greentree Avenue SW #4, Canton, Ohio ("The Botanist dispensary"), he provided four employees of The Botanist with homemade edible products containing Tetrahydrocannabinol (THC) and/or Hashish that were manufactured at his residence. Christopher Jaroscak told a Board Agent he provided these products to some people for free and sold the products to others. Christopher Jaroscak provided the products while on The Botanist dispensary premises.
2. Christopher Jaroscak sold THC/Hashish vaporizer cartridges that were not lawful medical marijuana products to Individual #4.
3. On or about July 17, 2019, a Board Agent confiscated a vaporizer cartridge containing Hashish in liquid form. The cartridge was found inside Christopher Jaroscak's backpack located inside The Botanist dispensary.
4. Christopher Jaroscak was interviewed by a Board Agent and stated the following:
 - a. Christopher Jaroscak provided Individual #1 with one black plastic container of edible THC/Hashish "gummies." This incident likely occurred on July 3, 2019.
 - b. Christopher Jaroscak had a THC/Hashish vaporizer cartridge and vaporizing device in his belongings at The Botanist dispensary.
 - c. Christopher Jaroscak admitted to using marijuana to relieve anxiety, but was not a registered medical marijuana patient.
 - d. Christopher Jaroscak manufactured THC/Hashish products at his residence, at night after his children went to bed. Christopher Jaroscak stated the process of manufacturing THC/Hashish products made his residence smell of marijuana.
 - e. Christopher Jaroscak ordered manufacturing supplies from the internet.
 - f. Christopher Jaroscak admitted to providing products containing THC/Hashish to employees of The Botanist dispensary.
5. On or about July 22, 2019, a Board Agent confiscated the following items from your residence:

- a. Mason jar;
- b. Glass beakers;
- c. Silicone gummy bear molds;
- d. Marijuana – plant material;
- e. Manufactured finished products containing THC;
- f. Packaging materials;
- g. Drug paraphernalia including bowls, pipes, digital scales, and grinders.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1), (4)(d), (4)(e), and (5) of the Findings of Fact Section each constitutes a violation of Section 2925.04 of the O.R.C., illegal cultivation of marihuana, committed in the vicinity of a juvenile.
2. Such conduct as set forth in paragraphs (1), (4)(d) and (5) of the Findings of Fact Section constitutes a violation of Section 2919.22(B)(6) of the O.R.C., endangering children.
3. Such conduct as set forth in paragraphs (1), (2), (4)(a), and (4)(f) of the Findings of Fact Section constitutes a violation of Section 2925.03 of the O.R.C., trafficking in marihuana and/or trafficking in hashish, each a schedule I controlled substance.
4. Such conduct as set forth in paragraphs (1), (2), (3), (4)(a), (4)(b), (4)(c), (4)(d), and (4)(f) of the Findings of Fact Section constitutes a violation of Section 2925.11 of the O.R.C., possession of controlled substances (THC and/or hashish), each a schedule I controlled substance.
5. Such conduct as set forth in paragraphs (4)(e) and (5) of the Findings of Fact Section constitutes a violation of Section 2925.14(C) of the O.R.C., illegal use or possession of drug paraphernalia.
6. Such conduct as set forth in paragraphs (3), (4)(a), (4)(e) and (5) of the Findings of Fact Section constitutes a violation of Section 2925.141(C) of the O.R.C., illegal use or possession of marihuana (aka marijuana) drug paraphernalia.

7. Such conduct as set forth in paragraph (5)(d) of the Findings of Fact Section constitutes a violation of Section 2925.11, possession of Marihuana (aka marijuana), a schedule I controlled substance.
8. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of Ohio Adm.Code 3796:6-4-03:
 - a. Christopher Jaroscak violated any state or federal law or rule, regardless of jurisdiction in which acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violation such as failure to obey a red light, failure to use a turn signal or expired registration, Ohio Adm.Code 3796:6-4-03(A)(1); and
 - b. Christopher Jaroscak demonstrated an absence of good moral character or habits, Ohio Adm.Code 3796:6-4-03(A)(3); and
 - c. Christopher Jaroscak is guilty of dishonest or unprofessional conduct over the course of his dispensary duties, Ohio Adm.Code 3796:6-4-03(A)(4); and
 - d. Christopher Jaroscak violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 2925., 3715., 3719., or 4729. of the Revised Code, or of any rule adopted by the Board under those provisions, Ohio Adm.Code 3796:6-4-03(A)(7); and
 - e. Christopher Jaroscak engaged in a pattern of conduct that causes harm to the community, Ohio Adm.Code 3796:6-4-03(A)(36); and
 - f. Christopher Jaroscak engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under Chapter 3796. of the Revised Code or this division, Ohio Adm.Code 3796:6-4-03(46).
9. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.08(B) of the O.R.C., not of good moral character and habits.
10. 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 O.R.C. effective as of April 8, 2019:

- a. Christopher Jaroscak engaged in dishonesty or unprofessional conduct in the practice of pharmacy, O.R.C. 4729.16(A)(2)(b); and
 - b. Christopher Jaroscak violated, conspired to violate, attempted to violate, or aided and abetted the violation of 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, O.R.C. 4729.16(A)(2)(e); and
 - c. Christopher Jaroscak engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.96 of the Revised Code, O.R.C. 4729.16(A)(2)(l).
11. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Ohio Adm.Code 4729:1-4-01(B)(2) as effective May 1, 2018:
- a. Christopher Jaroscak engaged in dishonesty or unprofessional conduct in the practice of pharmacy, Ohio Adm.Code 4729:1-4-01(B)(2)(b); and
 - b. Christopher Jaroscak 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, section 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, Ohio Adm.Code 4729:1-4-01(B)(2)(e); and
 - c. Christopher Jaroscak 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, Ohio Adm.Code 4729:1-4-01(B)(2)(l); and
 - d. Christopher Jaroscak violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations, Ohio Adm.Code 4729:-4-01(B)(2)(m).

The Board finds insufficient evidence to sustain the paragraphs (8)(e) and (8)(g) as set forth in the Potential Violations of Law section in the Summary Suspension/Notice of Opportunity for Hearing.

DECISION OF THE BOARD

Pursuant to Sections 4729.16 and 3796.14(B) of the Ohio Revised Code, and pursuant to Sections 4729-9-01(E) and 3796:6-1-01(K) 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 Christopher Jaroscak as follows:

On the basis of Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and sections (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and sections (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and sections (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and sections (7) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (8) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and

Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (9) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (10) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

On the basis of Findings of Fact and section (11) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-328743, and Medical Marijuana Employee license, No. MME.05200155, held by Christopher Jaroscak effective as of the date of the mailing of this Order.

Further, the Board hereby grants the State's Motion to Seal the Record, specifically State's Exhibits 1b, 5, and 6.

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

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

Mr. Newlon moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-6/Nay-1).

SO ORDERED.

2:32 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 **Brian K. Alfredo, Stow, Ohio.**

R-2020-0262 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. Cox and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

4:09 p.m. The recess ended and the hearing was opened to the public.

R-2020-0263 After votes were taken in public session, the Board adopted the following order in the matter of **Brian K. Alfredo, Stow, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0234)

In The Matter Of:

Brian K. Alfredo

2006 Hidden Lake Dr., Apt. D

Stow, OH 44224

(License no. 06-014585)

INTRODUCTION

The Matter of Brian K. Alfredo came for hearing on December 10, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; 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.

