



MINUTES OF THE NOVEMBER 4-6, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, November 4, 2019

10:00 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*.

10:02 a.m. Mr. Wilt greeted members of the Ohio Pharmacist's Association (OPA) present in the audience.

10:02 a.m. Mr. Jarrod Grossman, *Executive Director of Pharmacist Rehabilitation Organization*, introduced Andy Pierron, the soon to be new *Executive Director of the Pharmacist Rehabilitation Organization*.

10:08 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 **Jordan Talbert, Freemont, Ohio**.

R-2020-0169 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.

11:20 a.m. The recess ended and the hearing was opened to the public.

R-2020-0170 After votes were taken in public session, the Board adopted the following order in the matter of **Jordan Talbert, Freemont, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0325)

In The Matter Of:

Jordan Talbert, RPh

2840 N St. Rt. 19

Fremont, OH 43420

(License No. 03-331122)

INTRODUCTION

The Matter of Jordan Talbert came for hearing on November 4, 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.

Jordan Talbert was represented by Robert J. Garrity. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Jordan Talbert, RPh—Respondent
2. Donald Newton—Board Compliance Agent

Respondent's Witnesses:

1. Jordan Talbert, RPh—Respondent

State's Exhibits:

- | | |
|-----------------------------|------------|
| 1. Notice Letter | 07.03.2019 |
| 2. Request for Hearing | 07.24.2019 |
| 3. Scheduling Order | 07.30.2019 |
| 4. Statement of Respondent | 07.02.2019 |
| 5. Chain of Custody Report | Various |
| 6. Accountability Statement | 10.08.2019 |

Respondent's Exhibits:

- | | | |
|----|---|------------|
| A. | PRO Contract and UDS Results | 07.29.2019 |
| B. | Chemical Dependency Treatment Documentation | 07.10.2019 |
| C. | 12 Step Meeting Attendance Documentation | Various |
| D. | Resume and CE | Various |
| E. | Letters of Support | Various |

The parties stipulated to replacement pages 18 and 28 in Respondent's Exhibit C.

The parties stipulated to the following accountability statements as part of the State's Exhibits:

1. Lorazepam 2mg, negative 325 tablets
2. Tramadol 50mg, negative 1,100 tablets
3. Zolpidem 5mg, overage 43 tablets
4. Zolpidem 10mg, negative 224 tablets
5. Clonazepam 1mg, negative 301 tablets
6. Modafinil 100mg, negative 117 tablets
7. Alprazolam 1mg, negative 342 tablets

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 May 12, 2019 to June 23, 2019 Jordan Talbert stole controlled substances from her employer, Institutional Care Pharmacy, located at 1815 West Country Road 54, Tiffin, Ohio. Jordan Talbert was observed on store security camera stealing the following controlled Schedule IV drugs:
 - a. On or about May 12, 2019:
 - i. Zolpidem 5mg
 - ii. Modafinil
 - iii. Clonazepam 1mg
 - b. On or about May 26, 2019:
 - i. Tramadol 50mg
 - c. On or about June 22, 2019:
 - i. Zolpidem 10mg

- ii. Lorazepam 2mg
 - iii. Lorazepam 1mg
 - d. On or about June 23, 2019:
 - i. Tramadol 50mg
- 2. On or about July 2, 2019, Jordan Talbert was interviewed by an agent of the Board. Jordan Talbert made the following statements:
 - a. Jordan Talbert admitted she started stealing drugs from the pharmacy sometime after March 2018, when she was last prescribed Alprazolam.
 - b. Jordan Talbert admitted to stealing the following controlled substances:
 - i. Lorazepam 1mg
 - ii. Lorazepam 2mg
 - iii. Tramadol 50mg
 - iv. Zolpidem 5mg
 - v. Zolpidem 10mg
 - vi. Clonazepam 1mg
 - vii. Modafinil 100mg
 - viii. Alprazolam
 - c. Jordan Talbert admitted to being addicted to benzodiazepines and she admitted that she thought she could benefit from drug treatment.
 - d. Jordan Talbert admitted that she had stolen drugs in her purse and some at her residence as well.
- 3. On or about July 2, 2019, Jordan Talbert retrieved the following stolen drugs from her purse and her residence for agents of the Board:
 - a. Clonazepam 2mg, 5 tablets
 - b. Modafinil 100mg, 13 tablets
 - c. Zolpidem 10mg, 7 tablets
 - d. Tramadol 50mg, 20 tablets
 - e. Lorazepam 1mg, 30 tablets

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 1(a), 1(b), 1(c), 1(d), 2(a), 2(b), 2(d), 3(a), 3(b), 3(c), 3(d), and 3(e) of the Findings of Fact Section constitutes a violation of Section 2913.02 of the O.R.C., theft of a dangerous drug, a felony of the fourth degree.
2. Such conduct as set forth in paragraphs 1(b), 1(c), 1(d), 2(a), 2(b), 2(d), 3(a), 3(b), 3(c), 3(d), and 3(e) of the Findings of Fact Section constitutes a violation of Section 2925.11(A) of the O.R.C., possession of a Schedule IV controlled substance, a misdemeanor of the first degree.
3. 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.
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017, each violation constituting a minor misdemeanor:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. 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).
 - 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).
5. Such conduct as set forth in the Findings of Fact Section 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. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729-5-04(C); and

- d. 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).
- 6. 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. 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 Jordan Talbert on July 3, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist license No. 03-331122, held by Jordan Talbert and such suspension is effective as of the date of the mailing of this Order.

Jordan Talbert, 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 January 2021, the Board will consider any petition filed by Jordan Talbert 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. Jordan Talbert must maintain a current address with the Board throughout the duration of the suspension.
2. Jordan Talbert 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 Jordan Talbert 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 Jordan Talbert 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.
- 3. Jordan Talbert 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 Jordan Talbert reappear before the Board for possible additional sanctions, including and up to revocation of license.
- 4. Jordan Talbert 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 Jordan Talbert reappear before the Board for possible additional sanctions, including and up to revocation of license.
- 5. Jordan Talbert 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 Jordan Talbert to possible additional sanctions, including and up to revocation of license.
- 6. Jordan Talbert must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
- 7. Jordan Talbert must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
- 8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Jordan Talbert must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
- 9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

10. Violation of any term of suspension, including but not limited to any violation of the 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 Jordan Talbert's employment is related to the practice of pharmacy, Jordan Talbert must notify employer of the terms of her 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 Jordan Talbert's license.

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

Megan E. Marchal moved for Conclusions of Law; Jennifer M. Rudell seconded the motion. Motion passed (Aye-7/Nay-0).

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

SO ORDERED.

11:27 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 **Gary Holschuh, Willow Wood, Ohio.**

R-2020-0171 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.

11:57 p.m. The recess ended and the hearing was opened to the public.

R-2020-0172 After votes were taken in public session, the Board adopted the following order in the matter of **Gary Holschuh, Willow Wood, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0175)

In The Matter Of:

Gary Holschuh, RPh
5538 State Route 217
Willow Wood, OH 45696
(License No. 03-122847)

INTRODUCTION

The Matter of Gary Holschuh came for hearing on November 4, 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.

Gary Holschuh was not represented by counsel and was not present at the hearing. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Keenan Reese—Board Compliance Agent

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|----------------------------|------------|
| 1. Notice Letter | 04.03.2019 |
| 2. Request for Hearing | 05.02.2019 |
| 3. Request for Continuance | 07.02.2019 |
| 4. Notice of Hearing | 07.15.2019 |
| 5. Prior Board Action | 09.17.2009 |

- | | | |
|----|---------------------|------------|
| 6. | Pro Contract 2009 | 10.04.2009 |
| 7. | Drug Test Results | 06.04.2019 |
| 8. | Voluntary Surrender | 03.29.2019 |

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. On or about September 17, 2009, Gary Holschuh's license to practice pharmacy was placed on probation for ten years pursuant to an Order from case number 2007-1660, attached to the original Notice as Attachment A and incorporated in this Order as though fully set forth herein, related to the theft of controlled substances from Gary Holschuh's employer. One condition of probation was for "random, observed urine drug screens shall be conducted at least once each month for the first two years and then at least once every three months for the remaining eight years. 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. 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."
2. On or about October 4, 2009, Gary Holschuh entered into a treatment contract with Pharmacists Rehabilitation Organization, Inc. (PRO), consistent with his September 17, 2009 Board Order.
3. On or about March 13, 2019, Gary Holschuh failed to appear for a scheduled drug screening. Results were not obtained nor received within ten days. Gary Holschuh reported to the Executive Director of PRO that he did not take the test because it would be positive.
4. On or about March 29, 2019, Gary Holschuh was interviewed by agents from the Board. Gary Holschuh made the following statements:
 - a. Gary Holschuh stated he did not take the drug screen on March 13, 2019 as scheduled because he knew it would show positive results for a drug he was not authorized to have.

- b. Gary Holschuh stated he “could not get off of the klonopin” when asked if he was addicted.
- c. Gary Holschuh stated he became addicted to klonopin after open-heart surgery in August 2018.
- d. Gary Holschuh stated had had taken Valium, which was not prescribed to him, in the past couple days.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017, each violation constituting a minor misdemeanor:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. 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).
 - d. Failed to comply with an order of the board or a settlement agreement, ORC Section 4729.16(A)(2)(k); and
 - e. 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).
2. 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. 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
- e. Failed to comply with an order of the board or a settlement agreement, OAC Rule 4729:1-4-01(B)(2)(k); and
- g. Has been disciplined by the state board of pharmacy pursuant to section 4729.16 of the Revised Code, OAC Rule 4729:1-4-01(B)(2)(n); and
- h. Has been the subject of any of the following by the drug enforcement administration or licensing agency of any state or jurisdiction:
 - i. A disciplinary action that resulted in the suspension, probation, surrender or revocation of the person's license or registration, OAC Rule 4729:1-4-01(B)(2)(o)(i); and
 - ii. A disciplinary action that was based, in whole or in part, on the person's inappropriate prescribing, dispensing, diverting, administering, storing, securing, personally furnishing, compounding, supplying or selling a controlled substance or other dangerous drug, OAC Rule 4729:1-4-01(B)(2)(o)(ii).

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 Gary Holschuh on April 3, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist license no. 03-122847, held by Gary Holschuh and such suspension is effective as of the date of the mailing of this Order.

Gary Holschuh, 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 the Board will only consider reinstatement of the license to practice pharmacy in Ohio if Gary Holschuh shows satisfactory evidence of sobriety and the following conditions have been met:

1. Gary Holschuh must maintain a current address with the Board throughout the duration of the suspension.

2. Gary Holschuh 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 Gary Holschuh 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 Glucoronide (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 Gary Holschuh 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.
3. Gary Holschuh 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 Gary Holschuh reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Gary Holschuh 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 Gary Holschuh reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Gary Holschuh 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 Gary Holschuh to possible additional sanctions, including and up to revocation of license.
6. Gary Holschuh must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
7. Gary Holschuh must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of the original summary suspension, April 3, 2019, Gary Holschuh must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
10. Violation of any term of suspension, including but not limited to any violation of the 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 Gary Holschuh's employment is related to the practice of pharmacy, Gary Holschuh must notify employer of the terms of Gary Holschuh'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 Gary Holschuh's license.

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

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

Megan E. Marchal moved for Action of the Board; Fred m. Weaver seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

12:00 p.m. The Board recessed for lunch.

1:04 p.m. Ms. Reed provided the Medical Marijuana Program Update.

1:22 p.m. Ms. Reed presented the *Dispensary Temporary Access Request Form* to the Board for approval.

R-2020-0173 Mr. Newlon moved that the Board approve the *Dispensary Temporary Access Request Form*. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0. The following Form was adopted by the Board:

Dispensary Temporary Access Request Form**Updated 11-1-2019**

This form must be submitted and approved prior to allowing temporary dispensary access to an individual who is not licensed by the MMCP. If access is approved, the Designated Representative must ensure compliance with rule 3796:6-3-23 of the Administrative Code. Follow the directions below to complete this form and allow no less than seven days for a response.

1. Complete all fields on this form.
2. Print and sign the form.
3. Scan the completed form and save to your computer in a PDF format compatible with the latest version of Adobe Reader.
4. Login into the Board of Pharmacy's website:
<https://www.pharmacy.ohio.gov/upload> to upload the completed form. You will need your license number (MMD.07 followed by 5 digits) and eLicense security code to access the document upload page.
5. Once logged in, complete all fields on the web page.
6. Follow the instructions to upload and submit the completed Dispensary Temporary Access Request Form.

Section A – Licensee Information

A-1. Name of Dispensary		A-2. License No.	
A-3. Address		A-4. City	
A-5. State	A-6. Zip Code	A-7. Phone Number	
A-8. Name of Designated Representative		A-9. Employee License No.	
A-10. Email Address of Designated Representative			

Section B – Visitors (List all visitors by name along with the affiliation of each visitor)

B-1.

B-2.		
B-3.		
B-4.		
B-5.		
B-6.		
B-7. Dispensary Areas Requested (check all that apply) <div style="margin-left: 40px;"> <input type="checkbox"/> Waiting area <input type="checkbox"/> Dispensing area <input type="checkbox"/> Delivery area <input type="checkbox"/> Patient consult room <input type="checkbox"/> Product fulfillment area </div> <p><i>Please note that access to secure storage is strictly prohibited and visitors are only authorized to occupy/view the areas identified above.</i></p>		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; vertical-align: top;">B-8. Date (mm/dd/yyyy)</td> <td style="width: 60%; vertical-align: top;"> B-9. Length of visit (estimated) <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Time-in (00:00 am/pm) Time-out (00:00 am/pm) </div> </td> </tr> </table>	B-8. Date (mm/dd/yyyy)	B-9. Length of visit (estimated) <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Time-in (00:00 am/pm) Time-out (00:00 am/pm) </div>
B-8. Date (mm/dd/yyyy)	B-9. Length of visit (estimated) <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Time-in (00:00 am/pm) Time-out (00:00 am/pm) </div>	
B-10. Reason for visit		

C. Designated Representative's (DR) Acknowledgement and Affirmation (Initial each Box)

DR Initials	C-1. I understand that the licensed dispensary assumes the liability and responsibility for actions taken by visitors or media representatives while on the premises of a licensed dispensary.
DR Initials	C-2. I understand that all persons on the licensed dispensary premises are expected to comply with Chapter 3796 of the Revised Code and the rules promulgated thereunder.

DR Initials	C-3. I attest that the primary purpose of this temporary access is to educate the public about lawful engagement in the Ohio Medical Marijuana Control Program.
DR Initials	C-4. I attest that any patients or caregivers who are identifiable in recordings, photographs, or film, not just those featured in any media report, will sign a legal waiver acknowledging that they are aware their likeness may be disseminated and that they are authorizing the release of personal health information.
DR Initials	C-5. I attest that the licensed dispensary will retain all signed waivers and make them accessible to the Board upon request.
DR Initials	C-6. I attest that all patients and caregivers will be notified that a visitor or media representative is present prior to entering the licensed dispensary.
DR Initials	C-7. I attest that any media coverage shall not serve as an advertisement for the dispensary, cultivator, or processor and that no more than one camera will be permitted in any limited access areas at a time.
DR Initials	C-8. I attest that no recording devices shall record, photograph, or film patient records.
DR Initials	C-9. I attest that no recording device shall record, photograph, or film security measures or policies, which may compromise the security and integrity of the licensed facility.
DR Initials	C-10. I attest that no real products shall be featured in photograph or film.
DR Initials	C-11. I attest that no demonstrations, consumption, or use methods shall be recorded, photographed, filmed, or featured.
DR Initials	C-12. I understand that all requests for advertisements, including social media, and educational material shall be submitted and approved through the Board's advertisement portal prior to the event or use of material. Additionally, no tables, chairs, tents, or other items are permitted to be in the parking lot of the facility.
DR Initials	C-13. I understand that cultivator and processor employees licensed by the Department of Commerce may provide patient education provided that such

	education is not offered in the dispensary department and that patients must approach the employees of the licensed cultivator or processor for educational communication.
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I declare under penalties of falsification as set forth in Chapters 2921., 3715., 3719., 3796., and 4729. of the Ohio Revised Code that I am authorized to sign on behalf of the licensed dispensary listed in this request. I hereby acknowledge that by submitting this authorization, I submit to the jurisdiction of the State of Ohio Board of Pharmacy and to the laws of Ohio for the purpose of enforcement of Chapters 2925., 3715., 3719., 3796., and 4729. of the Ohio Revised Code and all related laws and rules.

