



IN THE MATTER OF:

CASE NO. A-2023-0188

Westgate Family Pharmacy

c/o Najwa Chaaban-Kassam, Responsible Person
3147 Central Ave.
Toledo, OH 43606

License No. 02-2235850

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 Westgate Family Pharmacy for the purpose of resolving all issues between the parties relating to the Board investigation of an employee performing duties of a pharmacy technician without maintaining appropriate registration with the Board. Together, the Board and Westgate Family Pharmacy are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Westgate Family Pharmacy is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2235850.

FACTS

1. The Board initiated an investigation of Westgate Family Pharmacy, Terminal Distributor of Dangerous Drugs license number 02-2235850, related to an employee of Westgate Family Pharmacy performing duties of a pharmacy technician without maintaining appropriate registration with the Board.
2. On or about September 28, 2023, the Board sent a Notice of Opportunity for Hearing to Westgate Family Pharmacy, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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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. Westgate Family Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 28, 2023; 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. Westgate Family Pharmacy agrees to pay to the Board a monetary penalty the amount of \$250. 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 Westgate Family Pharmacy's TDDD license, number 02-2235850.
5. Westgate Family Pharmacy agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Westgate Family Pharmacy agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Westgate Family Pharmacy of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Westgate Family Pharmacy by the Board and will NOT discharge Westgate Family Pharmacy from any obligation under the terms of this Agreement.
7. Westgate Family Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Westgate Family Pharmacy 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 Westgate Family Pharmacy will operate.
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. 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.
14. 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:

Haywa A. Kassam

Responsible Person Name, on behalf of,
Westgate Family Pharmacy, Respondent

10-4-23

Date of Signature

Attorney for Respondent (if applicable)

Trina Buettner

Trina Buettner, RPh, President,
State of Ohio Board of Pharmacy

Date of Signature

10.26.2023

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: Sep 28, 2023

-MUST HAVE BOARD SEAL TO BE OFFICIAL-

**NOTICE OF OPPORTUNITY FOR HEARING
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

CASE NO. 2023-0188

Westgate Family Pharmacy

License No. 02-2235850

c/o Najwa Chaaben-Kassam, Responsible Person
3147 Central Ave.
Toledo, OH 43606

September 28, 2023

Dear Westgate Family Pharmacy and Najwa Chaaban-Kassem:

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 (TDDD) under authority of Section 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 4729.55 of the ORC to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Ohio 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 ORC.
2. Westgate Family Pharmacy, located at 3147 Central Ave., Toledo, Ohio, has an active TDDD license with the Board under license number 02-2235850, which lists Najwa Chaaban-Kassam as the Responsible Person.

ALLEGATIONS

1. On or about January 27, 2023, an inspection of Westgate Family Pharmacy, located 3147 Central Ave., Toledo, Ohio revealed a pharmacy employee was performing pharmacy technician duties without proper registration with the Board. The inspection revealed that the registration of pharmacy technician trainee Noheir Gehad expired on February 17, 2022, and she had been performing the duties of a pharmacy technician trainee at Westgate Family Pharmacy from on or about February 18, 2022, to on or about April 30, 2022, with an expired registration.

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2. On or about February 3, 2023, Najwa Chaaban-Kassem, RPh, spoke with an agent of the Board. She admitted:
 - a. Pharmacy technician trainee Noheir Gehad had informed Pharmacist Chaaban-Kassem that her pharmacy technician trainee license registration had expired.
 - b. She knowingly allowed Noheir Gehad to continue to work during the months of March 2022 and April 2022 as a pharmacy technician trainee without proper registration with the Board.
3. On or about February 3, 2023, Najwa Chaaban-Kassem, RPh, provided a written statement to the Board in which she stated that Noheir Gehad continued to perform partial duties of a pharmacy technician between March and April of 2022.

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 Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57(B) of the ORC, as effective September 29, 2017, 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. 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).
3. Such conduct as set forth in Allegations Section, if proven, constitutes a violation of Rule 4729:5-2-01(A)(3) of the OAC, as effective March 1, 2019 and April 25, 2022, which states: "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 violation punishable by a maximum penalty of \$1,000.
4. Such conduct as set forth in Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-4-01 of the OAC, as effective April 25, 2022, each violation punishable by a maximum penalty of \$1,000:
 - 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

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

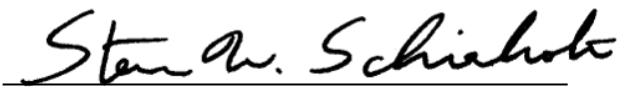
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

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 business entity, including but not limited to a corporation, limited liability company, or a limited partnership, 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, and may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division RC 4729.57(A).

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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