Brian K. Alfredo was represented by Brandon M. Smith. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Brian K. Alfredo—Respondent

Respondent's Witnesses:

1. Brian K. Alfredo—Respondent

State's Exhibits:

- | | |
|---|--|
| 1. Notice Letter | 07.15.2019 |
| 2. Request for Hearing | 08.06.2019 |
| 3. Scheduling Order | 08.13.2019 |
| 4. Statement of Respondent | 02.07.2019 |
| 5a. Allegation 1a— [REDACTED] | [REDACTED] |

5b. Allegation 2b—	[REDACTED]	[REDACTED]
5c. Allegation 1a—	[REDACTED]	[REDACTED]
6a. Allegation 1b—Stow Municipal Court (OVI) Charging Document		09.07.2018
6b. Allegation 1b—Stow Municipal Court (OVI) BAC Report		09.07.2018
6c. Allegation 1b—Stow Municipal Court (OVI)—Guilty Plea		11.06.2018
6d. Allegation 1b—Stow Municipal Court (OVI)—Jail Sentence		12.10.2018
6e. Allegation 1b—Stow Municipal Court (OVI)—Docket		Various
7a. Allegation 1c—S	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
7b. Allegation 1c—	[REDACTED]	[REDACTED]
7c. Allegation 1c—	[REDACTED]	[REDACTED]
8a. Allegation 1d—	[REDACTED]	[REDACTED]
8b. Allegation 1d—	[REDACTED]	[REDACTED]

Respondent's Exhibits:

A. CV of Brian Alfredo	No Date
B. Certificate of Completion from Glenbeigh IOP	12.05.2018
C. Letters from Glenbeigh (4)	02.01.2019
D. Urine Drug Screen Results (17)	Various
E. Letter from Community Control Officer	10.03.2019
F. Preceptor Evaluations (5)	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 February 7, 2019, Brian K. Alfredo submitted to the Board a voluntary disclosure of criminal conduct that occurred between September 4, 2018 and October 20, 2018. Brian K. Alfredo disclosed the following incidents:

a.

[REDACTED]

[REDACTED]

b. On or about September 7, 2018, Brian K. Alfredo was arrested and charged with operating a motor vehicle under the influence of drugs and/or alcohol (OVI), a misdemeanor of the first degree. On or about November 6, 2018, Brian K. Alfredo plead guilty to OVI. Brian K. Alfredo was sentenced to serve three days in jail, pay court costs/fine in the amount of \$1,395, and successfully complete a treatment program at Glenbeigh Addiction Treatment Center. Brian K. Alfredo’s driver’s license was suspended for one year. Brian K. Alfredo reported that his blood alcohol content was .257 at the time of arrest and he was transported to the hospital due to your level of intoxication. *State v. Brian Alfredo, 2018-TRC-08599.*

c. [REDACTED]

d. [REDACTED]

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of Section 4729.08(B) of the ORC, not of good habits.
2. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2018:
 - a. Is addicted to or abusing alcohol or is impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); 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).
 - 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).
 3. Such conduct as set forth in the Findings of Fact Section, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018:
 - a. Is addicted to or abusing alcohol or is impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - c. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby allows Brian K. Alfredo to practice pharmacy as an intern in Ohio subject to a period of probation for five years beginning on the effective date of this Order. Upon successful passage of all licensure exams and completion of all requirements to obtain a license to practice pharmacy in Ohio, Brian K. Alfredo's license to practice pharmacy shall issue without appearing before the Board. The remainder of the probationary period will transfer to Brian K. Alfredo's pharmacist license. Brian K Alfredo's probationary period is subject to the following conditions:

1. Brian K. Alfredo must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Brian K. Alfredo 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 Brian K. Alfredo in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
 3. Brian K. Alfredo 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 Brian K. Alfredo reappear before the Board for possible additional sanctions, including and up to revocation of license.
 4. Brian K. Alfredo shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Brian K. Alfredo reappear before the Board for possible additional sanctions, including and up to revocation of license.

5. Brian K. Alfredo must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Brian K. Alfredo's progress towards recovery and what Brian K. Alfredo has been doing during the previous three months.
6. Other terms of probation are as follows:
 - a. Brian K. Alfredo must meet at least annually with the Board's Probation Committee, unless otherwise determined by the Board or its probation committee. The first meeting to be held **December 7, 2020**.
 - b. The State of Ohio Board of Pharmacy hereby declares that, upon conversion of his intern license to an Ohio pharmacist license, Brian K. Alfredo's pharmacist license will not be in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - c. Upon conversion of his intern license to an Ohio pharmacist license, Brian K. Alfredo may not serve as a responsible pharmacist or designated representative at any Board-licensed facility, including medical marijuana dispensaries or home medical equipment providers.
 - d. Upon conversion of his intern license to an Ohio pharmacist license, Brian K. Alfredo may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Brian K. Alfredo may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period, either as an intern or as a pharmacist.
 - f. Brian K. Alfredo must not violate the drug laws of Ohio, any other state, or the federal government.
 - g. Brian K. Alfredo must abide by the rules of the State of Ohio Board of Pharmacy.
 - h. Brian K. Alfredo must comply with the terms of this Order.
 - i. Brian K. Alfredo's license is deemed not in good standing until successful completion of the probationary period.

7. Brian K. Alfredo must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Brian K. Alfredo to possible additional sanctions, including and up to revocation of license.
8. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Brian K. Alfredo's license.

Jennifer M. Rudell moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-7/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Richard J. Newlon seconded the motion. Motion passed (Aye-7/Nay-0).

Donald R. Miller moved for The Decision of the Board; Fred M. Weaver seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED

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- R-2020-0264** Ms. Rudell moved that the Probation Committee Minutes of November 4, 2019 be approved as written. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7, Nay-0.
- R-2020-0265** Ms. Marchal moved that the November 4-6, 2019 Meeting Minutes be approved as written. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7, Nay-0.
- R-2020-0266** Ms. Marchal moved that the November 15, 2019 Conference Call Minutes be approved as written. The motion was seconded by Mr. Newlon and approved by the Board: Aye-7, Nay-0.
- R-2020-0267** Mr. Newlon moved that the November 19, 2019 Conference Call Minutes be approved as written. The motion was seconded by Mr. Cox and approved by the Board: Aye-7, Nay-0.
- R-2020-0268** Mr. Cox moved that the November 26, 2019 Conference Call Minutes be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2020-0269** Mr. Newlon moved that the December 3, 2019 Conference Call Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
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R-2020-0270 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING

PERMANENT SURRENDER

(Case No. 2013-1283)

In The Matter Of:

MICHAEL D. BAHMER, R.Ph.

25323 State Route 621

Coshocton, Ohio 43812

(R.Ph. Number 03-3-21660)

This Settlement Agreement is entered into by and between Michael D. Bahmer and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Michael D. Bahmer enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudication hearing on the issues contained herein.

Michael D. Bahmer is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Michael D. Bahmer's license to practice pharmacy in the State of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) Records of the Board of Pharmacy indicate that Michael D. Bahmer was originally licensed in the state of Ohio on July 30, 1996, pursuant to examination, and his license to practice pharmacy in the state of Ohio lapsed on September 15, 2013; however, Michael D. Bahmer applied for renewal on or about September 11, 2013.
- (B) Michael D. Bahmer was, on or about August 26, 2013, found guilty of a felony or gross immorality, to wit: On August 26, 2013, Michael D. Bahmer pled guilty to one count of Pandering Sexually Oriented Material Involving A Minor, a Felony of the Second Degree, in violation of Section 2907.322(A)(1) of the Ohio Revised Code. State of Ohio vs. Michael D. Bahmer, 13 CR 0049. Such conduct constitutes being convicted of a felony; and/or not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.