This form must be manually signed in ink. Digital signatures will **NOT** be accepted.

Signature of Designated Representative	Date Signed

1:22 p.m. Ms. Dehner and Ms. Reed led a discussion on Standard Terms and Conditions for Board Orders and whether these terms should also include prohibiting a Pharmacist whose license has recently been reinstated and is not in 'good standing' from becoming a Designated Representatives at a medical marijuana facility. This term would mirror the prohibition on being a Responsible Person while on probation and/or not in good standing.

R-2020-0174 Mr. Cox moved that the Board add an additional standard condition prohibiting the ability to be a Designated Representative at a Dispensary or for Home Medical Equipment while on probation and/or not in good standing; further that the staff should approach recent reinstated pharmacists to update their Orders accordingly or bring back for additional proceedings consistent with Chapter 119 those who did not receive such language in their reinstatement Orders. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.

1:56 p.m. Ms. Dehner presented *Resolution: Notices of Opportunity for Hearing Are Public Record* to the Board for approval.

R-2020-0175 Mr. Newlon moved that the Board approve the *Resolution: Notices of Opportunity for Hearing Are Public Record*. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0. The following resolution was adopted by the Board:

RESOLUTION: NOTICES OF OPPORTUNITY FOR HEARING ARE PUBLIC RECORD

The Board hereby finds good cause in the public's accessibility of discipline of its licensees, including the allegations, potential violations of law, and with respect to subsequent Board Orders issued, the rationale underlying its disciplinary decisions to adopt the following ongoing resolution.

The Board hereby waives any right to confidentiality it holds under R.C. 4729.23 for notice letters issued by the Board pursuant to R.C. 119.07. The Board further waives any right to confidentiality it holds under R.C. 4792.23 for any documents that the Board submits as evidence at a hearing held pursuant to R.C. Chapter 119. The Board delegates to the Executive Director any other questions of whether "good cause" exists to release information that would otherwise be confidential under R.C. 4729.23.

The Board hereby waives any right to confidentiality it holds under Ohio Adm. Code 3796:6-4-02(F) for notice letters issued by the Board pursuant to R.C. 119.07. The Board further waives any right to confidentiality it holds under Ohio Adm. Code 3796:6-4-02(F) for any documents that the Board submits as evidence at a hearing held pursuant to R.C. Chapter 119. The Board expressly finds that including information in a publicly available notice letter issued under R.C. 119.07 is a permissible "use" of information that is "maintained for the use of the state board of pharmacy" and may be otherwise be confidential under Ohio Adm. Code 3796:6-4-02(F). The Board further finds that publicly introducing information or documents in a hearing held under R.C. Chapter 119 hearing is a permissible "use" of information that is "maintained for the use of the state board of pharmacy" and may be otherwise be confidential under Ohio Adm. Code 3796:6-4-02(F). The Board delegates to the Executive Director any other questions of whether an activity will be a permissible "use" of information or documents under Ohio Adm. Code 3796:6-4-02(F).

Nothing in this Resolution should be interpreted to impact any type of confidentiality other than those created by R.C. 4729.23 and Ohio Adm. Code 3796:6-4-02(F); information or documents might be confidential for some other reason such as patient confidentiality. Confidential patient keys (whether attached to notice letters or submitted as evidence at hearing) will continue to be confidential.

R-2020-0176

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; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

- 3:15 p.m.** Ms. Southard presented the Licensing Report.
- 3:18 p.m.** Mr. Garner presented the Ohio Automated Rx Reporting System (OARRS) Report.
- 3:23 p.m.** Ms. Ghitman presented the Ohio Public High School Pharmacy Technician Training Program Application Standards Update to the Board for approval.
- 3:25 p.m.** The Board tabled approval of the Ohio Public High School Pharmacy Technician Training Program Application Standards Update.
- 3:32 p.m.** Mr. Griffin provided the Compliance Report.
- 3:38 p.m.** Ms. Dehner provided the Legal Report.
- 3:38 p.m.** Ms. Dehner presented the request of the National Association of Boards of Pharmacy (NABP). NABP requested that Boards of Pharmacy join an amicus curiae brief to be filed with the United States Court of Appeals.
- R-2020-0177** Ms. Rudell moved that the Board approve the *Resolution: Signatory On NABP Amicus Brief*. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0, Abstain-1. Ms. Yarosh abstained from voting due to her absence during the discussion. The following resolution was adopted by the Board:

RESOLUTION: SIGNATORY ON NABP AMICUS BRIEF

The State of Ohio Board of Pharmacy, finding the issue of federal preemption of outsourcing facilities to be an important potential public health issue that could impact the health and safety of Ohioans, hereby authorizes the Executive Director to be a signatory to the National Association of Board's of Pharmacy's Amicus Brief in the Ninth Circuit Court of Appeals case, *Fusion IV Pharmaceuticals, In, et al v. Executive Director Virginia Herold, et al*, once it has been reviewed by Board legal staff.

- 3:52 p.m.** Ms. Dehner and Ms. Southard presented Day One Integrative Services, LLC's OBOT Non-Physician Ownership Waiver Request to the Board for consideration.

- R-2020-0178** Ms. Marchal moved that the Board approve the Non-Physician Ownership Waiver Request. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7, Nay-0.
- 4:01 p.m.** Ms. Southard presented the OBOT-Non-Physician Owner Waiver Request for Three Waters Recovery Center Application No. 000239559 and Application No. 000270655 to the Board for consideration.
- R-2020-0179** Mr. Cox moved that the Board approve the OBOT-Non-Physician Owner Waiver Requests for both applications. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- 4:05 p.m.** Ms. Southard presented the OBOT—PMC Waiver Request of Basically Beautiful Faces, LTD to the Board for consideration.
- R-2020-0180** Ms. Yarosh moved that the Board approve the Non-Physician Ownership Waiver Request. The motion was seconded by Mr. Cox and approved by the Board: Aye-7, Nay-0.
- 4:05 p.m.** Ms. Southard presented the Pharmacist: Pharmacy Technician Trainee Ratio Request of Giant Eagle Pharmacy #8417 to the Board for consideration.
- R-2020-0181** Ms. Marchal moved that the Board approve Giant Eagle Pharmacy #8417's request for a pharmacist to pharmacy technician trainee ratio of 1:10 for a period of three years.. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6, Nay-0, Abstain-1. Mr. Weaver abstained from voting.
- 4:11 p.m.** Ms. Southard presented the request of Bio Scrip Infusion Services for a waiver of pick-up station requirements.
- R-2020-0182** Mr. Cox moved that the Board deny Bio Scrip Infusion Services' Waiver Request. The motion was seconded by Ms. Marshal and approved by the Board: Aye-7, Nay-0.
- 4:14 p.m.** Ms. Southard presented the Pharmacy Intern Extension Request of Salwa Arafa to the Board for consideration.
- R-2020-0183** Ms. Marchal moved that the Board approve the Pharmacy Intern's Extension for a period of one year, with the condition that Salwa Arafa can attest she did not practice while her license was expired. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- 4:16 p.m.** Ms. Southard presented the Non-Pharmacy Internship Credit Request of Tasneem Al-Huniti to the Board for consideration.

- R-2020-0184** Ms. Yarosh moved that the Board deny the Non-Pharmacy Internship Credit Request of Tasneem Al-Huniti. The motion was seconded by Ms. Marchal and denied by the Board: Aye-7, Nay-0.
- 4:22 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:9-1-01—Schedule I Controlled Substances, 4729:9-1-02—Schedule II Controlled Substances, 4729:9-1-03—Schedule III Controlled Substances, 4729:9-1-04—Schedule IV Controlled Substances, and 4729:9-1-05—Schedule V Controlled Substances.
- R-2020-0185** Mr. Cox moved that the Board Approve Revision to 4729:9-1-01—Schedule I Controlled Substances, 4729:9-1-02—Schedule II Controlled Substances, 4729:9-1-03—Schedule III Controlled Substances, 4729:9-1-04—Schedule IV Controlled Substances, and 4729:9-1-05—Schedule V Controlled Substances for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7, Nay-0.
- 4:29 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-15-01—Animal Shelters-Definitions, 4729:5-15-02—Security and Control of Dangerous Drugs, 4729:5-15-03—Record Keeping.
- R-2020-0186** Mr. Weaver moved that the Board Approve Revision to 4729:5-15-01—Animal Shelters-Definitions, 4729:5-15-02—Security and Control of Dangerous Drugs, 4729:5-15-03—Record Keeping for filing with CSI and/or JCARR. The motion was seconded by Mr. Newlon and approved by the Board: Aye-7, Nay-0.
- 4:39 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:6-3-18—Distributor of Dangerous Drugs Samples and Complementary Supplies, 4729:6-5-02—Wholesale Distributors-Recordkeeping, 4729:6-6-01—Virtual Wholesalers-General Operations, 4729:6-7-01—Brokers-General Operations, 4729:6-8-02—Manufacturers-Recordkeeping, 4729:6-9-02—Repackagers-Recordkeeping, 4729:6-10-02—Outsourcing Facilities-Recordkeeping, and 4729:6-11-02—Third Party Logistics Providers-Recordkeeping.
- R-2020-0187** Ms. Rudell moved that the Board Approve Revision to 4729:6-3-18—Distributor of Dangerous Drugs Samples and Complementary Supplies, 4729:6-5-02—Wholesale Distributors-Recordkeeping, 4729:6-6-01—Virtual Wholesalers-General Operations, 4729:6-7-01—Brokers-General Operations, 4729:6-8-02—Manufacturers-Recordkeeping, 4729:6-9-02—Repackagers-Recordkeeping, 4729:6-10-02—Outsourcing Facilities-Recordkeeping, and 4729:6-11-02—Third Party Logistics Providers-Recordkeeping for filing with CSI and/or JCARR. The motion was seconded by Mr. Newlon and approved by the Board: Aye-7, Nay-0.
- 4:43 p.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-8-04—Drugs Compounded by a Nonresident Pharmacy, 4729:3-3-04—Certified Pharmacy Technicians, and 4729:7-3-05—Hazardous Drugs Compounded by a Prescriber.

R-2020-0187 Mr. Newlon moved that the Board Approve Revision to 4729:5-8-04—Drugs Compounded by a Nonresident Pharmacy, 4729:3-3-04—Certified Pharmacy Technicians, and 4729:7-3-05—Hazardous Drugs Compounded by a Prescriber for filing with CSI and/or JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.

4:45 p.m. Mr. McNamee led a discussion on revisions to rules 4729:4-1-01—Definitions-Impaired Licensees, Registrants and Probation, 4729:4-1-02—Applicability, 4729:4-1-03—Requirements for Approved Treatment Providers, 4729:4-1-04—Monitoring Contracts, 4729:4-1-05—Probation, 4729:4-1-06—Requirements for Approved Monitoring Programs, 4729:4-1-07—Summary Suspension of a Licensee or Registrant, and 4729:4-1-09—Terms While Under Suspension.

R-2020-0188 Mr. Newlon moved that the Board Approve Revision to 4729:4-1-01—Definitions-Impaired Licensees, Registrants and Probation, 4729:4-1-02—Applicability, 4729:4-1-03—Requirements for Approved Treatment Providers, 4729:4-1-04—Monitoring Contracts, 4729:4-1-05—Probation, 4729:4-1-06—Requirements for Approved Monitoring Programs, 4729:4-1-07—Summary Suspension of a Licensee or Registrant, and 4729:4-1-09—Terms While Under Suspension for filing with CSI and/or JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.

R-2020-0189 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; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

5:46 p.m. Executive session concluded, and the Board recessed for the day.

Tuesday, November 5, 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; Megan E. Marchal, RPh; Richard J. Newlon, *Public Member*; 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*.

Donald R. Miller, R.Ph. and Jennifer M. Rudell, Absent.

R-2020-0190 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. A-2019-0230
I-2018-1394**

Pradeep Mathur, M.D.
3974 Via Siena
Poland, Ohio 44512

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 Pradeep Mathur, M.D. for the purpose of resolving all issues between the parties relating to the Board investigation of unlawful access to the OARRS database. Together, the Board and Pradeep Mathur, M.D., are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.86 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to restrict a person from obtaining further information from the drug database known as the Ohio Automated Rx Reporting System (OARRS).
2. Pradeep Mathur, M.D. signed the OARRS user agreement in 2014 and is an authorized user of the OARRS database.

FACTS

1. On or about May 10, 2018, the Board initiated an investigation of Pradeep Mathur, M.D.’s unlawful access of the OARRS database.
2. On or about July 18, 2019, the Board sent a Notice of Opportunity for Hearing to Pradeep Mathur, M.D. which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. In order to perfect service, the Board re-sent the Notice of Opportunity for Hearing on August 12, 2019.

3. On or about August 15, 2019, Pradeep Mathur, M.D., through counsel, timely requested an administrative hearing, which was subsequently scheduled for December 11, 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. Pradeep Mathur, M.D. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated July 18, 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. Pradeep Mathur, M.D. agrees to pay a fine of \$500.00 to the State of Ohio Board of Pharmacy. The fine shall be paid no later than thirty (30) days from the date of this order. Payment must be made by means of a personal check made payable to "State of Ohio Board of Pharmacy," and mailed with a copy of this Agreement to, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.
4. Pradeep Mathur, M.D. understands that any violation of the OARRS database laws and rules, or a violation of any other state or federal law will be considered a violation of the Agreement and may result in a hearing before the Board and/or additional criminal and/or administrative charges resulting in a penalty that could include permanent revocation of OARRS access.
5. Pradeep Mathur, M.D. must obtain, within six months from the effective date of this Agreement, ten (10) hours of approved continuing education in ethics, professionalism, the proper use of the OARRS database, and/or general medical practices. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for re-licensure for the Continuing Medical Education period(s) in which they are completed. Copies of completed continuing education courses must be e-mailed to legal@pharmacy.ohio.gov within 90 days of completion.
6. Pradeep Mathur, M.D. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Pradeep Mathur, M.D. understands that he has the right to be represented by counsel for review and execution of this agreement.

8. Pradeep Mathur, M.D. agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on applications for a new license.
9. Pradeep Mathur, M.D. waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0191 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0298**

**Alexa Koutsourais
License No. 06-012654
6725 James St.
Youngstown, OH 44514**

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 Alexa Koutsourais for the purpose of resolving all issues between the parties relating to the Board investigation of engaging in the practice of pharmacy during the time Alexa Koutsourais' intern license was lapsed. Together, the Board and Alexa Koutsourais 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, 4729.08 and 4729.11 of the Ohio Revised Code to practice pharmacy as an intern in the state of Ohio.
2. Alexa Koutsourais is a licensed pharmacist in the state of Ohio under license number 03-438292 and was a licensed intern under license number 06-012654.

FACTS

1. The Board initiated an investigation of Alexa Koutsourais' pharmacist intern license number 06-012654, related to Alexa Koutsourais engaging in the practice of pharmacy during the time Alexa Koutsourais' intern license was lapsed
2. On or about July 23, 2019 the Board sent a Notice of Opportunity for Hearing to Alexa Koutsourais, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. 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. Alexa Koutsourais agrees to pay to 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. Alexa Koutsourais agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Alexa Koutsourais understands that she has the right to be represented by counsel for review and execution of this agreement.

