



IN THE MATTER OF:

CASE NO. A-2021-0083

Marc's Pharmacy West Tuscarawas
c/o Andrea Bullock, RPh
5123 West Tuscarawas
Canton, OH 44708

License No. 02-0692500

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 Marc's Pharmacy West Tuscarawas for the purpose of resolving all issues between the parties relating to the Board investigation of an unregistered technician working in the pharmacy. Together, the Board and Marc's Pharmacy West Tuscarawas 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, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Marc's Pharmacy West Tuscarawas is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0692500.

FACTS

1. The Board initiated an investigation of Marc's Pharmacy West Tuscarawas, Terminal Distributor of Dangerous Drugs license number 02-0692500, related to an unregistered technician working in the pharmacy.
2. On or about November 4, 2022, the Board sent a Notice of Opportunity for Hearing to Marc's Pharmacy West Tuscarawas, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about December 2, 2022, Marc's Pharmacy West Tuscarawas, through counsel Jonathan A. Good, timely requested an administrative hearing, which was subsequently scheduled for April 4, 2023.

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WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative 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. Marc's Pharmacy West Tuscarawas neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 4, 2022; 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. Marc's Pharmacy West Tuscarawas agrees to pay to the Board a monetary penalty the amount of \$250.00. 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. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
4. The Board hereby imposes a written reprimand on Marc's Pharmacy West Tuscarawas's TDDD license, number 02-0692500.
5. Marc's Pharmacy West Tuscarawas agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Marc's Pharmacy West Tuscarawas 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 Marc's Pharmacy West Tuscarawas 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 Marc's Pharmacy West Tuscarawas by the Board and will NOT discharge Marc's Pharmacy West Tuscarawas from any obligation under the terms of this Agreement.
7. Marc's Pharmacy West Tuscarawas agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

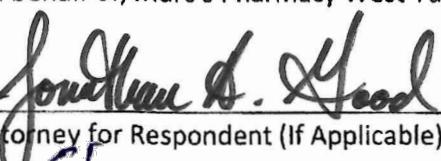
8. Marc's Pharmacy West Tuscarawas understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Marc's Pharmacy West Tuscarawas will operate.
10. Marc's Pharmacy West Tuscarawas explicitly withdraws its request for a hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.
15. This Agreement shall become effective upon the date of the Board President's signature below.

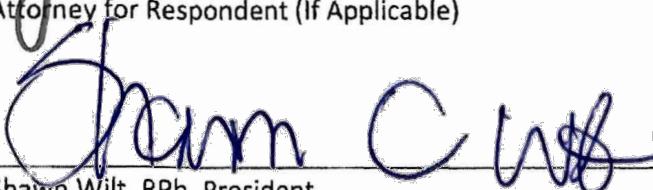
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:


Andrea Bullock, RPh,
on behalf of, Marc's Pharmacy West Tuscarawas, Respondent


Attorney for Respondent (If Applicable)


Shawn Wilt, RPh, President,
State of Ohio Board of Pharmacy

3/28/23

Date of Signature

3.31.23

Date of Signature

04.13.2023

Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY

-THIS IS A RED INK STAMP-

I certify this to be a true and exact copy of the original document on file with the Ohio State Board of Pharmacy.

Steven W. Schierholt

Steven W. Schierholt, Esq., Executive Dir.
Date: Nov 04, 2022

-MUST HAVE BOARD SEAL TO BE OFFICIAL-

**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST
TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS LICENSEE**

IN THE MATTER OF:

Case No. A-2021-0083

Marc's Pharmacy West Tuscarawas
c/o Andrea Bullock, RPh
5123 West Tuscarawas
Canton, OH 44708

License No. 02-0692500

November 4, 2022

Dear Marc's Pharmacy West Tuscarawas and Andrea Bullock:

You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Terminal Distributor of Dangerous Drugs under authority of Section (TDDD) 4729.57 of the Revised Code.

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, restrict, limit or refuse to grant or renew any license issued pursuant to section 4729.54 of the Ohio Revised Code to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the Revised Code.
2. Marc's Pharmacy West Tuscarawas has an active TDDD license with the Board under license number 02-0692500, which, at the time the conduct occurred, listed Jordan Wanner, RPh, as the Responsible Person.

ALLEGATIONS

1. On or about December 18, 2020, a partial inspection (due to COVID-19 restrictions) of Marc's Pharmacy West Tuscarawas, located at 5123 West Tuscarawas, Canton, Ohio, revealed a pharmacy employee was performing pharmacy technician duties without proper registration with the Board. The inspection revealed Dylan Landers had been working as a floating pharmacy technician who worked at least one shift at six separate Marc's Pharmacy locations, including 12 shifts at Marc's Pharmacy West Tuscarawas from on or about August 1, 2020, to on or about November 24, 2020, without Board issued registration.

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2. On or about December 21, 2020, Jordan Wanner, RPh, spoke with an agent of the Board. He stated:
 - a. He worked with Dylan Landers on two or three separate occasions. Landers worked as a pharmacy technician and completed typical pharmacy technician duties.
 - b. He was unaware of Landers' license status. He did not think twice about Landers' license status since Landers came from a different pharmacy.

POTENTIAL VIOLATIONS OF LAW

1. Such conduct, as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.95(C) of the ORC, No terminal distributor of dangerous drugs shall knowingly allow any person employed or otherwise under the control of the person who owns, manages, or conducts the terminal distributor to violate division (A) which states: No person who is not a pharmacist, pharmacy intern, registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee shall knowingly engage in any of the activities listed in section 4729.91 of the Revised Code in a location licensed as a terminal distributor of dangerous drugs, a misdemeanor of the second degree, punishable by a maximum penalty of \$4,000.
2. Such conduct, as set forth in the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, TDDD license requirements, each violation punishable by a maximum penalty of \$1,000: Adequate safeguards are assured that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC 4729.55(D).
3. Such conduct, as set forth in the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, each violation punishable by a maximum penalty of \$1,000:
 - a. Violating any rule of the board, ORC Section 4729.57(B)(2); and/or
 - b. Violating any provision of this chapter, ORC Section 4729.57(B)(3); and/or
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in 4729.55 of the Revised Code, ORC Section 4729.57(B)(7); and/or
 - d. Any other cause for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.57(B)(10).
4. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following sections of Rule 4729:5-2-01(A)(3) of the OAC, effective March 1, 2019, The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, each punishable by a maximum penalty of \$1,000.

5. Such conduct, as set forth in the Allegations Section, if proven, constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, effective March 1, 2019, each violation punishable by a maximum penalty of \$1,000 if committed by an organization:

- a. Violating any rule of the board, OAC Rule 4729:5-4-01(B)(2); and/or
- b. Violating any provision of Chapter 4729. of the Revised Code, OAC Rule 4729:5-4-01(B)(3); and/or
- c. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, OAC Rule 4729:5-4-01(B)(7).

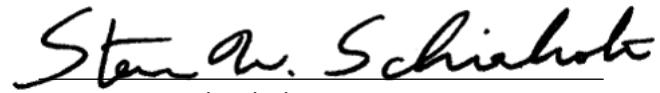
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

IF YOU DESIRE A HEARING, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to legal@pharmacy.ohio.gov (**please note faxes will not be accepted**). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30TH DAY FOLLOWING THE MAILING DATE OF THIS NOTICE**. Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you. **If you are a corporation, you must be represented at the hearing by an attorney licensed to practice in the state of Ohio.**

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119. Administrative Hearing process, please e-mail your questions to legal@pharmacy.ohio.gov or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY



Steven W. Schierholt, Esq., Executive Director

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