- (C) Michael D. Bahmer was, on or about August 26, 2013, found guilty of a felony or gross immorality, to wit: On August 26, 2013, Michael D. Bahmer pled guilty to five counts of Pandering Sexually Oriented Material Involving A Minor, Felonies of the Fourth Degree, in violation of Section 2907.322(A)(5) of the Ohio Revised Code. State of Ohio vs. Michael D. Bahmer, 13 CR 0049. Such conduct constitutes being convicted of a felony; and/or not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (D) Michael D. Bahmer was, on or about August 26, 2013, found guilty of a felony or gross immorality, to wit: On August 26, 2013, Michael D. Bahmer pled guilty to one count of Sexual Battery, a Felony of the Third Degree, in violation of Section 2907.03(A)(7) of the Ohio Revised Code. State of Ohio vs. Michael D. Bahmer, 13 CR 0049. Such conduct constitutes being convicted of a felony; and/or not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (E) Michael D. Bahmer was, on or about August 26, 2013, found guilty of seven felony counts of sex offenses: to wit, Michael D. Bahmer pled guilty to six counts of Pandering Sexually Oriented Material Involving A Minor, Felonies of the Second and Fourth Degrees, and one count of Sexual Battery, a Felony of the Third Degree, in the case of State of Ohio vs. Michael D. Bahmer, 13 CR 0049. Pursuant to 2950 of the Ohio Revised Code, because of the nature of Michael D. Bahmer's felony convictions, Michael D. Bahmer is subject to lifetime registration as a Tier III sex offender. Such registration imposes restrictions on his location of residence, community notification of his registration and limitation on his access to children. All such restrictions negatively impact the practice of pharmacy. Such conduct constitutes being convicted of a felony; and/or not being of good moral character and habits within the meaning of Rule 4729-5-04 of the Ohio Administrative Code.
- (F) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (G) Michael D. Bahmer neither admits nor denies the allegations pending in the Board's investigation; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates same.
- (H) Michael D. Bahmer acknowledges that he has been made aware of the investigation and has not failed to cooperate in said investigation. Michael D. Bahmer further acknowledges that he has not been promised or given anything to indicate that the State of Ohio will not proceed with criminal charges; that criminal charges may be or may have been filed pursuant to the discretion of the appropriate prosecuting attorney and/or grand jury. The

execution of this agreement does not affect, and is not affected by, any such criminal proceedings.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of holding a 119. hearing at this time, Michael D. Bahmer knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING.** Pursuant to Rule 4729-9-01(F),

Michael D. Bahmer may not be employed by, or work in, any facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs.

Michael D. Bahmer acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner.

Michael D. Bahmer waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Michael D. Bahmer waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

Michael D. Bahmer must return the identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Agreement unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the date of the Board President's signature below.

R-2020-0271 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. A-2019-0343
*Permanently withdrawn APP-000187817***

Jeanette Sue Weigel
21439 Forst Rd.
Bowling Green, OH 43402

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 Jeanette Weigel, for the purpose of resolving all issues between the parties relating to the application, including criminal history and prior Ohio Board of Nursing discipline, for registration as a pharmacy technician trainee. Together, the Board and Jeanette Weigel 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 license issued pursuant to Sections 4729.90 of the Ohio Revised Code to perform the duties of a pharmacy technician trainee in the state of Ohio.
2. On or about August 27, 2018, Jeanette Sue Weigel submitted an application for registration as a pharmacy technician trainee in the state of Ohio under application number APP-000187817.

FACTS

1. On or about August 27, 2018, the Board initiated an investigation of Jeanette Weigel, pharmacy technician trainee applicant, application number APP-000187817, related to Jeanette Weigel’s application for registration as a pharmacy technician trainee which includes documentation of criminal history and prior Ohio Board of Nursing discipline.
2. On or about August 14, 2019, the Board sent a Notice of Opportunity for Hearing to Jeanette Weigel, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
3. On or about August 19, 2019, the Board timely received a request for a hearing in this matter.

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

TERMS

NOW WHEREFORE, in consideration of the mutual promises wherein 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. Jeanette Weigel neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 14, 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. **JEANETTE WEIGEL PERMANENTLY AND VOLUNTARILY WITHDRAWS HER APPLICATION AS A CERTIFIED PHARMACY TECHNICIAN TRAINEE, APPLICATION NO. APP-000187817, WITH DISCIPLINE PENDING.**
4. **Jeanette Weigel agrees to never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.**
5. Jeanette Weigel agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Jeanette Weigel understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Jeanette Weigel 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. Jeanette Weigel 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.

R-2020-0272 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0051**

**Patrick Caruso, RPh
License No. 03-120539
8437 Tennyson Court
West Chester, Ohio 45069**

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 Patrick Caruso for the purpose of resolving all issues between the parties relating to the Board investigation of Patrick Caruso's failure to complete continuing education units. Together, the Board and Patrick Caruso 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. Patrick Caruso is an Ohio-licensed pharmacist under license number 03-120539.

FACTS

1. The Board initiated an investigation of Patrick Caruso, pharmacist license number 03-120539, related to Patrick Caruso's failure to complete continuing education units
2. On or about June 11, 2019 the Board sent a Notice of Opportunity for Hearing to Patrick Caruso, 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. Patrick Caruso 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. Patrick Caruso agrees to pay the Board a monetary penalty in the amount of \$500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
 4. Patrick Caruso agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 5. Patrick Caruso understands that he has the right to be represented by counsel for review and execution of this agreement.
 6. Patrick Caruso 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. Patrick Caruso 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.
-

R-2020-0273 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. A-2018-0117**

Scarborough's Medical Arts Pharmacy
License No. 02-0114850
c/o Stanley Shaw Scarborough
1809 South Main Street
Findlay, OH 45840

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 Scarborough's Medical Arts Pharmacy (Scarborough's), for the purpose of resolving all issues between the parties relating to the Board investigation of significant sterile compounding violations, which resulted in Scarborough's temporarily ceasing all sterile compounding performed at the pharmacy. Together, the Board and Scarborough's 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. Scarborough's is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0114850.

FACTS

1. On or about July 26, 2017, the Board initiated an investigation of Scarborough's, Terminal Distributor of Dangerous Drugs license number 02-0114850, related to Scarborough's significant sterile compounding violations, which resulted in Scarborough's temporarily ceasing all sterile compounding performed at the pharmacy.
2. On or about August 14, 2019 the Board sent a Notice of Opportunity for Hearing to Scarborough's, 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. Scarbrough's timely requested an administrative hearing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Scarbrough's neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 14, 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. Scarbrough's agrees to pay to the Board a monetary penalty the amount of \$5,000.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Scarbrough's 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. Scarbrough's 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 Scarbrough's 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 Scarbrough's by the Board and will NOT discharge Scarbrough's from any obligation under the terms of this Agreement.
6. Scarbrough's agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Scarbrough's 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 Scarbrough's will operate.
9. Scarbrough's waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraws its request for a hearing 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.

R-2020-0274 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0151**

**Phillip Broerman, RPh
License No. 03-218165
5746 Long Valley Drive
Liberty Township 45011**

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 Phillip Broerman, RPh for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing. Together, the Board and Phillip Broerman 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. Phillip Broerman is an Ohio-licensed pharmacist under license number 03-218165.

FACTS

1. On or about March 12, 2018, the Board initiated an investigation of Phillip Broerman, pharmacist license number 03-218165, related to Phillip Broerman's error in dispensing on or about February 21, 2018.
2. On or about October 30, 2019 the Board sent a Notice of Opportunity for Hearing to Phillip Broerman, 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. Phillip Broerman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 30, 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. Phillip Broerman agrees to pay to the OSBP the amount of \$500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
 4. Phillip Broerman agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 5. Phillip Broerman understands that he has the right to be represented by counsel for review and execution of this agreement.
 6. Phillip Broerman 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. Phillip Broerman 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.
-

R-2020-0275 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0094**

**Tammy Brookman, R.Ph.
License No. 03-318763
2001 Trentwood Circle
Dayton, OH 45459**

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 Tammy Brookman, for the purpose of resolving all issues between the parties relating to the Board investigation of theft of drugs from the Kindred Hospital. Together, the Board and Tammy Brookman 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. Tammy Brookman, R.Ph. is an Ohio-licensed pharmacist under license number 03-318763.