6. Alexa Koutsourais agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.
7. Alexa Koutsourais 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-2020-0192

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

**IN THE MATTER OF:
CASE No. A-2019-0075**

**Mercy Health - Urbana Hospital
License No. 02-0930650
c/o Dawn Haack
904 Scioto Street
Urbana, OH 43078**

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 Mercy Health – Urbana Hospital (Urbana Hospital), for the purpose of resolving all issues between the parties relating to the Board investigation of Urbana Hospital's compounding practices in violation of USP 797, Chapter 4729 of the Ohio Revised Code (ORC), and Chapter 4729-16 of the Ohio Administrative Code (OAC). Together, the Board and Urbana Hospital are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to ORC 4729.57 and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, refuse to grant or renew, reprimand, place on probation any license issued pursuant to ORC 4729.54.
2. Pursuant to ORC 4729.57 and the rules adopted thereunder, the Board has 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 one thousand dollars if the acts committed have not been classified as an offense by the Revised Code on any license issued pursuant to ORC 4729.54.
3. Urbana Hospital is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0930650.

FACTS

1. On or about May 15, 2018, the Board initiated an investigation of Urbana Hospital, Terminal Distributor of Dangerous Drugs (TDDD) license number 02-0930650, related to Urbana Hospital's compounding practices in violation of USP 797, ORC 4729, and OAC 4729-16.
2. On or about August 14, 2019, the Board sent a Notice of Opportunity for Hearing to Urbana Hospital, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Urbana Hospital 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. Urbana Hospital agrees to pay to the Board a monetary penalty in 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 Settlement Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

4. Urbana Hospital TDDD License No. 02-0930650 will be placed on probation for two-years from the effective date of this Agreement. As a condition of its probation, Urbana Hospital must submit the results of testing required by USP 797 to the Board for review every six months. The test results shall include, at a minimum:
 - a. Records of certification or recertification of all classified areas including the primary engineering control(s)(PECs) and secondary engineering controls (SECs).
 - b. Total airborne particle counts in each classified area including the primary engineering control(s)(PECs).
 - c. Viable air sampling to evaluate airborne microorganisms for all classified areas.
 - d. Surface sampling for viable particles of all classified areas including the primary engineering control(s)(PECs).
 - e. Applicable data collected and corrective actions for any out-of-level occurrences, including media-fill test, endotoxin, sterility, etc.
5. Urbana Hospital 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. Urbana Hospital agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, ORC Chapter 4729. and the rules adopted thereunder, ORC Chapter 3719. and the rules adopted thereunder, ORC 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 Urbana Hospital 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 Urbana Hospital by the Board and will NOT discharge Urbana Hospital from any obligation under the terms of this Agreement.
7. Urbana Hospital agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Urbana Hospital 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 Urbana Hospital will operate.

10. Urbana Hospital waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to 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 ORC 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0193

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

**IN THE MATTER OF:
Case No. A-2019-0297
Registration No 09-306667**

Lisa Wittig
1135 Robin Ct
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 Lisa Wittig for the purpose of resolving all issues between the parties relating to the Board investigation of data entry error resulting in an error in dispensing. Together, the Board and Lisa Wittig 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 certified pharmacy technician in the state of Ohio.

2. Lisa Wittig is an Ohio-registered certified pharmacy technician under registration number 09-306667.

FACTS

1. On or about January 10, 2019, the Board initiated an investigation of Lisa Wittig, certified pharmacy technician registration number 09-306667, related to Lisa Wittig's data entry error resulting in an error in dispensing.
2. On or about August 29, 2019 the Board sent a Notice of Opportunity for Hearing to Lisa Wittig which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Lisa Wittig neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 29, 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. Lisa Wittig agrees to pay to the OSBP the amount of amount of \$100.00. 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. Lisa Wittig must obtain, within 90 days from the effective date of this Agreement, two hours of approved continuing pharmacy education (0.2 CEUs) which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Lisa Wittig agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

6. Lisa Wittig understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Lisa Wittig 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. Lisa Wittig waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0194 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. A-2019-0181
License No. 02-60000667**

Dolce Organic Salon Med Spa and Salt Room
c/o Linda Machalicek
18820 E. Bagley Rd.
Middleburg Heights, OH 44130

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 Dolce Organic Salon Med Spa and Salt Room ("Dolce"), for the purpose of resolving

all issues between the parties relating to the Board investigation of Dolce's new license inspection during which it was discovered Dolce was already in possession of Category II dangerous drug stock. Together, the Board and Dolce 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. Dolce applied for a Terminal Distributor of Dangerous Drugs (TDDD) license number 02-60000667.

FACTS

1. The Board initiated an investigation of Dolce, TDDD license number 02-60000667, related to Dolce's possession of Category II dangerous drug stock without a valid Ohio license.
2. On or about September 5, 2019 the Board sent a Notice of Opportunity for Hearing to Dolce, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Dolce neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 5, 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. Dolce agrees to pay to the Board a monetary penalty in the amount of \$1,000. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

4. Dolce 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. The Board agrees to issue the TDDD license to Dolce upon submission of a Board-approved Responsible Person and payment of the monetary penalty. The Board received on September 9, 2019 the appropriate form changing the Responsible Person to John Kocka, MD, which has been approved by the Board.
6. Dolce agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Dolce 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 Dolce will operate.
9. Dolce waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to 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-2020-0195

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

**IN THE MATTER OF:
CASE NO. A-2019-0324
License No. 03-209065**

John P. Ryan
6542 Zebra Court
West Chester, OH 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 John P. Ryan, for the purpose of resolving all issues between the parties relating to the Board investigation of failure to conduct Drug Utilization Review and the creation of false prescriptions. Together, the Board and John P. Ryan 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.
1. John P. Ryan is a licensed pharmacist in the state of Ohio under license number 03209065.

FACTS

1. The Board initiated an investigation of John P. Ryan, pharmacist license number 03-224989, related to John P. Ryan’s failure to conduct Drug Utilization Review and creation of false prescriptions.
2. On or about August 15, 2019 the Board sent a Notice of Opportunity for Hearing to John P. Ryan, 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. John P. Ryan neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 15, 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. John P. Ryan agrees to pay to the Board a monetary penalty in the amount of \$1,000.00, The fine shall be paid no later than thirty (30) days from the effective date of this Settlement Agreement. You must login to www.elicense.ohio.gov and process the items in your cart to pay this fine.
 4. John P. Ryan must obtain, within 60 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (.6 CEUs), not to count toward renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
 5. John P. Ryan agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. John P. Ryan understands that he has the right to be represented by counsel for review and execution of this agreement.
 7. John P. Ryan agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
 8. John P. Ryan waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
 9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 12. This Agreement shall become effective upon the date of the Board President's signature below.
-

R-2020-0196 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. A-2019-0407
License No. MMD.04026
Account No./Application No. 140-869**

**Care Med Associates, LLC
c/o John Hondros
5149 Kennedy Avenue
Cincinnati, OH 45213**

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and executed by and among, Care Med Associates, LLC (“Care Med Associates”), and the State of Ohio Board of Pharmacy (“Board”) (individually each a “Party,” and collectively the “Parties”).

WITNESSETH:

WHEREAS, on or about June 4, 2018, the Board awarded Care Med Associates, LLC a provisional dispensary license to operate a medical marijuana dispensary at 5149 Kennedy Avenue, Cincinnati, OH 45213;

WHEREAS, Cresco Labs, Inc. is a publicly traded company whose affiliates operate in Ohio (Cresco Labs, Inc. and its affiliates collectively known as “Cresco”);

WHEREAS, Care Med Associates entered into a series of agreements with a Cresco affiliate that established that the Cresco affiliate (1) could purchase the provisional dispensary license and/or the dispensary license of Care Med Associates at a future date, (2) issued a line of

credit to Care Med Associates and (3) would provide management and consulting services to Care Med Associates;

WHEREAS, some employees of Care Med Associates believed that they were required to report to, and follow the instructions of, an employee of a Cresco affiliate;

WHEREAS, as a result of the agreements entered into between Care Med Associates and Cresco, the third party directly paid invoices submitted by vendors and contractors for goods and services provided to Care Med Associates' dispensary and treated those payments as advances on the line of credit;

WHEREAS, the agreements entered into between Care Med Associates and Cresco, and the subsequent operation of Care Med Associates, violated Ohio Adm.Code 3796:6-2-12(C)(6);

WHEREAS, Care Med Associates was still operating under a provisional dispensary license, and had not yet obtained a certificate of operation as a medical marijuana dispensary;

WHEREAS, Care Med Associates has amended its agreements with the third party so that they unequivocally do not violate the change of ownership rules found in Ohio Adm.Code 3796:6-2-12;

WHEREAS, the Board has authority under 3796.14(B) and Ohio Adm.Code 3796:6-4-03(A) and 3796:6-4-04 for a violation of Ohio Adm. Code 3796:6-2-12;

WHEREAS, Care Med Associates neither admits nor denies that it has violated any statutes or regulations governing medical marijuana dispensaries;

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 hereby issues a reprimand and a fine of five thousand dollars (\$5,000) against Care Med Associates. This fine will be attached to Care Med Associates' license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine Care Med Associates must login to www.elicense.ohio.gov and process the items in its cart.
- b. Once the fine identified above has been paid to the Board, the Board will schedule a final inspection of Care Med Associates' provisional dispensary location in accordance with Ohio Adm.Code 3796:6-2-06.
- c. Once Care Med Associates has complied with the conditions of this Agreement and met all other licensure requirements such as payment of the appropriate fees and passing the final inspection(s), the Board will award Care Med Associates' Certificate of Operation.
- d. Care Med Associates agrees that:
 - i. One of its licensed Prospective Associated Key Employees (currently John Hondros, Corey Poches, or David Sahr) shall personally interview and make employment decisions for the positions of General Manager and/or Designated Representative;
 - ii. Its licensed PAKEs shall administer and control the operations of Care Med Associates including without limitation, choosing which contractors to provide services;

- iii. In no event shall a General Manager, Designated Representative or any other employee be an officer, manager or employee of Cresco or an affiliate of Cresco;
- iv. It will not hire any employees unless: 1) the General Manager has recommended the hiring of an individual after performing a personal interview of the potential employee and 2) one of the licensed Prospective Associated Key Employees has approved the hiring.
- v. It (or a parent company of Care Med Associates) shall open a bank account on or before October 31, 2019, and, once that bank account has been opened, Care Med Associates (or a related parent of Care Med Associates) shall directly pay all invoices issued for goods and services provided to Care Med Associates.

3. Specific Releases.

- a. Care Med Associates. Care Med Associates agrees not to institute or reinstitute any actions, 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 its provisional dispensary licenses or dispensary licenses related to the matters described herein.
- b. The Board. The Board agrees not to treat this Agreement or the facts listed in the preamble as disqualifying any of the following from submitting any future applications in the State of Ohio for dispensaries should the Board determine to make future application

opportunities available to the public: Care Med Associates, John Hondros, Corey Poches, David Sahr, or any company owned by John Hondros, Corey Poches, or David Sahr.

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 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. Except as stated above, required by R.C. §149.43, or otherwise required by law (including but not limited to regulations, court orders, and lawful subpoenas), or to the extent necessary as a result of litigation to enforce the Agreement, neither Party shall otherwise affirmatively describe or characterize this Agreement or the reasons for entering

into it with a non-Party. For purposes of this Section, discussions within the Pharmacy Board among its members, staff, and employees are not prohibited.

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. **Chapter 119. Proceedings.** The Parties acknowledge and agree that this Agreement was entered without resort to the administrative procedures set forth in Chapter 119. of the Ohio Revised Code.
8. **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.
9. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their agents, employees, successors and assigns.
10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
11. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.
12. **Headings.** The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.
13. **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.

14. 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.

R-2020-0197 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. A-2019-0403
License No. MMD.04013
Account No./Application No. 115-866**

**Verdant Creations Marion, LLC
c/o John Hondros
326 Jamesway Road
Marion, OH 43302**

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and executed by and among, Verdant Creations Marion, LLC (“VC Marion”), and the State of Ohio Board of Pharmacy (“Board”) (individually each a “Party,” and collectively the “Parties”).

WITNESSETH:

WHEREAS, on or about June 4, 2018, the Board awarded Verdant Creations, LLC a provisional dispensary license to operate a medical marijuana dispensary at 326 Jamesway Road, Marion, OH 43302;

WHEREAS, the Board granted a variance to Verdant Creations, LLC to transfer its provisional dispensary license located in Marion, Ohio to VC Marion, which had identical ownership to Verdant Creations, LLC;

WHEREAS, Cresco Labs, Inc. is a publicly traded company whose affiliates operate in Ohio (Cresco Labs, Inc. and its affiliates collectively known as “Cresco”);

WHEREAS, VC Marion entered into a series of agreements with a Cresco affiliate that established that the Cresco affiliate (1) could purchase the provisional dispensary license and/or the dispensary license of VC Marion at a future date, (2) issued a line of credit to VC Marion and (3) would provide management and consulting services to VC Marion;

WHEREAS, some employees of VC Marion believed that they were required to report to, and follow the instructions of, an employee of a Cresco affiliate;

WHEREAS, as a result of the agreements entered into between VC Marion and Cresco, the third party directly paid invoices submitted by vendors and contractors for goods and services provided to VC Marion’s dispensary and treated those payments as advances on the line of credit;

WHEREAS, the agreements entered into between VC Marion and Cresco, and the subsequent operation of VC Marion, violated Ohio Adm.Code 3796:6-2-12(C)(6);

WHEREAS, VC Marion was still operating under a provisional dispensary license, and had not yet obtained a certificate of operation as a medical marijuana dispensary;

WHEREAS, VC Marion has amended its agreements with the third party so that they unequivocally do not violate the change of ownership rules found in Ohio Adm.Code 3796:6-2-12;

WHEREAS, the Board has authority under 3796.14(B) and Ohio Adm.Code 3796:6-4-03(A) and 3796:6-4-04 for a violation of Ohio Adm. Code 3796:6-2-12;

WHEREAS, VC Marion neither admits nor denies that it has violated any statutes or regulations governing medical marijuana dispensaries;

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 hereby issues a reprimand and a fine of five thousand dollars (\$5,000) against VC Marion. This fine will be attached to VC Marion's license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine VC Marion must login to www.elicense.ohio.gov and process the items in its cart.
 - b. Once the fine identified above has been paid to the Board, the Board will schedule a final inspection of VC Marion's provisional dispensary location in accordance with Ohio Adm.Code 3796:6-2-06.
 - c. Once VC Marion has complied with the conditions of this Agreement and met all other licensure requirements such as payment of the appropriate fees and passing the final inspection(s), the Board will award VC Marion's Certificate of Operation.
 - d. VC Marion agrees that:
 - i. One of its licensed Prospective Associated Key Employees (currently John Hondros, Corey Poches, or David Sahr) shall personally interview and make employment decisions for the positions of General Manager and/or Designated Representative;

- ii. Its licensed PAKEs shall administer and control the operations of VC Marion including without limitation, choosing which contractors to provide services;
- iii. In no event shall a General Manager, Designated Representative or any other employee be an officer, manager or employee of Cresco or an affiliate of Cresco;
- iv. It will not hire any employees unless: 1) the General Manager has recommended the hiring of an individual after performing a personal interview of the potential employee and 2) one of the licensed Prospective Associated Key Employees has approved the hiring.
- v. It (or a parent company of VC Marion) shall open a bank account on or before October 31, 2019, and, once that bank account has been opened, VC Marion (or a related parent of VC Marion) shall directly pay all invoices issued for goods and services provided to VC Marion.

3. Specific Releases.

- a. VC Marion. VC Marion agrees not to institute or reinstitute any actions, 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 its provisional dispensary licenses or dispensary licenses related to the matters described herein.
- b. The Board. The Board agrees not to treat this Agreement or the facts listed in the preamble as disqualifying any of the following from submitting any future applications in the State of Ohio for dispensaries should the Board determine to make future application opportunities available to the public: VC Marion, John Hondros, Corey Poches, David Sahr, or any company owned by John Hondros, Corey Poches, or David Sahr.

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 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. Except as stated above, required by R.C. §149.43, or otherwise required by law (including but not limited to regulations, court orders, and lawful subpoenas), or to the extent necessary as a result of litigation to enforce the Agreement, neither Party shall otherwise affirmatively describe or characterize this Agreement or the reasons for entering into it with a non-Party. For purposes of this Section, discussions within the Pharmacy Board among its members, staff, and employees are not prohibited.