FACTS

1. On or about November 6, 2018, the Board initiated an investigation of Tammy Brookman, pharmacist license number 03-318763, related to Tammy Brookman’s theft of dangerous drugs Prednisone and Tizanidine from the Kindred Hospital, located at 707 Edwin C. Moses Boulevard, Dayton, OH 45417, between the dates of March 1, 2018 and November 6, 2018.
2. On or about June 13, 2019, the Board sent a Notice of Opportunity for Hearing to Tammy Brookman, 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 June 28, 2018, Tammy Brookman requested a hearing, which was subsequently scheduled for November 6, 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. Tammy Brookman 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. Tammy Brookman agrees to a suspension of her pharmacist license for a period of 30 days, to begin on the first day following the effective date of this Agreement. Tammy Brookman may not be employed by or work in any facility licensed to possess or distribute dangerous drugs during the period of suspension.
4. Tammy Brookman agrees to pay to the Board a monetary penalty in the amount of \$5,000, to be paid in six (6) monthly installments. This fine will be attached to your license record and must be paid no later than 180 days from the effective date of this Agreement. For each monthly installment, you must submit the attached "Monetary Penalty Payment Submittal Form" and payment by personal check, certified check, or money order made payable to "Ohio Treasurer of State." Payment and form should be mailed to the State of Ohio Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.
5. Tammy Brookman must obtain, within 180 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in ethics and six hours of approved continuing pharmacy education (0.6 CEUs) in law, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
6. Tammy Brookman agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Tammy Brookman understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Tammy Brookman agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently

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

9. Tammy Brookman specifically withdraws her request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0276 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. A-2019-0085**

**Husam Hassouneh
License No. 06-1000030
30860 North Court
North Olmstead, OH 44070**

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 Husam Hassouneh, for the purpose of resolving all issues between the parties relating to the Board investigation of Husam Hassouneh performing activities of a registered pharmacy technician on or about December 5, 2018 and December 6, 2018 without registration from the Board. Together, the Board and Husam Hassouneh 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 4729.11 of the Ohio Revised Code to practice pharmacy as an intern in the state of Ohio.
2. On or about June 10, 2019, Husam Hassouneh submitted an application for licensure as a pharmacy intern under Application No. 000252234, intern license number 06-1000030.

FACTS

1. On or about December 5, 2018, the Board conducted an inspection of Southside Pharmacy, located at 2811 Fulton Road, Suite B, Lorain, OH 44055. During the inspection the Board Agent observed Husam Hassouneh performing activities of a registered pharmacy technician without registration from the Board. On December 6, 2018, Board Agents conducted a follow-up inspection of the Southside Pharmacy and observed Husam Hassouneh continuing to perform activities of a registered pharmacy technician without registration from the Board.
2. On or about September 23, 2019, the Board sent a Notice of Opportunity for Hearing to Husam Hassouneh, 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 October 3, 2019, Husam Hassouneh timely requested an administrative hearing, which was subsequently scheduled for February 5, 2020.

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. Husam Hassouneh neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 23, 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. Husam Hassouneh agrees to pay to the OSBP the amount of amount of \$500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective

date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

4. Husam Hassouneh must obtain, within 90 days from the effective date of this Agreement, 30 hours of ACPE-approved continuing pharmacy education (3.0 CEUs) in law and/or ethics, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. The Board agrees to grant the intern application of Husam Hassouneh upon proof of payment of the \$500.00 fine.
6. The Board places Husam Hassouneh's intern license number 06-1000030 on an indefinite term of probation until he successfully obtains a license to engage in the practice of pharmacy in the State of Ohio. The term of probation will conclude upon the conversion of the intern license to a pharmacist license.
7. Husam Hassouneh shall report to the Board's probation committee upon request during the term of probation.
8. Husam Hassouneh agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Husam Hassouneh understands that he has the right to be represented by counsel for review and execution of this agreement.
10. Husam Hassouneh 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.
11. Husam Hassouneh waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter and waives any right to an appeal.
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.

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

R-2020-0277 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. 2018-M570
Account No./Application No. 270-570**

**Pure Ohio Wellness, L.L.C.
c/o James Pegram
6983 Gale Road S.W.
Hebron, OH 43025**

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and executed by and among Pure Ohio Wellness, L.L.C. and the State of Ohio Board of Pharmacy ("Board") (individually each a "Party," and collectively the "Parties").

WITNESSETH:

WHEREAS, between the dates of November 13, 2017 and November 27, 2017, Pure Ohio Wellness, L.L.C. submitted Application ID 570 to obtain a dispensary provisional license, located at 920 U.S. 42 West, London, OH 43140, in District Southwest-7.

WHEREAS, on or about June 29, 2018, the Board issued Pure Ohio Wellness, L.L.C. a *Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* ("Notice"). The Notice provided, "Applicant's score was high enough to qualify Applicant to receive a provisional dispensary license for the Address in the district in which the Applicant applied; however, an Applicant who qualified as an economically disadvantaged group (EDG) was

awarded the remaining license in the district in which [Pure Ohio Wellness, L.L.C.] applied, pursuant to the requirement in Section 3796.10 of the Revised Code, which mandates no less that (sic) fifteen percent of retail dispensary license are issued to entities owned and controlled by U.S. citizens who are residents of the state and are members of the listed EDGs.”

WHEREAS, On or about July 2, 2018, Pure Ohio Wellness, L.L.C. requested an administrative hearing pursuant to Chapter 119. of the Ohio Revised Code.

WHEREAS, On or about August 2, 2018, the Board appointed a hearing examiner pursuant to R.C. 4729.03 and Ohio Adm.Code 4729-2-02(H) to conduct the administrative hearing.

WHEREAS, On or about October 5, 2018, Pure Ohio Wellness, L.L.C. and the State filed a *Joint Motion for Non-Oral Hearing*, which requested an administrative hearing pursuant to Chapter 119. of the Ohio Revised Code.

WHEREAS, On or about October 9, 2019, the hearing examiner granted the *Joint Motion for Non-Oral Hearing*.

WHEREAS, On or about November 15, 2018, the hearing examiner submitted to the Board a *Report and Recommendation*, which provided, “[Pure Ohio Wellness, L.L.C.’s] high-scoring application in Southwest District 7 was denied by the State in compliance with the mandatory set-aside provision stated in [R.C.] 3796.10(C). Appellant [Pure Ohio Wellness, L.L.C.] has not demonstrated fraud, bad faith, or an unreasonable or unconscionable attitude in the State’s conduct of the Provisional Dispensary license award process, nor have they demonstrated any other legal basis to set aside the initial result.” The hearing examiner recommended that “[t]he processes completed in this matter, including the denial of the license to [Pure Ohio Wellness, L.L.C.], should be affirmed.”

WHEREAS, On or about January 8, 2019, the Board adopted the hearing examiner's *Report and Recommendation* in its entirety (including the Findings of Fact and Conclusions of Law) as it related to the Board's June 29, 2018 Notice issued to Pure Ohio Wellness, L.L.C.

WHEREAS, On or about January 23, 2019, Pure Ohio Wellness, L.L.C. filed a *Notice of Appeal* in the Madison County Court of Common Pleas, Case No. CV 20190016, alleging, *inter alia*, that R.C. 3796.10(C) is unconstitutional on its face and as applied, deprived Pure Ohio Wellness, L.L.C. of its right to be awarded a provisional dispensary license at 920 U.S. 42 West, London, OH 43140. The matter was assigned to Judge Eamon Costello.

WHEREAS, On or about April 10, 2019, Judge Eamon Costello severed Case No. CV 20190016. The R.C. 119.12 administrative appeal was assigned Case No. CVH 20190197.

WHEREAS, On or about November 4, 2019, Judge Eamon Costello filed a *Decision and Entry* in Case No. CVH 20190197, holding "R.C. 3796.10(C) is unconstitutional on its face pursuant to 42 U.S.C. § 1983 and Article 1, Section 2 of the Ohio constitution." The matter was "remanded to the [Board] to reconsider the denial of [Pure Ohio Wellness, L.L.C.'s] provisional medical marijuana dispensary license in accordance with this opinion."

WHEREAS, the deadline for the Board to appeal from the *Decision and Entry* in Case No. CVH 20190197 is December 4, 2019.

WHEREAS, *Pure Ohio Wellness, L.L.C. v. State of Ohio Board of Pharmacy, et al.*, Case No. CV 20190016 remains pending before Judge Eamon Costello in the Madison County Court of Common Pleas.

WHEREAS, pursuant to Ohio Adm.Code 3796:6-2-05, the Board is authorized to award up to sixty dispensary provisional licenses, up until September 8, 2018. The Board has issued a total of 56 dispensary provisional licenses.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein set forth, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. **Preambles**. The foregoing preambles are incorporated herein by reference.
2. **Specific Actions**.
 - a. **The Board**.
 - i. The Board agrees it will not file a notice of appeal of the *Decision and Entry* in *Pure Ohio Wellness, L.L.C. v. State of Ohio Board of Pharmacy*, Madison County Court of Common Pleas, Case No. CVH 20190197.
 - ii. The Board agrees to award Pure Ohio Wellness, L.L.C. a dispensary provisional license at the location identified in Application ID 570, pursuant to Ohio Adm.Code 3796:6-2-05, within two business days from the executed date of this Agreement.
 - b. **Pure Ohio Wellness, L.L.C.**.
 - i. Pure Ohio Wellness, L.L.C. agrees to dismiss *Pure Ohio Wellness, L.L.C. v. State of Ohio Board of Pharmacy, et al.*, Madison County Court of Common Pleas, Case No. CV 20190016 within two business days from the executed date of this Agreement.

- ii. Pure Ohio Wellness, LLC agrees not to seek attorney fees against the Board, the Board's agents and employees under any provision including, but not limited to, R.C. 119.092, R.C. 119.12(M), R.C. 2335.39, or Civil R. 11.

3. Specific Releases.

- a. Pure Ohio Wellness, L.L.C. In consideration of the covenants, releases, and agreements made by the Board pursuant to this Agreement, Pure Ohio Wellness, L.L.C. agrees not to institute or reinstitute any actions against the Board, in any jurisdictions, in any forum, tribunal, court, or administrative proceeding, for any form of relief against the Board relating to, arising from, or concerning the matters described herein, including but not limited to, any action against the Board for enforcement of the medical marijuana dispensary license limits in District Southwest-7.

- 4. General Release.** In consideration of the covenants and agreements contained herein, the Parties, for themselves and each of their respective administrators, trustees, accountants, parents, subsidiaries, divisions, affiliates, predecessors, successors, present or former officers, directors, employees, shareholders, owners, attorneys and assigns, hereby fully and forever release, withdraw, remise, quit-claim and fully and forever discharge the other party, and each of their respective heirs, executors, administrators, trustees, accountants, parents, subsidiaries, divisions, affiliates, predecessors, successors, present or former officers, directors, employees, shareholders, owners, attorneys, and assigns, from any and all claims, demands, damages, accounts, debts, liens, suits, actions, and rights or causes of action of every

kind and description, whether known or unknown, suspected or unsuspected, which it now has, or has had, or hereafter can, shall, or may have arising out of or related to the subject matter of this Agreement. The Parties agree not to pursue litigation in this matter or for any claim related to the matters described herein. This release does not affect the Parties' rights to enforce the terms of this agreement.

5. **Public Record.** All Parties to this Agreement understand that this document is a public record under R.C. 149.43, and its terms will therefore become part of the minutes of a meeting of the Pharmacy Board.
6. **Costs and Expenses of Administrative and Court Proceedings.** Each party shall be responsible for the costs and expenses it incurred in connection with any hearings or other litigation.
7. **Entire Agreement.** This Agreement supersedes any and all agreements by, between and among the Parties, and represents their entire agreement pertaining to the subject matter hereof. There is no agreement or understanding relating to the subject matter hereof, whether express, implied, written or oral, not expressly set forth herein.
8. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their agents, employees, successors and assigns.
9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
10. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.

- 11. Headings.** The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.
- 12. Authority.** The Parties hereto represent and warrant to each other that each Party possesses the full requisite authority to enter into this Agreement and that the person signing this Agreement on behalf of each Party is fully and duly authorized to do so.
- 13. Execution in Counterparts; Facsimile Signatures.** The Parties acknowledge and agree that this Agreement may be executed (1) in one or more counterparts, which together shall constitute a single, integrated agreement, and (2) by facsimile signatures which shall have the same force and effect as original signatures.

4:15 p.m. The Board recessed for the day.

Wednesday, December 11, 2019

9:03 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; 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*.

9:03 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 **Steven Hogel, Cincinnati, Ohio.**

Jennifer M. Rudell, RPh, recused herself from the consideration of the matter.

R-2020-0278 Mr. Cox 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: Cox-yes; Miller-yes; Newlon-yes; Weaver-yes; Yarosh-yes.

10:51 a.m. The recess ended and the hearing was opened to the public.

R-2020-0279 After votes were taken in public session, the Board adopted the following order in the matter of **Steven Hogel, Cincinnati, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0209)

In The Matter Of:

Steven Hogel, RPh
4407 Cloverhill Terrace
Cincinnati, Ohio 45238
(License No. 03-129762)

INTRODUCTION

The Matter of Steven Hogel came for hearing on December 11, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; Absent.

Jennifer M. Rudell, RPh, Recused.

Steven Hogel was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Steven Hogel—Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|---|------------|
| 1. Confidential Patient Identifier Key | 04.25.2019 |
| 2. Summary Suspension/Notice of Opportunity for Hearing | 04.25.2019 |
| 3. Request for Hearing | 07.09.2019 |
| 4. Notice of Hearing | 07.15.2019 |
| 5. Statements | Various |
| 6. CVS Certified Records | Various |
| 7. Walmart Certified Records | Various |
| 8. Prescriptions | Various |

Respondent's Exhibits:

- | | |
|---|------------|
| A. Resume | No Date |
| B. APHA Pharmacy Based Travel Health Certification | 04.14.2016 |
| C. APHA Cardiovascular Care Train the Trainer Certification | 06.05.2016 |
| D. APHA Diabetes Care Certification | 08.25.2015 |
| E. APHA Immunization Certification | 07.29.2010 |
| F. APHA MTM Certification | 03.05.2016 |
| G. NACDS Point of Care Certification | 08.28.2015 |
| H. NACDS Point of Care Train the Trainer Certification | 08.28.2015 |
| I. Power-Pak Veterinary Pharmacy Certification | 10.24.2019 |
| J. Power-Pak Opioid Addiction and Recovery Certification | 10.21.2019 |
| K. Power-Pak MTM Certification | 05.30.2015 |
| L. Yalda Korb, RPh BS Pharm | No Date |
| M. Anita McDonald, BS Pharm | 12.06.2019 |
| N. Amy Gilmore, RPh PharmD | No Date |

O. Brightview Health Care Admissions Letter	12.05.2019
P. Rehabilitation Treatment Plan	10.09.2019
Q. Alcohol Anonymous Attendance Letter	12.09.2019

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 January 4, 2019, an agent from the Board met with Walmart employees. They stated that an internal investigation would be opened based on suspicious prescriptions prescribed for Steven Hogel during his employment as a pharmacist at Walmart. Steven Hogel was terminated from Walmart on May 18, 2018. At the time of the investigation, Steven Hogel was employed by CVS. CVS was contacted and reported additional information regarding suspicious prescriptions in Steven Hogel name.
2. On or about February 12, 2019, Dr. Thomas Smith spoke with an agent from the Board. He confirmed that he issued Steven Hogel one prescription for an antibiotic in November 2016; however, he stated all other prescriptions issued to Steven Hogel using his name were fraudulent. Additionally, Dr. Smith said he did not issue prescriptions for M.H., J.J., or T.J. Dr. Smith does not know these individuals. The following phone-in prescriptions were identified as fraudulent:
 - a. Prescriptions Steven Hogel illegally created for himself:
 - i. Rx # 1527158, Tamoxifen 20 mg (filled 11/26/18)
 - ii. Rx # 1527156, Anastrozole 1 mg (filled 11/26/18)
 - iii. Rx # 6985135, Lidocain 2% (filled 2/4/17)
 - iv. Rx # 7104792, Clomiphene Citrate 50 mg tablets (filled 2/8/17)
 - v. Rx # 6987041, Anastrozole 1 mg tablets (filled 2/20/17)
 - vi. Rx # 7792369, Anastrozole 1 mg tablets (filled 2/20/17)
 - vii. Rx # 7708915, Anastrozole 1 mg tablets (filled 2/20/17)
 - viii. Rx # 7948330, Tamoxifen 20 mg tablets (filled 3/31/18)
 - ix. Rx # 7113392, Anastrozole 1 mg tablets (filled 3/31/18)
 - b. Prescriptions for J.J.:
 - i. Rx # 1519001, Anastrozole 1 mg (filled 11/20/18)
 - ii. Rx # 1566133, Anastrozole 1 mg (filled 9/5/18)
 - iii. Rx # 7131673, Anastrozole 1 mg (filled 8/25/17)
 - iv. Rx # 7504097, Anastrozole 1 mg (filled 8/24/17)
 - c. Prescriptions for M.H.:
 - i. Rx # 1517453, Sildenafil 20 mg (filled 12/8/18)
 - ii. Rx # 1570427, Sildenafil 20 mg (filled 9/8/18)