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. **Chapter 119. Proceedings.** The Parties acknowledge and agree that this Agreement was entered without resort to the administrative procedures set forth in Chapter 119. of the Ohio Revised Code.
8. **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.
9. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their agents, employees, successors and assigns.
10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
11. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.
12. **Headings.** The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.
13. **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.
14. **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.

R-2020-0198 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. A-2019-0401
License No. MMD.04014
Account No./Application No. 115-865**

**Verdant Creations Chillicothe, LLC
c/o John Hondros
1641 North Bridge Street
Chillicothe, OH 45601**

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and executed by and among, Verdant Creations Chillicothe, LLC (“VC Chillicothe”), and the State of Ohio Board of Pharmacy (“Board”) (individually each a “Party,” and collectively the “Parties”).

WITNESSETH:

WHEREAS, on or about June 4, 2018, the Board awarded Verdant Creations, LLC a provisional dispensary license to operate a medical marijuana dispensary at 1641 North Bridge Street, Chillicothe, OH 45601;

WHEREAS, the Board granted a variance to Verdant Creations, LLC to transfer its provisional dispensary license located in Chillicothe, Ohio to VC Chillicothe, which had identical ownership to Verdant Creations, LLC;

WHEREAS, Cresco Labs, Inc. is a publicly traded company whose affiliates operate in Ohio (Cresco Labs, Inc. and its affiliates collectively known as “Cresco”);

WHEREAS, VC Chillicothe entered into a series of agreements with a Cresco affiliate that established that the Cresco affiliate (1) could purchase the provisional dispensary license and/or the dispensary license of VC Chillicothe at a future date, (2) issued a line of credit to VC Chillicothe and (3) would provide management and consulting services to VC Chillicothe;

WHEREAS, some employees of VC Chillicothe believed that they were required to report to, and follow the instructions of, an employee of a Cresco affiliate;

WHEREAS, as a result of the agreements entered into between VC Chillicothe and Cresco, the third party directly paid invoices submitted by vendors and contractors for goods and services provided to VC Chillicothe’s dispensary and treated those payments as advances on the line of credit;

WHEREAS, the agreements entered into between VC Chillicothe and Cresco, and the subsequent operation of VC Chillicothe, violated Ohio Adm.Code 3796:6-2-12(C)(6);

WHEREAS, VC Chillicothe was still operating under a provisional dispensary license, and had not yet obtained a certificate of operation as a medical marijuana dispensary;

WHEREAS, VC Chillicothe has amended its agreements with the third party so that they unequivocally do not violate the change of ownership rules found in Ohio Adm.Code 3796:6-2-12;

WHEREAS, the Board has authority under 3796.14(B) and Ohio Adm.Code 3796:6-4-03(A) and 3796:6-4-04 for a violation of Ohio Adm. Code 3796:6-2-12;

WHEREAS, VC Chillicothe neither admits nor denies that it has violated any statutes or regulations governing medical marijuana dispensaries;

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 hereby issues a reprimand and a fine of five thousand dollars (\$5,000) against VC Chillicothe. This fine will be attached to VC Chillicothe's license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine VC Chillicothe must login to www.elicense.ohio.gov and process the items in its cart.
 - b. Once the fine identified above has been paid to the Board, the Board will schedule a final inspection of VC Chillicothe's provisional dispensary location in accordance with Ohio Adm.Code 3796:6-2-06.
 - c. Once VC Chillicothe has complied with the conditions of this Agreement and met all other licensure requirements such as payment of the appropriate fees and passing the final inspection(s), the Board will award VC Chillicothe's Certificate of Operation.
 - d. VC Chillicothe agrees that:
 - i. One of its licensed Prospective Associated Key Employees (currently John Hondros, Corey Poches, or David Sahr) shall personally interview and make

employment decisions for the positions of General Manager and/or Designated Representative;

- ii. Its licensed PAKEs shall administer and control the operations of VC Chillicothe including without limitation, choosing which contractors to provide services;
- iii. In no event shall a General Manager, Designated Representative or any other employee be an officer, manager or employee of Cresco or an affiliate of Cresco;
- iv. It will not hire any employees unless: 1) the General Manager has recommended the hiring of an individual after performing a personal interview of the potential employee and 2) one of the licensed Prospective Associated Key Employees has approved the hiring.
- v. It (or a parent company of VC Chillicothe) shall open a bank account on or before October 31, 2019, and, once that bank account has been opened, VC Chillicothe (or a related parent of VC Chillicothe) shall directly pay all invoices issued for goods and services provided to VC Chillicothe.

3. Specific Releases.

- a. VC Chillicothe. VC Chillicothe agrees not to institute or reinstitute any actions, 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 its provisional dispensary licenses or dispensary licenses related to the matters described herein.

b. The Board. The Board agrees not to treat this Agreement or the facts listed in the preamble as disqualifying any of the following from submitting any future applications in the State of Ohio for dispensaries should the Board determine to make future application opportunities available to the public: VC Chillicothe, John Hondros, Corey Poches, David Sahr, or any company owned by John Hondros, Corey Poches, or David Sahr.

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 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. Except as stated above, required by R.C. §149.43, or otherwise required by law (including but not limited to regulations, court orders, and lawful subpoenas), or to the extent necessary as a result of litigation to enforce the Agreement, neither Party shall otherwise affirmatively describe or characterize this Agreement or the reasons for entering into it with a non-Party. For purposes of this Section, discussions within the Pharmacy Board among its members, staff, and employees are not prohibited.

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. **Chapter 119. Proceedings.** The Parties acknowledge and agree that this Agreement was entered without resort to the administrative procedures set forth in Chapter 119. of the Ohio Revised Code.
8. **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.
9. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their agents, employees, successors and assigns.
10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
11. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.

12. Headings. The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.

13. 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.

14. 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.

R-2020-0199 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

IN THE MATTER OF:
CASE No. A-2019-0400
License No. MMD.04015
Account No./Application No. 115-867

Verdant Creations Newark, LLC
c/o John Hondros
1551 West Church Street
Newark, OH 43055

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and executed by and among, Verdant Creations Newark, LLC (“VC Newark”), and the State of Ohio Board of Pharmacy (“Board”) (individually each a “Party,” and collectively the “Parties”).

WITNESSETH:

WHEREAS, on or about June 4, 2018, the Board awarded Verdant Creations, LLC a provisional dispensary license to operate a medical marijuana dispensary at 1551 West Church Street, Newark, OH 43055;

WHEREAS, the Board granted a variance to Verdant Creations, LLC to transfer its provisional dispensary license located in Newark, Ohio to VC Newark, which had identical ownership to Verdant Creations, LLC;

WHEREAS, Cresco Labs, Inc. is a publicly traded company whose affiliates operate in Ohio (Cresco Labs, Inc. and its affiliates collectively known as “Cresco”);

WHEREAS, VC Newark entered into a series of agreements with a Cresco affiliate that established that the Cresco affiliate (1) could purchase the provisional dispensary license and/or the dispensary license of VC Newark at a future date, (2) issued a line of credit to VC Newark and (3) would provide management and consulting services to VC Newark;

WHEREAS, some employees of VC Newark believed that they were required to report to, and follow the instructions of, an employee of a Cresco affiliate;

WHEREAS, as a result of the agreements entered into between VC Newark and Cresco, the third party directly paid invoices submitted by vendors and contractors for goods and services provided to VC Newark’s dispensary and treated those payments as advances on the line of credit;

WHEREAS, the agreements entered into between VC Newark and Cresco, and the subsequent operation of VC Newark, violated Ohio Adm.Code 3796:6-2-12(C)(6);

WHEREAS, VC Newark was still operating under a provisional dispensary license, and had not yet obtained a certificate of operation as a medical marijuana dispensary;

WHEREAS, VC Newark has amended its agreements with the third party so that they unequivocally do not violate the change of ownership rules found in Ohio Adm.Code 3796:6-2-12;

WHEREAS, the Board has authority under 3796.14(B) and Ohio Adm.Code 3796:6-4-03(A) and 3796:6-4-04 for a violation of Ohio Adm. Code 3796:6-2-12;

WHEREAS, VC Newark neither admits nor denies that it has violated any statutes or regulations governing medical marijuana dispensaries;

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 hereby issues a reprimand and a fine of five thousand dollars (\$5,000) against VC Newark. This fine will be attached to VC Newark's license record and must be paid no later than 30 days from the effective date of this Settlement Agreement. To pay this fine VC Newark must login to www.elicense.ohio.gov and process the items in its cart.
- b. Once the fine identified above has been paid to the Board, the Board will schedule a final inspection of VC Newark's provisional dispensary location in accordance with Ohio Adm.Code 3796:6-2-06.
- c. Once VC Newark has complied with the conditions of this Agreement and met all other licensure requirements such as payment of the appropriate fees and passing the final inspection(s), the Board will award VC Newark's Certificate of Operation.
- d. VC Newark agrees that:

- i. One of its licensed Prospective Associated Key Employees (currently John Hondros, Corey Poches, or David Sahr) shall personally interview and make employment decisions for the positions of General Manager and/or Designated Representative;
- ii. Its licensed PAKEs shall administer and control the operations of VC Newark including without limitation, choosing which contractors to provide services;
- iii. In no event shall a General Manager, Designated Representative or any other employee be an officer, manager or employee of Cresco or an affiliate of Cresco;
- iv. It will not hire any employees unless: 1) the General Manager has recommended the hiring of an individual after performing a personal interview of the potential employee and 2) one of the licensed Prospective Associated Key Employees has approved the hiring.
- v. It (or a parent company of VC Newark) shall open a bank account on or before October 31, 2019, and, once that bank account has been opened, VC Newark (or a related parent of VC Newark) shall directly pay all invoices issued for goods and services provided to VC Newark.

3. Specific Releases.

- a. VC Newark. VC Newark agrees not to institute or reinstitute any actions, 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 its provisional dispensary licenses or dispensary licenses related to the matters described herein.

- b. The Board. The Board agrees not to treat this Agreement or the facts listed in the preamble as disqualifying any of the following from submitting any future applications in the State of Ohio for dispensaries should the Board determine to make future application opportunities available to the public: VC Newark, John Hondros, Corey Poches, David Sahr, or any company owned by John Hondros, Corey Poches, or David Sahr.
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 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. Except as stated above, required by R.C. §149.43, or otherwise required

by law (including but not limited to regulations, court orders, and lawful subpoenas), or to the extent necessary as a result of litigation to enforce the Agreement, neither Party shall otherwise affirmatively describe or characterize this Agreement or the reasons for entering into it with a non-Party. For purposes of this Section, discussions within the Pharmacy Board among its members, staff, and employees are not prohibited.

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. **Chapter 119. Proceedings.** The Parties acknowledge and agree that this Agreement was entered without resort to the administrative procedures set forth in Chapter 119. of the Ohio Revised Code.
8. **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.
9. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their agents, employees, successors and assigns.
10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
11. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.
12. **Headings.** The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.

13. 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.

14. 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.

R-2020-0200 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0333
License No. 03-131851**

Lauren Dubaniewicz, RPh
8001 W 130th St
North Royalton, OH 44133

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 Lauren Dubaniewicz, 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 Lauren Dubaniewicz 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. Lauren Dubaniewicz is an Ohio-licensed pharmacist under license number 03-131851.

FACTS

1. On or about May 9, 2019, the Board initiated an investigation of Lauren Dubaniewicz, pharmacist license number 03-131851, related to Lauren Dubaniewicz's error in dispensing.
2. On or about August 29, 2019 the Board sent a Notice of Opportunity for Hearing to Lauren Dubaniewicz, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Lauren Dubaniewicz neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 29, 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. Lauren Dubaniewicz agrees to pay to the OSBP the amount of amount of \$250.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Lauren Dubaniewicz must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 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.
5. Lauren Dubaniewicz agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

6. Lauren Dubaniewicz understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Lauren Dubaniewicz 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. Lauren Dubaniewicz waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0201

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

**IN THE MATTER OF:
CASE No. A-2019-0013
License No. 02-1965400**

Western Reserve Hospital, LLC
c/o Thomas Bauer
1900 23rd Street
Cuyahoga Falls, OH 44223

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 Western Reserve Hospital, LLC (Western Reserve Hospital), for the purpose of

resolving all issues between the parties relating to the Board investigation of Western Reserve Hospital's compounding practices in violation of USP 797, Chapter 4729 of the Ohio Revised Code (ORC), and Chapter 4729-16 of the Ohio Administrative Code (OAC). Together, the Board and Western Reserve Hospital are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to ORC 4729.57 and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, refuse to grant or renew, reprimand, place on probation any license issued pursuant to ORC 4729.54.
2. Pursuant to ORC 4729.57 and the rules adopted thereunder, the Board has 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 one thousand dollars if the acts committed have not been classified as an offense by the Revised Code on any license issued pursuant to ORC 4729.54.
3. Western Reserve Hospital is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1965400.

FACTS

1. On or about January 30, 2018, the Board initiated an investigation of Western Reserve Hospital, Terminal Distributor of Dangerous Drugs (TDDD) license number 02-1965400, related to Western Reserve Hospital's compounding practices in violation of USP 797, ORC 4729, and OAC 4729-16.
2. On or about August 14, 2019, the Board sent a Notice of Opportunity for Hearing to Western Reserve Hospital, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Western Reserve Hospital 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. Western Reserve Hospital agrees to pay to the Board a monetary penalty in 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 Settlement Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Western Reserve Hospital TDDD License No. 02-1965400 will be placed on probation for one (1) year from the effective date of this Agreement. As a condition of its probation, Western Reserve Hospital must submit the results of testing required by USP 797 to the Board for review every six months. The test results shall include, at a minimum:
 - a. Records of certification or recertification of all classified areas including the primary engineering control(s)(PECs) and secondary engineering controls (SECs).
 - b. Total airborne particle counts in each classified area including the primary engineering control(s)(PECs).
 - c. Viable air sampling to evaluate airborne microorganisms for all classified areas.
 - d. Surface sampling for viable particles of all classified areas including the primary engineering control(s)(PECs).
 - e. Applicable data collected and corrective actions for any out-of-level occurrences, including media-fill test, endotoxin, sterility, etc.
5. Western Reserve Hospital 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. Western Reserve Hospital agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, ORC Chapter 4729. and the rules adopted thereunder, ORC Chapter 3719. and the rules adopted thereunder, ORC 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 Western Reserve Hospital 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 Western Reserve Hospital by the Board and will NOT discharge Western Reserve Hospital from any obligation under the terms of this Agreement.
7. Western Reserve Hospital agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Western Reserve Hospital 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 Western Reserve Hospital will operate.
10. Western Reserve Hospital waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to 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 ORC 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0202

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

**IN THE MATTER OF:
CASE NO. A-2019-0357**

Mr. Thomas Bauer
License No. 03-320063
2800 Matthew Lane
Medina, OH 44256

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 Thomas Bauer, for the purpose of resolving all issues between the parties relating to the Board investigation of Western Reserve Hospital's compounding practices in violation of USP 797, Chapter 4729 of the Ohio Revised Code (ORC), and Chapter 4729-16 of the Ohio

Administrative Code (OAC). Together, the Board and Thomas Bauer are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to division (A)(1) of Section 4729.16 (effective April 6, 2017) of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of ORC 4729.16:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.16(A)(1)(a); and/or
 - b. Reprimand or place the license holder on probation, ORC 4729.16(A)(1)(b); and/or
 - c. Impose a monetary penalty or forfeiture not to exceed in severity any penalty designated under the Revised Code for a similar offense or in the case of a violation of a section of the Revised Code that does not bear a penalty, impose a monetary penalty or forfeiture of not more than \$500, ORC 4729.16(A)(1)(c).
2. Rule 4729-05-04 of the Ohio Administrative Code (OAC) provides that the Board may discipline or deny the issuance of license practice pharmacy as a pharmacist in Ohio.
3. Thomas Bauer is a licensed pharmacist in the state of Ohio under license number 03-320063.
4. Western Reserve Hospital, LLC. is a Licensed Terminal Distributor of Dangerous Drugs (TDDD) under License No. 02-1965400, which lists the Responsible Person as Thomas Bauer.