- d. Prescriptions for T.J.:
 - i. Rx # 1512829, Tamoxifen 20 mg (filled 12/20/18)
 - ii. Rx # 1514132, Doxycycline Hyclate 100 mg (filled 11/8/18)
 - iii. Rx # 1570383, Anastrozole 1mg (filled 9/7/18)
 - iv. Rx # 1570425, Tamoxifen 20 mg (filled 9/8/18)

- e. Prescriptions for K.H.:
 - i. Rx # 7751870, Vivotif #1 box (filled 5/8/18) (not purchased)
 - ii. Rx # 7751907, Azithromycin 500 mg (filled 5/8/18)
 - iii. Rx # 7751871, Ciprofloxacin 500 mg (filled 5/8/18)

3. On or about February 25, 2019, an agent from the Board met with Dr. Peter Cha. Dr. Cha confirmed orally, and in a written statement, that he has never seen Steven Hogel as a patient and has never issued Steven Hogel a prescription. Dr. Cha stated that the following prescription that Steven Hogel phoned-in for himself is fraudulent:
 - a. Rx# 7037148, Zpak #1 UAD (filled 3/22/17)

4. On or about March 14, 2019 an agent from the Board met with Dr. Chad Fogt. Dr. Fogt stated the following prescriptions Steven Hogel phoned-in for himself are fraudulent:
 - a. Rx #7504077, Escitalopram (filled 11/24/17)
 - b. Rx #7110637, Escitalopram (filled 3/9/18)

5. From on or about November 22, 2018 to on or about November 26, 2018, Steven Hogel dispensed for himself sixty Adderall 30 mg tablets without a valid prescription. On or about December 7, 2018, Steven Hogel backdated a valid prescription for sixty Adderall 30 mg tablets to reflect a fill date of November 26, 2018.

6. On or about April 17, 2019, Steven Hogel was interviewed by agents from the Board. Steven Hogel made the following statements:
 - a. Steven Hogel was psychologically addicted to testosterone, using it for the purposes of body building. Steven Hogel used Arimidex and Tamoxifen for the purpose of body building.
 - b. On November 26, 2018 Steven Hogel filled a prescription for Adderall for himself without having a valid prescription from Dr. Fogt. Steven Hogel entered false information into the CVS system. The actual prescription was not written until December 7, 2018. Steven Hogel had to have the medication to work.

- c. Steven Hogel forged the phone-in prescription for Azithromycin 250 mg using Dr. Peter Cha as the prescribing doctor. Steven Hogel was friends with Dr. Cha, but Steven Hogel was not his patient and he did not authorize this prescription.
- d. Steven Hogel forged phone-in prescriptions for himself using Dr. Fogt as the prescribing doctor. Specifically, Steven Hogel forged a prescription for Escitalopram on November 24, 2017 and March 9, 2018.
- e. Steven Hogel forged phone-in prescriptions for himself ten times using Dr. Smith as the prescribing doctor, specifically, Steven Hogel forged prescriptions for Arimidex and Tamoxifen for himself.
- f. Steven Hogel forged phone-in prescriptions for T.J. three times, J.J. four times, and M.H. and K.H. four times.
- g. The prescription written for T.J. and J.J. for Arimidex and Tamoxifen were received by them for purposes of body building.

CONCLUSIONS OF LAW

- 1. Such conduct as set forth in paragraphs 5 and 6(b) of the Findings of Fact Section, constitutes a violation of Section 2925.23 of the ORC, illegal processing of drug documents (Schedule II).
- 2. Such conduct as set forth in paragraphs 2(a), 2(b), 2(c), 2(d), 2(e), 3(a), 4(a), and 4(b) of Findings of Fact Section, each constitute a violation of Section 2925.23 of the ORC, illegal processing of a drug document.
- 3. Such conduct as set forth in paragraphs 2(b)(i), 2(b)(ii), 2(b)(iii), 2(b)(iv), 2(d)(i), 2(d)(ii), 2(d)(iii), 2(d)(iv), and 6(g) of the Findings of Fact Section, each constitutes a violation of Section 4729.51(E)(1)(a) of the ORC, distributing dangerous drugs.
- 4. Such conduct as set forth in paragraph 2(a), 2(b), 2(c), 2(d), 2(e), 3(a), 4(a), and 4(b) of Findings of Fact Section, each constitutes a violation of Section 4729.51(E)(1)(c) of the ORC, possession of dangerous drugs.
- 5. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of Section 4729.08(B) of the ORC, not of good habits.
- 6. Such conduct as set forth in paragraphs 2(a)(iv), 2(a)(v), 2(a)(vi), 2(a)(vii), 2(a)(viii) and 3(a) of the Findings of Fact Section each constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective July 16, 2015:
 - a. Guilty of a felony or gross immorality, ORC Section 4729.16(A)(1); and

- b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - c. Addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - d. 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).
7. Such conduct as set forth in paragraphs 2(a)(i), 2(a)(ii), 2(a)(ix), 2(a)(x), 2(b)(i), 2(b)(ii), 2(b)(iii), 2(b)(iv), 2(c)(i), 2(c)(ii), 2(d)(i), 2(d)(ii), 2(d)(iii), 2(d)(iv), 2(e)(i), 2(e)(ii), 2(e)(iii), 4(a), 4(b), and 5 of the Findings of Fact Section each constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. 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
 - d. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
8. Such conduct as set forth in paragraphs 2(a)(iv), 2(a)(v), 2(a)(vi), 2(a)(vii), 2(a)(viii), 2(a)(ix), 2(a)(x), 2(b)(iii), 2(b)(iv), and 3(a), 4(a) and 4(b) of the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:
- a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
 - b. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and

- c. Is addicted to or abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy, OAC Rule 4729-5-04(D).
9. Such conduct as set forth in paragraphs 2(a)(i), 2(a)(ii), 2(b)(i), 2(b)(ii), 2(c)(i), 2(c)(ii), 2(d)(i), 2(d)(ii), 2(d)(iii), 2(d)(iv), 2(e)(i), 2(e)(ii), 2(e)(iii), and 5 of the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - d. 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 4729:1-4-01(B)(2)(l); and
 - e. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Steven Hogel on April 25, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely, for a minimum of three years, the pharmacist license no. 03-129762, held by Steven Hogel and such suspension is effective as of the date of the mailing of this Order.

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

Further, after three (3) years from the date of the initial summary suspension, April 25, 2019, the Board will consider any petition filed by Steven Hogel for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

1. Steven Hogel must show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
2. Steven Hogel must maintain a current address with the Board throughout the duration of the suspension.
3. Steven Hogel must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject [Petitioner] 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 Steven Hogel 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 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.
4. Steven Hogel 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 Steven Hogel reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Steven Hogel 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 Steven Hogel reappear before the Board for possible additional sanctions, including and up to revocation of license.
 6. Steven Hogel must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Steven Hogel to possible additional sanctions, including and up to revocation of license.
 7. Steven Hogel 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 him unfit to practice pharmacy.
 8. Steven Hogel 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.

9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
10. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider, may result in additional action before the Board up to and including revocation of your pharmacy license.
11. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
12. If Steven Hogel's employment is related to the practice of pharmacy, Steven Hogel must notify his employer of the terms of Steven Hogel's suspension and this Board's Order.
13. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Steven Hogel's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1, 5, 6, 7, and 8.

Fred M. Weaver moved for Findings of Fact; Donald R. Miller seconded the motion. Motion passed (Aye-5/Nay-0).

Fred M. Weaver moved for Conclusions of Law; Donald R. Miller seconded the motion. Motion passed (Aye-5/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

11:01 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 **Denise Gleeson, Morrow, Ohio.**

R-2020-0280 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: Cox-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

12:00 a.m. The recess ended and the hearing was opened to the public.

R-2020-0281 After votes were taken in public session, the Board adopted the following order in the matter of **Denise Gleeson, Morrow, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0328)

In The Matter Of:

Denise Gleeson, RPh

3747 S. Waynesville Road

Morrow, OH 45152

(License No. 03-3321637)

INTRODUCTION

The Matter of Denise Gleeson came for hearing on December 11, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; Absent.

Denise Gleeson was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Denise Gleeson—Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|--------------------------------------|------------|
| 1. Notice Letter | 07.25.2019 |
| 2. Request for Hearing | 08.16.2019 |
| 3. Scheduling Order | 08.28.2019 |
| 4. Statement of Respondent | 02.06.2019 |
| 5. Photos | No Date |
| 6. Indictment | 06.06.2019 |
| 7. Entry Finding Eligibility for ILC | 08.28.2019 |
| 8. Montgomery County Docket | 04.10.2019 |

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. From on or about January 24, 2018 through January 30, 2019, Denise Gleeson stole dangerous drugs from her employer Rite Aid Pharmacy, located at 3700 N. Dixie Drive, Dayton, Ohio 45414. Denise Gleeson stole ninety-one (91) Fioricet (butalbital/acetaminophen/caffeine-50mg/325mg/40mg) tablets.
2. On or about February 3, 2019, Denise Gleeson stole twenty-five (25) Fioricet (butalbital/acetaminophen /caffeine-50mg/325mg/40mg) tablets from her employer. This was observed on a pharmacy surveillance recording.
3. On or about February 6, 2019, Denise Gleeson stole twenty (20) Fioricet (butalbital/acetaminophen/ caffeine-50mg/325mg/40mg) tablets from her employer. This was observed on a pharmacy surveillance recording.

4. On or about February 10, 2019, Denise Gleeson stole thirty (30) Fiorcet (butalbital/acetaminophen/ caffeine-50mg/325mg/40mg) tablets from her employer. This was observed on a pharmacy surveillance recording. Denise Gleeson was found to be in possession of these tablets.
5. On or about February 10, 2019, Denise Gleeson was interviewed by an agent from the Board. Denise Gleeson made the following statements:
 - a. Denise Gleeson admitted to stealing Fiorcet (butalbital/acetaminophen/caffeine-50mg/325mg /40mg) tablets from her employer; and
 - b. Denise Gleeson admitted to stealing thirty (30) Fiorcet (butalbital/acetaminophen/caffeine-50mg/325mg/40mg) tablets from her employer that day; and
 - c. Denise Gleeson admitted to stealing the medication to deal with pain from headaches caused by neck and shoulder issues. Denise Gleeson was not able to get a prescription and she was stealing from her employer out of desperation.
6. From on or about January 14, 2019 to on or about February 10, 2019, Denise Gleeson adjusted her employer's pharmacy dispensing records by adjusting the on-hand counts to cover her theft of the dangerous drugs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1), (2), (3), and (4) of the Findings of Fact Section, each constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug..
2. Such conduct as set forth in paragraphs (1), (2), (3), and (4) of the Findings of Fact Section, each constitutes a violation of Section 4729.51(E)(1)(c)of the ORC, no person shall possess dangerous drugs, effective as of April 6, 2017.
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 September 29, 2017:
 - 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 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(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 4729:1-4-01(B)(2)(e); and
 - c. Committed acts that constitute moral turpitude that constitutes a misdemeanor or a felony in this state, regardless of the jurisdiction in which it was committed, OAC Rule 4729:1-4-01(B)(2)(l); and
 - d. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Denise Gleeson on July 25, 2019.

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby lifts the summary suspension and approves the reinstatement of the pharmacist license no. 03-321637, held by Denise Gleeson to practice pharmacy in Ohio. The license is subject to a period of probation for two years, or upon completion of her Intervention in lieu of conviction (ILC) program in Montgomery County, whichever is the greater period of time, beginning on the effective date of this Order. Denise Gleeson must comply with all the requirements of ILC. Failure to do so will be considered a violation of this Order.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibit 5 (five), and redact Respondent's date of birth contained in exhibits 7 (seven) and (eight).

Donald R. Miller moved for Findings of Fact; Jennifer M. Rudell seconded the motion. Motion passed (Aye-6/Nay-0).

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

Kilee S. Yarosh moved for Decision of the Board; Joshua M. Cox seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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- 12:04 a.m.** Pursuant to Sections 4729.96, 4729.16, 3796.14(B)(1)(a), and 3796.14 (B)(3) and as authorized by Section 3719.121 of the Ohio Revised Code and related Rules of the Ohio Administrative 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 registered pharmacy technician, one Medical Marijuana Patient, and one pharmacy intern.
- R-2020-0282** After hearing Mr. Pyles discuss the significant facts regarding the activities of Brandon Lee Peters, registered pharmacy technician, Mr. Newlon moved pursuant to Section 3719.121 (A) and (B) that the Board summarily suspend the registered pharmacy technician registration belonging to Brandon Lee Peters (License No. 09-212039), Ironton, Ohio. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6, Nay-0.
- R-2020-0283** After hearing Mr. Pyles discuss the significant facts regarding the activities of Medical Marijuana Patient K.P, Mr. Cox moved pursuant to Sections 3796.14(B)(1)(a) and 3796.14 (B)(3) of the Ohio Revised Code and Rule 3796:7-2-09 of the Ohio Administrative Code that the Board summarily suspend the Medical Marijuana Patient registration belonging to Patient K.P. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0.
- R-2020-0284** After hearing Mr. Pyles discuss the significant facts regarding the activities of David Duff, pharmacist intern, Ms. Yarosh moved pursuant to Section 3719.121(B) that the Board summarily suspend the pharmacist intern registration belonging to David Duff (License No. 06-015032), Knoxville, TN. The motion was seconded by Mr. Cox and approved by the Board: Aye-6, Nay-0.
- R-2020-0285** 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 Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.
- R-2020-0286** After votes were taken in public session, the Board adopted the following order in the matter of **Carley Fleck, Wilder, KY**.
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ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number A-2019-0165)

In The Matter Of Carly Fleck:

Carly Fleck, Registered Pharmacy Technician

230-11 Willowbrook Ct.

Wilder, KY 41071

(Registration No. 09-206084)

INTRODUCTION

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on March 21 2019. The Matter of Carly Fleck came for hearing before Hearing Examiner Robert C. Angell on October 24, 2019 at which time Carly Fleck did not appear. An email was received by the Board from the respondent stating she would not be attending, even though she had requested a hearing. 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 November 2, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on December 11, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh, Richard J. Newlon, *Public Member*; 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 (10), the hearing transcript, and Hearing Examiner Angell's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Angell's Findings of Facts (1) through (8), including those that specifically relate to the Board's Notice letter dated March 21, 2019.

The Board confirms and approves Conclusions of Law (C), (D), (D), (E), (F) and (G) as set forth by Hearing Examiner Angell as they relate to the Violations of Law in the Notice of Hearing issued by the Board on March 21, 2019.

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 January 24, 2019 paragraphs:

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

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

(a) Testimony from a Board agent and documentary evidence at the hearing reflect that Ms. Fleck stole dangerous drugs from her employer. Transcript, pgs. 9 - 16.