FACTS

1. On or about January 30, 2018, the Board initiated an investigation of Western Reserve Hospital, Terminal Distributor of Dangerous Drugs (TDDD) license number 02-1965400, related to Western Reserve Hospital’s compounding practices in violation of USP 797, ORC 4729, and OAC 4729-16.
2. On or about August 14, 2019, the Board sent a Notice of Opportunity for Hearing to Western Reserve Hospital’s Responsible Person, Thomas Bauer, 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. Thomas Bauer 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. Thomas Bauer agrees to pay to 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 Settlement Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Thomas Bauer must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) on the topic of sterile compounding, which may not be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Thomas Bauer agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Thomas Bauer understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Thomas Bauer agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
8. Thomas Bauer waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
12. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-0203 Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. A-2019-0296
License No. 03-219373**

Melinda Wagner, RPh
1084 Mulberry Street
Perrysburg, OH 43551

Dear Ms. Melinda Wagner, RPh:

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 Melinda Wagner, 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 Melinda Wagner 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. Melinda Wagner is an Ohio-licensed pharmacist under license number 03-219373.

FACTS

1. On or about January 10, 2019, the Board initiated an investigation of Melinda Wagner, pharmacist license number 03-219373, related to Melinda Wagner's error in dispensing.
2. On or about August 29, 2019 the Board sent a Notice of Opportunity for Hearing to Melinda Wagner, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Melinda Wagner neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 29, 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. Melinda Wagner 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. Melinda Wagner 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.
5. Melinda Wagner agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Melinda Wagner understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Melinda Wagner 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. Melinda Wagner waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2020-0204

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

**IN THE MATTER OF:
CASE No. A-2019-0212
I-2018-1327
License No. 03-120598**

Angela DeVore, RPh
1064 Ridge Road
Valdosta, GA 31605

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Angela DeVore, for the purpose of resolving all issues between the parties relating to the Board investigation of Angela DeVore ordering, purchasing, and possessing pseudoephedrine (Sudogest) while employed as a pharmacist at Premier Health Pharmacy. Together, the Board and Angela DeVore are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued

pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.

2. Angela DeVore is an Ohio-licensed pharmacist under license number 03-120598.

FACTS

1. On or about March 1, 2018, the Board initiated an investigation of Angela DeVore, pharmacist license number 03-120598, related to Angela DeVore's ordering, purchasing, and possessing pseudoephedrine (Sudogest) while employed as a pharmacist at Premier Health Pharmacy.
2. On or about May 31, 2019, the Board sent a Notice of Opportunity for Hearing to Angela DeVore, 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 3, 2019, Angela DeVore timely requested an administrative hearing, which was subsequently scheduled for August 5, 2019 and continued to December 11, 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. Angela DeVore 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. Angela DeVore agrees to pay to the OSBP the amount of amount of \$1,000. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Angela DeVore may not fill prescriptions for herself or her family for two years from the effective date of this Agreement.
5. Angela DeVore must obtain, within six months from the effective date of this Agreement, fifteen hours of approved continuing pharmacy education (1.5 CEUs), which may not also be

used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

6. Angela DeVore agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Angela DeVore understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Angela DeVore 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. Angela DeVore 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.
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-2020-0205

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

**IN THE MATTER OF:
Case No. A-2019-0244**

PERMANENTLY WITHDRAWN Registration No. APP-000216403

Yun Cao
6448 Elmcrest Drive
Hudson, Ohio 44236

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 Yun Cao, for the purpose of resolving all issues between the parties relating to the Board investigation of Yun Cao involving *State of Ohio vs. Yun Cao*, Cuyahoga County Common Pleas Court, Case No. CR-18-629284-A related to a disseminating matter harmful to juveniles offense. Together, the Board and Yun Cao 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 revoke, suspend, restrict, limit or refuse to grant or renew any registration issued pursuant to Sections 4729.90 of the Ohio Revised Code or reprimand or place the holder of the registration on probation.
2. On or about January 2, 2019, Yun Cao submitted an application for registration as a pharmacy technician trainee in the state of Ohio under application number APP-000216403.

FACTS

1. On Yun Cao’s application submitted on or about January 2, 2019, he answered “Yes” to the question inquiring whether he has any other record of arrest (not related to drug charges), charges, or has a conviction of a felony, misdemeanor or traffic violation (even if dismissed or sealed or the equivalent thereof in another jurisdiction). On or about January 14, 2019, he entered a guilty plea to an amended charge of disseminating matter harmful to juveniles, a felony of the fifth degree. On or about February 21, 2019, you were sentenced, in part, to eight days of incarceration, and two years of community control under the supervision of the sex offender unit. Two terms of community control include a sex offender assessment and successful completion of sex offender counseling and treatment. *State of Ohio vs. Yun Cao*, Cuyahoga County Common Pleas Court, Case No. CR-18-629284-A.
2. On or about July 31, 2019, the Board sent a Notice of Opportunity for Notice of Hearing/Proposal to Deny Application for Registration as a Pharmacy Technician Trainee to Yun Cao, 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. Yun Cao 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. Yun Cao neither admits nor denies the allegations stated in the Notice of Hearing/Proposal to Deny Application for Registration as a Pharmacy Technician letter dated July 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. **YUN CAO PERMANENTLY AND VOLUNTARILY WITHDRAWS HIS APPLICATION TO THE STATE OF OHIO BOARD OF PHARMACY FOR REGISTRATION TO ENGAGE IN PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN TRAINEE, REGISTRATION NO. APP-000216403, WITH DISCIPLINE PENDING.**
4. **Yun Cao 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. Yun Cao agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Yun Cao understands that he has the right to be represented by counsel for review and execution of this Agreement.
7. Yun Cao 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 or registration.
8. Yun Cao withdraws his 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.
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-2020-0206

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

**IN THE MATTER OF:
CASE NO. A-2019-0294
I-2019-0348
SURRENDERED License No. 01-2514650**

PharMEDium Services, LLC
c/o Erica Mack
6100 Global Drive
Memphis, TN 38141

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 PharMEDium Services, LLC for (PharMEDium) the purpose of resolving all issues between the parties relating to the Board investigation of the Consent Decree of Permanent Injunction ("Consent Decree") entered by the United States of America on behalf of the United States Food and Drug Administration ("FDA") in the United States District Court for the Eastern District of Illinois on May 22, 2019. Together, the Board and PharMEDium Services, LLC 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. PharMEDium is licensed to practice as an Outsourcing Facility in the State of Ohio under suspended license number 01-2514650.

FACTS

1. On or about March 11, 2019, the Board initiated an investigation of PharMEDium, Outsourcing Facility license number 01-2514650, related to the May 22, 2019 Consent Decree. The Consent Decree was based in part on PharMEDium's failure to address items identified in a series of forms FDA-483 issued to PharMEDium in March 2013, July 2015, and December 2017. The Consent Decree prohibits PharMEDium from manufacturing, processing, packing, holding or distributing drugs at the Memphis, Tennessee facility until the facility complies with the Federal Food, Drug, and Cosmetic Act and FDA regulations, in addition to other requirements.
2. On or about July 11, 2019, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to PharMEDium, 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. PharMEDium 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. PharMEDium neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated July 11, 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. PharMEDium voluntarily surrenders to the Board its Outsourcing Facility license, number 01-2514650, with discipline pending.
4. PharMEDium is not permanently barred from seeking and/or obtaining a license from the Board for its Memphis, Tennessee Outsourcing Facility.
5. PharMEDium agrees it may not reinstate or apply for any license issued by the Board pursuant to Chapters 3719, 3796, 4729, or 4752 of the Revised Code until the Memphis, Tennessee facility is prepared to resume commercial operations pursuant to the terms of the Consent Decree.

6. PharMEDium agrees it may not reinstate or apply for any license issued by the Board pursuant to Chapters 3719, 3796, 4729, or 4752 of the Revised Code until the Memphis, Tennessee facility unless and until there is a satisfactory inspection by third-party auditor, Validant, the National Association of Boards of Pharmacy's (NABP) Verified-Accredited Wholesale Distributors Program (VAWD) or by agents from the Board. PharMEDium Services, LLC agrees to bear the expense of the inspection.
7. PharMEDium 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.
8. PharMEDium agrees to comply with all federal and state requirements related to Outsourcing Facilities, 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 PharMEDium 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 PharMEDium by the Board and will NOT discharge PharMEDium from any obligation under the terms of this Agreement.
9. PharMEDium agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. PharMEDium understands that it has the right to be represented by counsel for review and execution of this agreement.
11. 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 PharMEDium will operate.
12. This Agreement is limited to Outsourcing Facility license number 01-2514650 (Memphis, Tennessee) and does not affect any other license(s) issued by the Board to PharMEDium.
13. PharMEDium waives its 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 appeal.
14. 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.
15. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

16. 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.

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

-
- R-2020-0207** Mr. Wilt announced the Citation (Case No. 2017-2333) issued to Kyle Yoder on December 19, 2017 is dismissed.
- R-2020-0208** Mr. Wilt announced the Citation (Case No. 2017-2345) issued to Rex Speerhas on January 5, 2018 is dismissed.
- R-2020-0209** Mr. Wilt announced the Citation (Case No. 2017-2242) issued to Keriann Schultz on November 6, 2017 is dismissed.
- 9:08 a.m.** Jeffrey L. Finley, Esq. requested a continuance of Lindsey Miller's hearing (case no. A-2019-0320).
The Board granted the continuance and the Continuance Notice was subsequently issued.
- 9:10 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 Matters of **Spring Valley Family Pharmacy, Winfield, WV and Brandon O'Callaghan, Winfield, WV.**
- R-2020-0210** Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Miller-yes; Newlon-yes; Weaver-yes; Yarosh-yes.
- 5:17 p.m.** The recess ended and the hearing was opened to the public.
- R-2020-0211** After votes were taken in public session, the Board adopted the following order in the matter of **Spring Valley Family Pharmacy, Winfield, WV.**
-

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number A-2019-0318 & I-2019-0672-A)

In The Matter Of:

Spring Valley Family Pharmacy
c/o Brandon O'Callaghan
18 Shady Lane
Winfield, WV 25213
(License No. 02-2788400)

INTRODUCTION

The Matter of Spring Valley Family Pharmacy came for hearing on November 5, 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; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Donald R. Miller, RPh and Jennifer M. Rudell, RPh; Absent.

Spring Valley Family Pharmacy was represented by Levi J. Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Brandon O'Callaghan, RPh
2. Ryan Bolus, Board Compliance Agent
3. Leslie Arnold, Board Compliance Agent

Respondent's Witnesses:

1. Brandon O'Callaghan, RPh
2. Robert Pegg, RPh, Colleague and former coworker
3. Patty Daniels, Colleague and former coworker
4. Bryan greenwood, PRO Advocate

State's Exhibits:

- 1.a. 6/19/19 Notice Letter to Spring Valley
- 1.b. 7/11/19 Amended Notice Letter to Spring Valley
2. 6/19/19 Notice Letter to Brandon O'Callaghan
3. Request for Hearing
- 4.a. Notice of Hearing to Spring Valley
- 4.b. Notice of Hearing to Brandon O'Callaghan
5. Statement of Respondent
6. Report dated 6/12/19
7. Photos relating to Allegation 1-a
8. Photos relating to Allegation 1-b
9. Photos relating to Allegation 1-d
10. Photos relating to Allegation 1-e

11. All Available Compounding Records (Allegation 1-h)
12. Naltrexone dispensing history (Allegation 1-l)
13. Naltrexone prescription labels (Allegation 1-l)
14. Photos relating to Allegation 1-l
15. Ketamine Prescription Records (Allegation 1-m)
16. Ketamine Records (Allegation 1-m)
17. Photos relating to Allegation 1-n
18. Photos relating to Allegation 1-o
19. Gabapentin Records (Allegation 1-p)
20. Compounding Record with Glycerin Marked Out (Allegation 1-q)
21. Photos relating to Allegation 1-t
22. Photos relating to Allegation 1-u
23. Agreement not to Compound
24. Photos relating to Allegation 2-e
25. Photos relating to Allegation 2-h
26. All Available Vaccine Records (Allegation 2-h)
27. All Available Flu Vaccine Records (Allegation 2-i)
28. All Available Havrix Vaccine Records (Allegation 2-i)
29. Photos relating to Allegation 2-i
30. Adderall Script before Alteration for Patient L.M. (Allegation 2-m and 2-n)
31. Adderall Script after Alteration for Patient L.M. (Allegation 2-m and 2-n)
32. Rx Hardcopy of Phentermine for Patient L.M. (Allegation 2-m and 2-n)
33. Phentermine dispensing for Patient L.M. (Allegation 2-m and 2-n)
34. Statement of Patient L.M. (Allegation 2-m and 2-n)
35. Records for Patient L.M. (Allegation 2-m and 2-n)
36. Statement of Dr. Wagner regarding Patient L.M. (Allegation 2-m and 2-n)
37. Statement of CNP Russell regarding Patient L.M. (Allegation 2-m and 2-n)
38. Toxicology Results for Brandon O'Callaghan

Respondent's Exhibits:

- A. CV for Brandon O'Callaghan
- B. Pharmacy Policy and Management
- C. Letters of Support
- D. Letter and Resume of Max Ison, RPh
- E. Pharmacy Criminal Background Check Policy
- F. Abstract, Oral ketamine for chronic pain, The Journal of Pain
- G. Ohio PRO Test History Report

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 June 12, 2019, a Board inspection of the Spring Valley Family Pharmacy (Spring Valley) revealed significant non-sterile compounding violations, which resulted in Spring Valley entering into an agreement with the Board to cease all non-sterile compounding and to stop dispensing any non-sterile compounded products that had already been prepared until the pharmacy was found by the Board to be compliant with USP 795, Chapter 4729 of the Ohio Revised Code, and Chapter 4729-16 of the Ohio Administrative Code. The following non-sterile compounding observations were noted during the inspection:
 - a. Board staff observed a chicken incubator, with live poultry eggs, situated in the pharmacy's non-sterile compound area. Though no live birds were observed, inspectors discovered evidence, in the form of bird excrement, within the compounding area suggesting poultry had, at one point, been within the pharmacy. RPh O'Callaghan reported that the poultry eggs being stored within the non-sterile compounding space were guinea hen eggs.
 - b. A Tupperware container in the non-sterile compounding space was observed to contain a heat lamp, wood chip bedding and what appeared to be chicken feces. RPh O'Callaghan denied ever having live hens/chicks in his pharmacy, stating he brought the bin from home.
 - c. RPh O'Callaghan admitted to a customer bringing live quail into his pharmacy, and reported these quail were kept in the pharmacy until the close of business. RPh O'Callaghan denied that the quail were allowed into the compounding area.
 - d. Observed compounding implements (mortar/pestle) which did not appear clean and were covered in white powder.

- e. The compounding area was used as record and expired medication storage.
- f. Single use towels were not available in sink area of the compounding room.
- g. Records of compounding were not maintained after approximately July or August 2018, despite the fact that compounding had occurred after that time. Initially, RPh O'Callaghan reported he maintained these records at his home, and later admitted he stopped recording anything.
- h. Board staff observed evidence of compounded products which did not have an associated master formula.
- i. Board staff observed compounding records which showed a 90 -day Beyond Use Date (BUD) had been assigned. No master formula record was available for review to determine if this was appropriate.
- j. RPh O'Callaghan was not aware of which compounding regulations he should be following and was unfamiliar with USP 795. RPh O'Callaghan did not have a copy of or access to USP 795.
- k. The pharmacy had no documented on-site compounding training.
- l. RPh O'Callaghan initially denied compounding capsules of any sort but later admitted to compounding various capsule prescriptions. No compounding record of any capsule preparation could be located.
- m. Records demonstrated a prescription for #90 ketamine 80 mg capsules was dispensed, and RPh O'Callaghan eventually admitted he had compounded these capsules. This prescription was written by a family practice doctor operating in Point Pleasant, WV. RPh O'Callaghan did not indicate he was concerned with a family practice doctor writing a prescription for oral ketamine to treat pain. When asked what reference he used to determine the appropriate dose, RPh O'Callaghan stated "Facts and Comparisons," but he was unable to produce the reference when asked.
- n. RPh O'Callaghan admitted to compounding capsules as small as 1 mg. Records indicate capsules were compounded as small as 0.25 mg. RPh O'Callaghan could not describe the principles of geometric dilution. RPh O'Callaghan admitted he felt uncertain when weighing such small amounts (1 mg).
- o. Scales used in compounding were not "Legal for Trade" scales, nor had they been certified prior to use.