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 adopts the Hearing Examiner's Recommendation of a permanent revocation of the Respondent's registration. The permanent revocation is ordered due to the seriousness of the offense; respondent stole and ingested dangerous drugs from the pharmacy in which she worked. Accordingly, the State of Ohio Board of Pharmacy hereby modifies the Hearing Examiner's Recommendation as follows:

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (C) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (D) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (D) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (E) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (F) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Hearing Examiner's Finding of Conclusion of Law (G) as it relates to the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (8) and the Board's modification to include the violation of law as noted above, as it relates to paragraph (6)(d) of the Potential Violations of Law in the Notice dated March 21, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician registration, No. 09-206084, held by Carly Fleck, 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 Weida, with the modifications as set forth herein. Ms. Yarosh seconded the motion. Motion passed (Aye - 6/Nay - 0).

SO ORDERED.

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- 1:34 p.m.** Ms. Dehner presented the OBOT Non-Physician Owner Waiver Request of Southwestern Recovery Center (Pending License Number 022879650) to the Board for consideration.
- R-2020-0287** Ms. Yarosh moved that the Board approve the OBOT Non-Physician Owner Waiver Request of Southwestern Recovery Center. The motion was seconded by Mr. Miller and approved by the Board Aye-6, Nay-0.
- 1:36 p.m.** Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval: *Delay of Office-Based Opioid Treatment Licensing for new Criteria.*
- R-2020-0288** Mr. Newlon moved that the Board approve the preceding resolution. The motion was seconded by Ms. Yarosh and approved by the Board Aye-6, Nay-0. The following resolution was adopted by the Board:

Delay of Office-Based Opioid Treatment Licensing for New Criteria

The Board hereby delays the licensure requirements of paragraph (A)(1)(b) and (A)(1)(c) of upcoming rule 4729:5-18-01 until June 1, 2020.

1:38 p.m.

Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval:
Licensure Requirements for Boards of Health During Emergency Preparedness Incidents or Public Health Emergencies.

R-2020-0289

Mr. Cox moved that the Board approve the preceding resolution. The motion was seconded by Ms. Rudell and approved by the Board Aye-6, Nay-0. The following resolution was adopted by the Board:

Licensure Requirements for Boards of Health During Emergency Preparedness Incidents or Public Health Emergencies

Pursuant to section 4729.25 of the Revised Code, the Board finds it is in the public's interest to waive the drug distributor licensure requirements pursuant to section 4729.52 of the Revised Code for a board of health, as defined in section 3701.048 of the Revised Code, that is licensed as a terminal distributor of dangerous drugs (TDDD) for the purpose of distributing dangerous drugs to another TDDD during a declared public health emergency or emergency preparedness incident.

The board of health may direct the shipment and allocation of the dangerous drugs removed from a location licensed as a terminal distributor or central location of the stockpile to point of dispensing locations.

An individual listed in division (B) of section 3701.048 of the Revised Code shall maintain personal supervision and control over the dangerous drugs and any hypodermics removed from the terminal distributor. If personal supervision is not provided, the dangerous drugs and any hypodermics shall be physically secured in a manner to prevent unauthorized access. The drugs shall be stored at temperatures which will ensure the integrity of the drugs prior to their use as stipulated by the USP/NF and/or the manufacturer's or distributor's labeling.

The responsible person on the terminal distributor of dangerous drugs license shall be responsible for compliance with the requirements of this resolution. This resolution shall serve as the notice required pursuant to section 4729.25 of the Revised Code.

This resolution shall remain in effect until the Board promulgates rules on the distribution of dangerous drugs during emergency preparedness incidents and public health emergencies.

1:41 p.m. Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval: *Drug Distributor License Requirements for Covered Entities under the Health Resources and Services Administration 340B Program.*

R-2020-0290 Mr. Weaver moved that the Board approve the preceding resolution. The motion was seconded by Mr. Cox and approved by the Board Aye-6, Nay-0. The following resolution was adopted by the Board:

Drug Distributor License Requirements for Covered Entities under the Health Resources and Services Administration 340B Program

The Board hereby authorizes a board of health, as defined in section 3701.048 of the Revised Code, that is a certified covered entity as defined in Section 340B(a)(4) of the Public Health Service Act to perform the functions of a virtual wholesaler with a contracted pharmacy licensed as a terminal distributor of dangerous drugs that has a “ship to, bill to” arrangement in accordance with the Health Resources and Services Administration (HRSA) requirements. The certified covered entity shall be exempted from obtaining a drug distributor license as a virtual wholesaler of dangerous drugs.

The covered entity must comply with all record keeping requirements pursuant to paragraph (A) of rule 4729-6-6-01 of the Administrative Code.

The covered entity must ensure the contracted pharmacy is appropriately licensed as a terminal distributor of dangerous drugs with the State of Ohio.

This resolution shall serve as the notice required pursuant to section 4729.25 of the Revised Code and shall remain in effect until the Board promulgates rules on the distribution of dangerous drugs by a covered entity.

1:55 p.m. Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval: *Board Waiver Process.*

R-2020-0291 Mr. Weaver moved that the Board approve the preceding resolution. The motion was seconded by Mr. Miller and approved by the Board Aye-6, Nay-0. The following resolution was adopted by the Board:

Medtronic Request

Pursuant to section 4729.25 of the Revised Code, the Board finds it is in the public's interest to waive the limits set forth in division (B)(1) of section 4729.46 of the Revised Code for implantable drug delivery systems only.

This resolution shall serve as the notice required pursuant to section 4729.25 of the Revised Code and shall remain in effect until the Board promulgates rules regarding the dispensation of opioid analgesics for implantable drug delivery systems.

1:52 p.m. Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval *Medtronic Request*.

R-2020-0292 Mr. Cox moved that the Board approve the preceding resolution. The motion was seconded by Mr. Miller and approved by the Board Aye-6, Nay-0. The following resolution was adopted by the Board:

Board Waiver Process

The Board hereby grants the Executive Director, upon consultation with the Board's President, the ability to temporarily grant waivers regarding the distribution of dangerous drugs in accordance with section 4729.25 of the Revised Code.

If granted by the Executive Director, the Board shall be required to review and approve a waiver issued at a subsequent meeting.

This resolution shall remain in effect until the Board promulgates rules on the temporary issuance of waivers concerning the distribution of dangerous drugs.

1:59 p.m. Mr. McNamee and Ms. Wai led a discussion on revisions to rules 4729:5-3-12—Protocols and Pre-Printed Orders for Medication Administration, 4729:5-3-13—Temporary Removal of Dangerous Drugs from a Licensed Location, 4729:5-3-16—Returned Drugs, 4729:5-21-02—

Personally Furnishing Dangerous Drugs from an Opioid Treatment Program, 4729:5-15-03—Animal Shelters, and 4729: 5-15-02—Security and Control of Dangerous Drugs.

R-2020-0293 Mr. Newlon moved that the Board Approve Revisions to 4729:5-3-12—Protocols and Pre-Printed Orders for Medication Administration, 4729:5-3-13—Temporary Removal of Dangerous Drugs from a Licensed Location, 4729:5-3-16—Returned Drugs, 4729:5-21-02—Personally Furnishing Dangerous Drugs from an Opioid Treatment Program, 4729:5-15-03—Animal Shelters, and 4729: 5-15-02—Security and Control of Dangerous Drugs for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6, Nay-0.

2:07 p.m. Mr. Schierholt presented the Executive Director Report.

R-2020-0294 Mr. Wilt announced the Citation (Case No. A-2019-0366) issued to Chase Dear on August 8, 2019 is dismissed.

2:08 p.m. Ms. Yarosh moved that the approval or denial of Medical Marijuana settlement matters, with the exception of routine variances but including settlements, be delegated to Mr. Wilt through March 31, 2020. The motion was seconded by Mr. Weaver and approved by the Board: Aye-6, Nay-0.

R-2020-0295 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 and that the Board return to public session and promptly adjourn at the conclusion of executive session. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

_____ Date: _____
Shawn C. Wilt, RPh, President

_____ Date: _____
Steven W. Schierholt, Executive Director