- p. Board staff observed record of compounding which contained ingredient “0.033 ea Gabapentin 300 mg capsule.” RPh O’Callaghan could not provide an adequate answer as to how he would weigh such a product and later admitted he could not.
 - q. Board staff observed a record of compounding in which a listed ingredient (glycerin) was crossed out. When asked, RPh O’Callaghan stated he added glycerin to the ingredient list as a convenience for him, since it made the process faster, but that it was not necessary and he did not use it when it wasn’t in stock.
 - r. Board staff observed record of compounding for “Branal Ease Cream” which lacked lot and expiration information for lidocaine powder, one of the ingredients.
 - s. Board staff observed multiple records of compounding which did not contain required information such as lot/expiration, product Beyond Use Date (BUD), or indication of individual responsible for compounding/RPh responsible for verifying.
 - t. The compounding area contained a microwave and toaster oven which RPh O’Callaghan admitted were used to warm employee food.
 - u. Board staff observed gun bore cleaner and cleaning supplies (Fantastik) stored with items used for compounding.
 - v. The pharmacy did not maintain compounding standard operating procedures.
2. The following general pharmacy practice violations were also noted during the June 12, 2019 inspection:
- a. Positive ID was not being appropriately maintained. From May 19, 2019 to present, fifteen End of Day (EOD) reports were observed to be missing.
 - b. Pharmacy personnel were unable to show how a true audit trail was being kept for changes made to dispensing data.
 - c. Controlled substance prescription written dates (prescription numbers 412760 and 412758) were different between the hard copy and the dispensing software.
 - d. Pharmacist Karen McGhee logged into dispensing software on June 10, 2019 and June 11, 2019 with RPh O’Callaghan’s credentials. O’Callaghan was not working either day.
 - e. The pharmacy had lack of adequate security to detect and deter diversion – controlled substance drug stock was stored dispersed among non-controlled drug stock. Large numbers (estimated at greater than 30) of buprenorphine/naloxone 8 mg/2mg bottles were stored haphazardly in the compounding room. Additionally, the compounding room contained multiple stock bottles of various controlled that were not locked up.

- f. The pharmacy shelves and bottles were very dusty and multiple medication bottles were observed under the refrigerator.
 - g. Multiple instances of expired drugs within active dispensing stock were observed.
 - h. A bottle of Jantoven 5 mg with a patient specific label from Fruth Pharmacy was observed within the active drug stock.
 - i. RPh O'Callaghan admitted to having no vaccine protocol; no protocol had been created, reviewed, or signed by a physician. Since opening in 2017, records indicate that more than 100 vaccines, including influenza and hepatitis A, had been administered to patients. During the inspection, RPh O'Callaghan stated he had never administered a vaccine to a patient less than 18 years of age. However, Board staff observed an opened and 60% used box of Havrix (Hep A) 720 EL u/0.5 mL vaccine, which is the Hepatitis A vaccine dose for pediatrics and adolescents. The box clearly states "For Pediatric/Adolescent Use Only." No record of this vaccine ever being administered could be located, either within the ARKS, or on paper, although the ARKS did identify 74 patients who allegedly received the adult dose. RPh O'Callaghan later admitted that, on some occasions, he administered the pediatric dose of Havrix to adults.
 - j. Few records documenting vaccine administration (lot/exp, etc.) could be located.
 - k. RPh O'Callaghan frequently failed to check OARRS as required in OAC 4729-5-20.
 - l. RPh O'Callaghan admitted to providing his OARRS username and password to Spring Valley personnel.
 - m. Reportable controlled substance prescriptions were observed which had been filled but not reported to OARRS. This included a phentermine prescription for a pharmacy employee.
 - n. A pharmacy technician admitted to RPh O'Callaghan having knowledge of a fraudulent dextroamphetamine/amphetamine prescription, which the technician produced and RPh O'Callaghan dispensed.
 - o. The pharmacy was unable to produce an annual controlled substance inventory for either 2018 or 2019. A spot check by a Board inspector on June 12, 2019, revealed discrepancies between the perpetual inventory maintained in the computer and actual on hand stock.
3. During a return visit to the pharmacy for a follow-up inspection on or about June 17, 2019, Board staff observed RPh O'Callaghan, the Responsible Person, owner and primary operator of Spring Valley, to be impaired, displaying slurred speech, incoherent thought processes, and extreme fatigue with drooping eyelids. RPh O'Callaghan admitted to illicit drug usage

including cocaine, and methamphetamine, as well as taking a relative's prescription Adderall Rx and alcohol. On June 18, 2019, the Board summarily suspended RPh O'Callaghan's pharmacist license, which resulted in Spring Valley having no Responsible Person. On June 19, 2019, RPh O'Callaghan admitted to agents of the Board that he is addicted to methamphetamine.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 4729.55(D) of the ORC:
 - a. The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board, ORC Section 4729.55(A); and
 - b. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and
 - c. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and
 - d. Adequate safeguards are assured to 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 Section 4729.55(D); and
 - e. If the applicant, or any agent or employee of the applicant, has been found guilty of violating section 4729.51 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, or any rule of the board, adequate safeguards are assured to prevent the recurrence of the violation, ORC Section 4729.55(D).
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, as effective September 29, 2017, and 4729:5-4-01 of the OAC, as effective March 1, 2019:
 - a. Violating any rule of the board, ORC Section 4729.57(B)(2), OAC Rule 4729:5-4(B)(2); and

- b. Violating any provision of this chapter, ORC Section 4729.57(B)(3), OAC Rule 4729:5-4(B)(3); and
 - c. Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code ORC Section 4729.57(B)(4), OAC Rule 4729:5-4(B)(4); and
 - d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code ORC Section 4729.57(B)(5), OAC Rule 4729:5-4(B)(5); and
 - e. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(B)(7), OAC Rule 4729:5-4(B)(7); and
 - f. 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 the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-02 of the Ohio Administrative Code (OAC), minimum standards for a pharmacy:
- a. The pharmacy shall carry and utilize the equipment necessary to conduct a pharmacy in a manner that is in the best interest of the patients served and to comply with all state and federal laws, OAC rule 4729-9-02(B); and
 - b. The stock of drugs shall include such chemicals, drugs, and preparations sufficient to compound and prepare all types of prescriptions offered by the pharmacy, OAC rule 4729-9-02(C); and
 - c. The stock, library, and equipment shall be housed in a suitable, well-lighted and well-ventilated room or department with clean and sanitary surroundings primarily used for the compounding and preparing of prescriptions and for the manufacture of pharmaceutical preparations, OAC rule 4729-9-02(E)(1); and
 - d. All areas where drugs and devices are stored shall be dry, well-lighted, well-ventilated, and maintained in a clean and orderly condition. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the USP/NF and/or the manufacturer's or distributor's labeling unless otherwise indicated by the board, OAC Rule 4729-9-02(E)(2); and
 - e. All storage areas shall provide adequate physical security for all dangerous drugs in accordance with rules 4729-9-05 and 4729-9-11 of the Administrative Code, OAC rule 4729-9-02(E)(3).

4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-11(A) of the OAC: All licensees and registrants shall provide effective and approved controls and procedures to deter and detect theft and diversion of dangerous drugs. In order to determine whether a licensee or registrant has provided effective and approved controls against diversion, the state board of pharmacy shall use the security requirements set forth in rule 4729-9-11 of the OAC as standards for the security controls and operating procedures necessary to deter and detect diversion.
5. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, as effective February 17, 2017:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and
 - b. 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, OAC Rule 4729-5-11(A)(3); and
 - c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC Rule 4729-5-11(C)(4); and
 - d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all records relating to the distribution dangerous drugs, OAC Rule 4729-5-11(C)(6).
6. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of

dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and

- b. 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, OAC Rule 4729:5-2-01(A)(3); and
 - c. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(B)(6); and
 - d. A terminal distributor shall not have a responsible person who is addicted to or abusing alcohol or drugs, OAC Rule 4729:5-2-01(F)(9).
7. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(A) of the OAC:
- a. Each prescriber or terminal distributor of dangerous drugs shall keep a record of all controlled substances received, administered, personally furnished, dispensed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a controlled substance must be documented with the positive identification of the responsible individual pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day, OAC Rule 4729-9-14(A); and
 - ii. Records of administering, dispensing, personally furnishing or using controlled substances shall contain a description of the kind and quantity of the controlled substance administered, dispensed, personally furnished or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the controlled substance was administered, dispensed, or used, OAC Rule 4729-9-14(A)(2); and
 - iii. Records of drugs administered which become a permanent part of the patient's medical record shall be deemed to meet the name and address requirements of paragraph (A)(2) of this rule, OAC Rule 4729-9-14(A)(3).
8. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(B) of the OAC, each TDDD shall maintain an inventory of all controlled substances as follows:

- a. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, OAC Rule 4729-9-14(B)(1), including:
 - i. The name of the substance, OAC Rule 4729-9-14(B)(1)(a); and
 - ii. The total quantity of the substance, OAC Rule 4729-9-14(B)(1)(b); and
 - 1. Each finished form (e.g., ten-milligram tablet or ten-milligram concentration per milliliter), OAC Rule 4729-9-14(B)(1)(b)(i); and
 - 2. The number of units or volume of each finished form in each commercial container (e.g., one-hundred-tablet bottle or ten-milliliter vial), OAC Rule 4729-9-14(B)(1)(b)(ii); and
 - 3. The number of commercial containers of each such finished form (e.g., three one-hundred-tablet bottles or ten one-milliliter vials), OAC Rule 4729-9-14(B)(1)(b)(iii); and
 - iii. If the substance is listed in schedule I or II, the prescriber or terminal distributor of dangerous drugs shall make an exact count or measure of the contents, OAC Rule 4729-9-14(B)(1)(c); and
 - iv. If the substance is listed in schedule III, IV, or V, the prescriber or terminal distributor of dangerous drugs may make an estimated count or measure of the contents, unless the container holds more than one thousand tablets or capsules in which an exact count of the contents must be made, OAC Rule 4729-9-14(B)(1)(d); and
 - c. An inventory of all stocks of controlled substances on hand on the date the prescriber or terminal distributor first engages in the administering, dispensing, or use of controlled substances. In the event the prescriber or terminal distributor of dangerous drugs commences business with no controlled substances on hand, this fact shall be recorded as the initial inventory, OAC Rule 4729-9-14(B)(3); and
 - d. A TDDD shall take a new inventory of all stocks of controlled substances on hand every year following the date on which the initial inventory was taken, OAC Rule 4729-9-14(B)(4); and
9. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(C) of the OAC: All records of receipt, distribution, administering, dispensing, personally furnishing, inventory, destruction, or using controlled substances shall be kept for a period of three years at the place where the controlled substances are located. Any terminal distributor of dangerous drugs intending to maintain

such records at a location other than this place must first send a written request to the state board of pharmacy. The request shall contain the terminal distributor of dangerous drug name and license number of the requestor and the name and address of the alternate location. The state board of pharmacy will send written notification to the terminal distributor of dangerous drugs documenting the approval or denial of the request. A copy of the board's approval shall be maintained with the other records of controlled substances. Any such alternate location shall be secured and accessible only to representatives of the terminal distributor of dangerous drugs.

10. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729-9-17 of the OAC, as effective March 1, 2017, adulterated drugs shall be stored no longer than one year from the date of adulteration or expiration by those holding a terminal distributor of dangerous drugs license.
11. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729:5-3-06, as effective March 1, 2019, adulterated drugs shall be stored no longer than one year from the date of adulteration or expiration by those holding a terminal distributor of dangerous drugs license Adulterated drugs shall be stored in a manner that prohibits access by unauthorized persons.
12. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729-9-22 of the OAC, Each prescriber or terminal distributor of dangerous drugs shall keep a record of all dangerous drugs received, administered, dispensed, personally furnished, distributed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a dangerous drug must be documented with the positive identification of the responsible individual pursuant to 4729-5-01(N) of the OAC. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day.
13. Such conduct, as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-22 of the OAC:
 - a. Records of administering, dispensing, personally furnishing, or using dangerous drugs shall contain a description of the kind and quantity of the dangerous drugs administered, dispensed, sold, or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the dangerous drug was administered, dispensed, or used, OAC Rule 4729-9-22(B); and
 - c. Records of dangerous drugs, other than controlled substances, administered, personally furnished, dispensed, or used which become a permanent part of the patient's medical record shall be deemed to meet the requirements of paragraph (B) of this rule, OAC Rule 4729-9-22(D); and

- d. All records of receipt, distribution, personally furnishing, administering, dispensing, selling, destroying, or using dangerous drugs shall be kept for a period of three years at the place where the dangerous drugs are located and upon request provided to a state board of pharmacy officer, agent, and/or inspector within three working days, excluding weekends and holidays. Any terminal distributor of dangerous drugs intending to maintain such records at a location other than this place must first send a written request to the state board of pharmacy. The request shall contain the terminal distributor of dangerous drug name and license number of the requestor and the name and address of the alternate location. The state board of pharmacy will send written notification to the terminal distributor of dangerous drugs documenting the approval or denial of the request. A copy of the board's approval shall be maintained with the other records of dangerous drugs. Any such alternate location shall be secured and accessible only to representatives of the terminal distributor of dangerous drugs, OAC Rule 4729-9-22(E).
14. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-16-03 of the OAC, Drugs compounded in a pharmacy, as effective February 15, 2016:
- a. For all non-sterile compounded drug products, the pharmacy shall comply with the United States pharmacopeia chapter <795>, USP 38 - NF 33, or any official supplement thereto (9/10/2015), OAC Rule 4729-16-03(A); and
 - b. Comply with section 503A of the Federal Food, Drug, and Cosmetic Act (11/27/2013), OAC Rule 4729-16-03(C); and
 - c. In order to compound drug products, a pharmacy shall meet the minimum standards for a pharmacy pursuant to rule 4729-9-02 of the Administrative Code, OAC Rule 4729-16-03(F); and
 - d. For all compounded drug products, the pharmacist shall be responsible for:
 - i. All compounding records pursuant to rule 4729-16-06 of the Administrative Code, OAC Rule 4729-16-03(H)(1); and
 - ii. The proper maintenance, cleanliness, and use of all equipment used in compounding, OAC Rule 4729-16-03(H)(2); and
 - f. Except as otherwise provided in rules 4729-15-03, 4729-16-07, 4729-16-10 and 4729-16-12 of the Administrative Code, a prescription shall be compounded and dispensed only pursuant to a specific order for an individual patient issued by a prescriber. A limited quantity may be compounded in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. (L) A compounded drug product that is dispensed to an outpatient must be labeled according to rule 4729-5-16 of the Administrative Code. In addition, the label shall comply with paragraphs (N) and (A) or (B)

of this rule. The statement "Compounded Drug Product" or other similar statement shall also be displayed prominently on the label, OAC Rule 4729-16-03(J).

15. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-16-06 of the OAC, Recordkeeping for compounding, as effective May 1, 2015:

- a. The responsible pharmacist or prescriber shall maintain the following records:
 - ii. All drug orders and records, including logs, relating to the compounding of drugs. Such drug orders and records may be retained by any process providing an exact duplicate of the original order or prescription. In addition, if an alternate recordkeeping system is utilized, these records may be stored on any storage medium that meets industry standards for quality or any other mutually acceptable method and has stability for a period of at least three years. Records on an automated data processing system, or subsequent storage of such records, must be readily retrievable within seventy-two hours, OAC Rule 4729-16-06(B)(1); and
- b. Records of drugs dispensed or personally furnished shall include, but are not limited to:
 - i. The name, strength, and quantity of drugs dispensed or personally furnished, OAC Rule 4729-16-06(B)(3)(a); and
 - iv. Positive identification pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code for all pharmacists or prescribers involved in each function of dispensing or personally furnishing, OAC Rule 4729-16-06(B)(3)(d).
- c. All other records relating to the compounding of drugs, other than dispensing or personally furnishing, shall include, but are not limited to:
 - i. The name of the patient to whom, or for whose benefit the activity was performed, OAC Rule 4729-16-06(B)(4)(a); and
 - ii. The activity performed, OAC Rule 4729-16-06(B)(4)(b); and
 - iii. Documentation of all personnel involved in each function of the activity; OAC Rule 4729-16-06(B)(4)(c); and
- d. A record of all drugs compounded which shall include at least the following:
 - i. Name of drug, strength, and dosage form, OAC Rule 4729-16-06(B)(5)(a); and
 - ii. Quantity of drug(s) added to each container, OAC Rule 4729-16-06(B)(5)(b); and

- iii. Except as provided in paragraph (E) of this rule, disposition of unused drug(s) and amount, OAC Rule 4729-16-06(B)(5)(c); and
 - iv. Manufacturer's lot number or distributors control number, OAC Rule 4729-16-06(B)(5)(d); and
 - v. Manufacturer's or distributor's name, if a generic drug is used and the record keeping system is capable of specifically tracking the manufacturer's or distributor's name as part of the documentation, OAC Rule 4729-16-06(B)(5)(e); and
 - vi. Pharmacy control number, if prepared in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, OAC Rule 4729-16-06(B)(5)(f); and
 - vii. Date of compounding, OAC Rule 4729-16-06(B)(5)(g); and
 - viii. Manufacturer's or distributor's expiration date, OAC Rule 4729-16-06(B)(5)(h); and
 - ix. The expiration date or beyond-use date, OAC Rule 4729-16-06(B)(5)(i); and
 - x. Positive identification of the registered pharmacist or prescriber responsible for the compounding or repackaging of each drug product, OAC Rule 4729-16-06(B)(5)(j); and
- e. All records must provide accountability and ensure that patients do not receive more drugs than intended by the prescriber. All records shall be readily retrievable and uniformly maintained in an unalterable and secure manner for at least three years from the date of the last dispensing or personal furnishing, OAC Rule 4729-16-06(C).
16. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 3715.52(A)(1) of the ORC, the holding or offering for sale any drug that is adulterated or misbranded, each violation a misdemeanor of the fourth degree, each punishable by a maximum penalty of \$2,000 if committed by an organization.

DECISION OF THE BOARD

Pursuant to Section 4729.571 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Spring Valley Family Pharmacy (Spring Valley) on June 19, 2019 and July 11, 2019.

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely Spring Valley's license as a Terminal Distributer of Dangerous Drugs, No. 02-2788400, and such suspension is effective as of the date of the mailing of this Order.

Upon proof to the Board that the following conditions have been met, the license of Spring Valley, License No. 02-2788400, will be reinstated subject to a minimum two-year probationary period:

- A. Spring Valley must hire a consultant pharmacist who will submit an initial report to the Board indicating Spring Valley's compliance with Pharmacy Board rules and regulations as well as compliance with any recommendations.
- B. There is a satisfactory inspection by agents from the Board finding Spring Valley in compliance with all Board rules and regulations 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, Chapter 4729 of the Ohio Administrative Code, and United States Pharmacopeia Chapter 797 (USP 797) and 795 (USP 795).

Upon reinstatement, the following terms and conditions apply during the probationary period:

- A. Brandon O'Callaghan shall not have access to the facility while Spring Valley's TDDD license is suspended or is operating under probationary terms, regardless of whether Brandon O'Callaghan's pharmacist license is reinstated.
- B. The consultant pharmacist will submit semi-annual reports to the Board for the remainder of the probationary term. Spring Valley will be required to comply with any and all recommendations identified in the consultant pharmacist's reports. Reports must be emailed to legal@pharmacy.ohio.gov. The reports must include at a minimum:
 - 1. Confirmation of Spring Valley's compliance with: Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the rules adopted thereunder, Chapter 4729 of the Ohio Administrative Code, and United States Pharmacopeia Chapter 797 (USP 797) and 795 (USP 795); and
 - 2. Confirmation that Brandon O'Callaghan continues to have no access to Spring Valley.
- C. Spring Valley's Responsible Person must appear before the Probation Committee upon request.

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: 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37, and Respondent's Motion to seal Exhibit G.

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

Fred M. Weaver moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

Joshua M. Cox, moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

R-2020-0212 After votes were taken in public session, the Board adopted the following order in the matter of **Brandon O'Callaghan, Winfield, WV.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number A-2019-0319 and I-2019-0753-B)

In The Matter Of:
Brandon O'Callaghan, RPh
18 Shady Lane
Winfield, WV 25213
(License No. 03-226367)

INTRODUCTION

The Matter of Brandon O'Callaghan came for hearing on November 5, 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; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Donald R. Miller, RPh and Jennifer M. Rudell, RPh; Absent.

Spring Valley Family Pharmacy was represented by Levi J. Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Brandon O'Callaghan, RPh
2. Ryan Bolus, Board Compliance Agent
3. Leslie Arnold, Board Compliance Agent

Respondent's Witnesses:

1. Brandon O'Callaghan, RPh
2. Robert Pegg, RPh, Colleague and former coworker
3. Patty Daniels, Colleague and former coworker
4. Bryan greenwood, PRO Advocate

State's Exhibits:

- 1.a. 6/19/19 Notice Letter to Spring Valley
- 1.b. 7/11/19 Amended Notice Letter to Spring Valley
2. 6/19/19 Notice Letter to Brandon O'Callaghan
3. Request for Hearing
- 4.a. Notice of Hearing to Spring Valley
- 4.b. Notice of Hearing to Brandon O'Callaghan
39. Statement of Respondent
40. Report dated 6/12/19
41. Photos relating to Allegation 1-a
42. Photos relating to Allegation 1-b
43. Photos relating to Allegation 1-d
44. Photos relating to Allegation 1-e
45. All Available Compounding Records (Allegation 1-h)
46. Naltrexone dispensing history (Allegation 1-l)
47. Naltrexone prescription labels (Allegation 1-l)
48. Photos relating to Allegation 1-l
49. Ketamine Prescription Records (Allegation 1-m)
50. Ketamine Records (Allegation 1-m)
51. Photos relating to Allegation 1-n
52. Photos relating to Allegation 1-o
53. Gabapentin Records (Allegation 1-p)
54. Compounding Record with Glycerin Marked Out (Allegation 1-q)
55. Photos relating to Allegation 1-t

- 56. Photos relating to Allegation 1-u
- 57. Agreement not to Compound
- 58. Photos relating to Allegation 2-e
- 59. Photos relating to Allegation 2-h
- 60. All Available Vaccine Records (Allegation 2-h)
- 61. All Available Flu Vaccine Records (Allegation 2-i)
- 62. All Available Havrix Vaccine Records (Allegation 2-i)
- 63. Photos relating to Allegation 2-i
- 64. Adderall Script before Alteration for Patient L.M. (Allegation 2-m and 2-n)
- 65. Adderall Script after Alteration for Patient L.M. (Allegation 2-m and 2-n)
- 66. Rx Hardcopy of Phentermine for Patient L.M. (Allegation 2-m and 2-n)
- 67. Phentermine dispensing for Patient L.M. (Allegation 2-m and 2-n)
- 68. Statement of Patient L.M. (Allegation 2-m and 2-n)
- 69. Records for Patient L.M. (Allegation 2-m and 2-n)
- 70. Statement of Dr. Wagner regarding Patient L.M. (Allegation 2-m and 2-n)
- 71. Statement of CNP Russell regarding Patient L.M. (Allegation 2-m and 2-n)
- 72. Toxicology Results for Brandon O'Callaghan

Respondent's Exhibits:

- A. CV for Brandon O'Callaghan
- B. Pharmacy Policy and Management
- C. Letters of Support
- D. Letter and Resume of Max Ison, RPh
- E. Pharmacy Criminal Background Check Policy
- F. Abstract, Oral ketamine for chronic pain, The Journal of Pain
- G. Ohio PRO Test History Report

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 June 17, 2019, during an inspection of Spring Valley Family Pharmacy (Spring Valley), where Brandon O'Callaghan was the Responsible Person, owner and primary operator, Board staff observed Brandon O'Callaghan to be impaired, displaying slurred speech, incoherent thought processes, and extreme fatigue with drooping eyelids. Brandon O'Callaghan admitted to illicit drug usage including cocaine and methamphetamine, as well as taking a relative's prescription Adderall and alcohol. On June 19, 2019 Brandon O'Callaghan admitted to agents of the Board that he was addicted to methamphetamine.
2. On or about June 12, 2019, a Board inspection of Spring Valley revealed the following non-sterile compounding observations were noted during the inspection:
 - a. Board staff observed a chicken incubator, with live poultry eggs, situated in the pharmacy's non-sterile compound area. Though no live birds were observed, inspectors discovered evidence, in the form of bird excrement, within the compounding area suggesting poultry had, at one point, been within the pharmacy. Brandon O'Callaghan reported that the poultry eggs being stored within the non-sterile compounding space were guinea hen eggs.
 - b. A Tupperware container in the non-sterile compounding space was observed to contain a heat lamp, wood chip bedding and what appeared to be chicken feces. Brandon O'Callaghan denied ever having live hens/chicks in the pharmacy, stating that he brought the bin from home.
 - c. Brandon O'Callaghan admitted to a customer bringing live quail into his pharmacy, and reported these quail were kept in the pharmacy (denied keeping them in the compounding area) until the close of business.
 - d. Observed compounding implements (mortar/pestle) which did not appear clean and were covered in white powder.
 - e. The compounding area was used as record and expired medication storage.
 - f. Single use towels were not available in sink area of the compounding room.
 - g. Records of compounding were not maintained after approximately July or August, 2018. Initially, Brandon O'Callaghan reported that he maintained these records at his home, and later admitted that he stopped recording anything.
 - h. Board staff observed evidence of compounded products which did not have an associated master formula.

- i. Board staff observed compounding records which showed a 90 -day Beyond Use Date (BUD) had been assigned. No master formula record was available for review to determine if this was appropriate.
- j. Brandon O'Callaghan was not aware of which compounding regulations he should be following and were unfamiliar with USP 795. Brandon O'Callaghan did not have a copy of or access to USP 795.
- k. The pharmacy had no documented on-site compounding training.
- l. Brandon O'Callaghan initially denied compounding capsules of any sort but later admitted to compounding various capsule prescriptions. Although no accurate number could be ascertained due to poor recordkeeping, Brandon O'Callaghan described a green/black capsule blank obtained from Medisca that he used (and no longer had in stock). Specialist Bolus observed these capsule blanks were available in a minimum package size of 1000. No compounding record of any capsule preparation could be located.
- m. Records demonstrated a prescription for #90 ketamine 80 mg capsules was dispensed, and Brandon O'Callaghan eventually admitted that he had compounded these capsules. This prescription was written by a family practice doctor operating in Point Pleasant, WV. Brandon O'Callaghan did not indicate that he was concerned that a family practice doctor was writing a prescription for oral ketamine to treat pain. When asked what reference he used to determine the appropriate dose, Brandon O'Callaghan stated "Facts and Comparisons," but he was unable to produce the reference when asked.
- n. Brandon O'Callaghan admitted to compounding capsules as small as 1 mg. Records indicate capsules were compounded as small as 0.25 mg. Brandon O'Callaghan could not describe the principles of geometric dilution. Brandon O'Callaghan admitted that he felt uncertain when weighing such small amounts (1 mg).
- o. Scales used in compounding were not "Legal for Trade" scales, nor had they been certified prior to use. Brandon O'Callaghan admitted to purchasing one of the scales, allegedly capable of measuring down to 0.001 g, from Amazon. Specialist Bolus observed this "Gem20" scale was available on Amazon for \$21.99. The other scale used was found online as a recommendation for middle and high school science teachers to use in student labs.
- p. Board staff observed record of compounding which contained ingredient "0.033 ea Gabapentin 300 mg capsule." Brandon O'Callaghan could not provide an adequate answer as to how he would weigh such a product and later admitted that he could not.
- q. Board staff observed record of compounding in which a listed ingredient (glycerin) was crossed out. When asked, Brandon O'Callaghan stated that he added glycerin to the

ingredient list as a convenience, since it made the process faster, but that it was not necessary and he did not use it when it wasn't in stock.

- r. Board staff observed record of compounding for "Branal Ease Cream" which lacked lot and expiration information for lidocaine powder, one of the ingredients.
 - s. Board staff observed multiple records of compounding which did not contain required information such as lot/expiration, product Beyond Use Date (BUD), or indication of individual responsible for compounding/RPh responsible for verifying.
 - t. The compounding area contained a microwave and toaster oven which Brandon O'Callaghan admitted were used to warm employee food.
 - u. Board staff observed gun bore cleaner and cleaning supplies (Fantastik) stored with items used for compounding.
 - v. The pharmacy did not maintain compounding standard operating procedures.
3. The following general pharmacy practice violations were also noted during the June 12, 2019 inspection:
- a. Positive ID was not being appropriately maintained. From May 19, 2019 to present, fifteen End of Day (EOD) reports were observed to be missing.
 - b. Pharmacy personnel were unable to show how a true audit trail was being kept for changes made to dispensing data.
 - c. Controlled substance prescription written dates (prescription numbers 412760 and 412758) were different between the hard copy and the dispensing software.
 - d. Pharmacist Karen McGhee logged into dispensing software on June 10, 2019 and June 11, 2019 with Brandon O'Callaghan's credentials. Brandon O'Callaghan was not working either day.
 - e. The pharmacy had lack of adequate security to detect and deter diversion – controlled substance drug stock was stored dispersed among non-controlled drug stock. Large numbers (estimated at greater than 30) of buprenorphine/naloxone 8 mg/2mg bottles were stored haphazardly in the compounding room. Additionally, the compounding room contained multiple stock bottles of various controlled substances were not locked up.
 - f. The pharmacy shelves and bottles were very dusty and multiple medication bottles were observed under the refrigerator.
 - g. Multiple instances of expired drugs within active dispensing stock were observed.

- h. A bottle of Jantoven 5 mg with a patient specific label from Fruth Pharmacy was observed within the active drug stock.
- i. Brandon O'Callaghan admitted to having no vaccine protocol; no protocol had been created, reviewed, or signed by a physician. Since opening in 2017, records indicate that more than 100 vaccines, including influenza and hepatitis A, had been administered to patients. During the inspection Brandon O'Callaghan stated that he had never administered a vaccine to a patient less than 18 years of age. However, Board staff observed an opened and 60% used box of Havrix (Hep A) 720 EL u/0.5 mL vaccine, which is the Hepatitis A vaccine dose for pediatrics and adolescents. The box clearly states "For Pediatric/Adolescent Use Only." No record of this vaccine ever being administered could be located, either within the ARKS, or on paper, although the ARKS did identify 74 patients who allegedly received the adult dose. Brandon O'Callaghan later admitted that, on some occasions, he administered the pediatric dose of Havrix to adults.
- j. Few records documenting vaccine administration (lot/exp, etc.) could be located.
- k. Brandon O'Callaghan frequently failed to check OARRS as required in OAC 4729-5-20.
- l. Brandon O'Callaghan admitted to providing his OARRS username and password to Spring Valley personnel.
- m. Reportable controlled substance prescriptions were observed which had been filled but not reported to OARRS. This included a phentermine prescription for a pharmacy employee.
- n. A pharmacy technician admitted that Brandon O'Callaghan had knowledge of a fraudulent dextroamphetamine/ amphetamine prescription, which the technician produced, and Brandon O'Callaghan dispensed.
- o. The pharmacy was unable to produce an annual controlled substance inventory for either 2018 or 2019. A spot check by a Board inspector on June 12, 2019, revealed discrepancies between the perpetual inventory maintained in the computer and actual on hand stock.

CONCLUSIONS OF LAW

- 1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 4729.55(D) of the ORC:
 - a. The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board, ORC Section 4729.55(A); and

- b. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and
 - c. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and
 - d. Adequate safeguards are assured to 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 Section 4729.55(D); and
 - e. If the applicant, or any agent or employee of the applicant, has been found guilty of violating section 4729.51 of the Revised Code, the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal drug abuse control laws, Chapter 2925., 3715., 3719., or 4729. of the Revised Code, or any rule of the board, adequate safeguards are assured to prevent the recurrence of the violation, ORC Section 4729.55(D).
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-02 of the OAC, minimum standards for a pharmacy:
- a. The pharmacy shall carry and utilize the equipment necessary to conduct a pharmacy in a manner that is in the best interest of the patients served and to comply with all state and federal laws, OAC rule 4729-9-02(B); and
 - b. The stock of drugs shall include such chemicals, drugs, and preparations sufficient to compound and prepare all types of prescriptions offered by the pharmacy, OAC rule 4729-9-02(C); and
 - c. The stock, library, and equipment shall be housed in a suitable, well-lighted and well-ventilated room or department with clean and sanitary surroundings primarily used for the compounding and preparing of prescriptions and for the manufacture of pharmaceutical preparations, OAC rule 4729-9-02(E)(1); and
 - d. All areas where drugs and devices are stored shall be dry, well-lighted, well-ventilated, and maintained in a clean and orderly condition. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the USP/NF and/or the manufacturer's or distributor's labeling unless otherwise indicated by the board, OAC Rule 4729-9-02(E)(2); and

- e. All storage areas shall provide adequate physical security for all dangerous drugs in accordance with rules 4729-9-05 and 4729-9-11 of the Administrative Code, OAC rule 4729-9-02(E)(3).
- 3. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-11(A) of the OAC: All licensees and registrants shall provide effective and approved controls and procedures to deter and detect theft and diversion of dangerous drugs. In order to determine whether a licensee or registrant has provided effective and approved controls against diversion, the state board of pharmacy shall use the security requirements set forth in rule 4729-9-11 of the OAC as standards for the security controls and operating procedures necessary to deter and detect diversion.
 - 4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, as effective February 17, 2017:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and
 - b. 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, OAC Rule 4729-5-11(A)(3); and
 - c. The responsible person to whom the terminal distributor of dangerous drugs license has been issued and all licensed health professionals on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of dangerous drugs, OAC Rule 4729-5-11(C)(4); and
 - d. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all records relating to the distribution dangerous drugs, OAC Rule 4729-5-11(C)(6).
 - 5. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019:

- a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(A)(2); and
 - b. 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, OAC Rule 4729:5-2-01(A)(3); and
 - c. The responsible person shall be responsible for ensuring the terminal distributor of dangerous drugs requirements are met, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, OAC Rule 4729:5-2-01(B)(6); and
 - d. A terminal distributor shall not have a responsible person who (9) Is addicted to or abusing alcohol or drugs, OAC Rule 4729:5-2-01(F)(9).
6. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(A) of the OAC:
- a. Each prescriber or terminal distributor of dangerous drugs shall keep a record of all controlled substances received, administered, personally furnished, dispensed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a controlled substance must be documented with the positive identification of the responsible individual pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day, OAC Rule 4729-9-14(A); and
 - i. Records of administering, dispensing, personally furnishing or using controlled substances shall contain a description of the kind and quantity of the controlled substance administered, dispensed, personally furnished or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the controlled substance was administered, dispensed, or used, OAC Rule 4729-9-14(A)(2); and
 - ii. Records of drugs administered which become a permanent part of the patient's medical record shall be deemed to meet the name and address requirements of paragraph (A)(2) of this rule, OAC Rule 4729-9-14(A)(3).

7. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(B) of the OAC, each TDDD shall maintain an inventory of all controlled substances as follows:
 - a. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, OAC Rule 4729-9-14(B)(1), including:
 - i. The name of the substance, OAC Rule 4729-9-14(B)(1)(a); and
 - ii. The total quantity of the substance, OAC Rule 4729-9-14(B)(1)(b); and
 1. Each finished form (e.g., ten-milligram tablet or ten-milligram concentration per milliliter), OAC Rule 4729-9-14(B)(1)(b)(i); and
 2. The number of units or volume of each finished form in each commercial container (e.g., one-hundred-tablet bottle or ten-milliliter vial), OAC Rule 4729-9-14(B)(1)(b)(ii); and
 3. The number of commercial containers of each such finished form (e.g., three one-hundred-tablet bottles or ten one-milliliter vials), OAC Rule 4729-9-14(B)(1)(b)(iii); and
 - iii. If the substance is listed in schedule I or II, the prescriber or terminal distributor of dangerous drugs shall make an exact count or measure of the contents, OAC Rule 4729-9-14(B)(1)(c); and
 - iv. If the substance is listed in schedule III, IV, or V, the prescriber or terminal distributor of dangerous drugs may make an estimated count or measure of the contents, unless the container holds more than one thousand tablets or capsules in which an exact count of the contents must be made, OAC Rule 4729-9-14(B)(1)(d); and
 - b. An inventory of all stocks of controlled substances on hand on the date the prescriber or terminal distributor first engages in the administering, dispensing, or use of controlled substances. In the event the prescriber or terminal distributor of dangerous drugs commences business with no controlled substances on hand, this fact shall be recorded as the initial inventory, OAC Rule 4729-9-14(B)(3); and
 - c. A TDDD shall take a new inventory of all stocks of controlled substances on hand every year following the date on which the initial inventory was taken, OAC Rule 4729-9-14(B)(4).
8. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-14(C) of the OAC: All records of receipt, distribution,

administering, dispensing, personally furnishing, inventory, destruction, or using controlled substances shall be kept for a period of three years at the place where the controlled substances are located. Any terminal distributor of dangerous drugs intending to maintain such records at a location other than this place must first send a written request to the state board of pharmacy. The request shall contain the terminal distributor of dangerous drug name and license number of the requestor and the name and address of the alternate location. The state board of pharmacy will send written notification to the terminal distributor of dangerous drugs documenting the approval or denial of the request. A copy of the board's approval shall be maintained with the other records of controlled substances. Any such alternate location shall be secured and accessible only to representatives of the terminal distributor of dangerous drugs.

9. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Rule 4729-9-17 of the OAC, as effective March 1, 2017, adulterated drugs shall be stored no longer than one year from the date of adulteration or expiration by those holding a terminal distributor of dangerous drugs license.
10. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729:5-3-06, as effective March 1, 2019, adulterated drugs shall be stored no longer than one year from the date of adulteration or expiration by those holding a terminal distributor of dangerous drugs license Adulterated drugs shall be stored in a manner that prohibits access by unauthorized persons.
11. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729-9-22 of the OAC, Each prescriber or terminal distributor of dangerous drugs shall keep a record of all dangerous drugs received, administered, dispensed, personally furnished, distributed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a dangerous drug must be documented with the positive identification of the responsible individual pursuant to 4729-5-01(N) of the OAC. These records may be kept electronically if the method is approved by the state board of pharmacy and the records are backed-up each business day.
12. Such conduct, as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-22 of the OAC:
 - c. Records of administering, dispensing, personally furnishing, or using dangerous drugs shall contain a description of the kind and quantity of the dangerous drugs administered, dispensed, sold, or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the dangerous drug was administered, dispensed, or used, OAC Rule 4729-9-22(B); and
 - d. Records of dangerous drugs, other than controlled substances, administered, personally furnished, dispensed, or used which become a permanent part of the patient's medical

record shall be deemed to meet the requirements of paragraph (B) of this rule, OAC Rule 4729-9-22(D); and

- e. All records of receipt, distribution, personally furnishing, administering, dispensing, selling, destroying, or using dangerous drugs shall be kept for a period of three years at the place where the dangerous drugs are located and upon request provided to a state board of pharmacy officer, agent, and/or inspector within three working days, excluding weekends and holidays. Any terminal distributor of dangerous drugs intending to maintain such records at a location other than this place must first send a written request to the state board of pharmacy. The request shall contain the terminal distributor of dangerous drug name and license number of the requestor and the name and address of the alternate location. The state board of pharmacy will send written notification to the terminal distributor of dangerous drugs documenting the approval or denial of the request. A copy of the board's approval shall be maintained with the other records of dangerous drugs. Any such alternate location shall be secured and accessible only to representatives of the terminal distributor of dangerous drugs, OAC Rule 4729-9-22(E).
13. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following sections of Rule 4729-16-03 of the OAC, Drugs compounded in a pharmacy, as effective February 15, 2016:
- a. For all non-sterile compounded drug products, the pharmacy shall comply with the United States pharmacopeia chapter <795>, USP 38 - NF 33, or any official supplement thereto (9/10/2015), OAC Rule 4729-16-03(A); and
 - b. Comply with section 503A of the Federal Food, Drug, and Cosmetic Act (11/27/2013), OAC Rule 4729-16-03(C); and
 - c. In order to compound drug products, a pharmacy shall meet the minimum standards for a pharmacy pursuant to rule 4729-9-02 of the Administrative Code, OAC Rule 4729-16-03(F); and
 - d. For all compounded drug products, the pharmacist shall be responsible for:
 - iii. All compounding records pursuant to rule 4729-16-06 of the Administrative Code, OAC Rule 4729-16-03(H)(1); and
 - iv. The proper maintenance, cleanliness, and use of all equipment used in compounding, OAC Rule 4729-16-03(H)(2); and
 - f. Except as otherwise provided in rules 4729-15-03, 4729-16-07, 4729-16-10 and 4729-16-12 of the Administrative Code, a prescription shall be compounded and dispensed only pursuant to a specific order for an individual patient issued by a prescriber. A limited quantity may be compounded in anticipation of prescription drug orders based on

routine, regularly observed prescribing patterns. (L) A compounded drug product that is dispensed to an outpatient must be labeled according to rule 4729-5-16 of the Administrative Code. In addition, the label shall comply with paragraphs (N) and (A) or (B) of this rule. The statement "Compounded Drug Product" or other similar statement shall also be displayed prominently on the label, OAC Rule 4729-16-03(J).

14. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-16-06 of the OAC, Recordkeeping for compounding, as effective May 1, 2015:

- e. The responsible pharmacist or prescriber shall maintain the following records:
 - i. All drug orders and records, including logs, relating to the compounding of drugs. Such drug orders and records may be retained by any process providing an exact duplicate of the original order or prescription. In addition, if an alternate recordkeeping system is utilized, these records may be stored on any storage medium that meets industry standards for quality or any other mutually acceptable method and has stability for a period of at least three years. Records on an automated data processing system, or subsequent storage of such records, must be readily retrievable within seventy-two hours, OAC Rule 4729-16-06(B)(1); and
- f. Records of drugs dispensed or personally furnished shall include, but are not limited to:
 - i. The name, strength, and quantity of drugs dispensed or personally furnished, OAC Rule 4729-16-06(B)(3)(a); and
 - iv. Positive identification pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code for all pharmacists or prescribers involved in each function of dispensing or personally furnishing, OAC Rule 4729-16-06(B)(3)(d).
- g. All other records relating to the compounding of drugs, other than dispensing or personally furnishing, shall include, but are not limited to:
 - i. The name of the patient to whom, or for whose benefit the activity was performed, OAC Rule 4729-16-06(B)(4)(a); and
 - ii. The activity performed, OAC Rule 4729-16-06(B)(4)(b); and
 - iii. Documentation of all personnel involved in each function of the activity; OAC Rule 4729-16-06(B)(4)(c); and
- h. A record of all drugs compounded which shall include at least the following:
 - ii. Name of drug, strength, and dosage form, OAC Rule 4729-16-06(B)(5)(a); and

- iii. Quantity of drug(s) added to each container, OAC Rule 4729-16-06(B)(5)(b); and
 - iv. Except as provided in paragraph (E) of this rule, disposition of unused drug(s) and amount, OAC Rule 4729-16-06(B)(5)(c); and
 - v. Manufacturer's lot number or distributors control number, OAC Rule 4729-16-06(B)(5)(d); and
 - vi. Manufacturer's or distributor's name, if a generic drug is used and the record keeping system is capable of specifically tracking the manufacturer's or distributor's name as part of the documentation, OAC Rule 4729-16-06(B)(5)(e); and
 - vii. Pharmacy control number, if prepared in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, OAC Rule 4729-16-06(B)(5)(f); and
 - viii. Date of compounding, OAC Rule 4729-16-06(B)(5)(g); and
 - ix. Manufacturer's or distributor's expiration date, OAC Rule 4729-16-06(B)(5)(h); and
 - x. The expiration date or beyond-use date, OAC Rule 4729-16-06(B)(5)(i); and
 - xi. Positive identification of the registered pharmacist or prescriber responsible for the compounding or repackaging of each drug product, OAC Rule 4729-16-06(B)(5)(j); and
- i. All records must provide accountability and ensure that patients do not receive more drugs than intended by the prescriber. All records shall be readily retrievable and uniformly maintained in an unalterable and secure manner for at least three years from the date of the last dispensing or personal furnishing, OAC Rule 4729-16-06(C).
15. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 3715.52(A)(1) of the ORC, the holding or offering for sale any drug that is adulterated or misbranded, each violation a misdemeanor of the fourth degree.
16. 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 moral character and habits.

17. 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 6, 2017, each violation constituting a minor misdemeanor:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. 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).
18. Such conduct as set forth in 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. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729-5-04(C); and
 - d. 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).
19. 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. 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
- e. 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
- f. 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
- g. 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).

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 Brandon O'Callaghan on June 19, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-226367, held by Brandon O'Callaghan and such suspension is effective as of the date of the mailing of this Order.

1. Brandon O'Callaghan, 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.
2. Brandon O'Callaghan, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after 24 months from the effective date of this Order, the Board will consider any petition filed by Brandon O'Callaghan 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:

14. Brandon O'Callaghan must maintain a current address with the Board throughout the duration of the suspension.
15. Brandon O'Callaghan 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 Brandon O'Callaghan to potential sanctions up to and including revocation of license. The contract must provide that:
 - i. Random, **observed** urine drug screens shall be conducted at least once each month.
 - j. 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.
 - k. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - l. 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.
 - m. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Brandon O'Callaghan 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.
 - n. 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.
 - o. 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.

- p. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
16. Brandon O'Callaghan shall not have access to Spring Valley Family Pharmacy while Spring Valley's TDDD license is suspended or is operating under probationary terms, regardless of whether Brandon O'Callaghan's pharmacist license is reinstated.
 17. Brandon O'Callaghan 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 Brandon O'Callaghan reappear before the Board for possible additional sanctions, including and up to revocation of license.
 18. Brandon O'Callaghan 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 Brandon O'Callaghan reappear before the Board for possible additional sanctions, including and up to revocation of license.
 19. Brandon O'Callaghan 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 Brandon O'Callaghan to possible additional sanctions, including and up to revocation of license.
 20. Brandon O'Callaghan must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
 21. Brandon O'Callaghan 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.
 22. If reinstatement is not accomplished within **three years** of the effective date of this Order, Brandon O'Callaghan must also show successful completion of the North American

Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.

23. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
24. 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 Brandon O'Callaghan pharmacy license.
25. 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.
26. If Brandon O'Callaghan's employment is related to the practice of pharmacy, Brandon O'Callaghan must notify employer of the terms of his suspension and this Board's Order.
27. 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 Brandon O'Callaghan'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: 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37, and Respondent's Motion to seal Exhibit G.

Megan E. Marchal moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Joshua M. Cox seconded the motion. Motion passed (Aye-5/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Joshua M. Cox seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

Wednesday, November 6, 2019

9:01 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; 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*.

Joshua M. Cox, R.Ph, and Donald R. Miller, R.Ph. were absent.

R-2020-0213 Ms. Rudell moved that the Probation Committee Minutes of September 9, 2019 of be approved as written. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.

R-2020-0214 Ms. Marchal moved that the Board Meeting Minutes of September 9-11, 2019 of be approved with modifications. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.

R-2020-0215 Mr. Newlon moved that the Conference Call Minutes of September 17, 2019 of be approved as written. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.

R-2020-0216 Mr. Newlon moved that the Conference Call Minutes of September 27, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.

R-2020-0217 Ms. Marchal moved that the Conference Call Minutes of October 4, 2019 of be approved as written. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0.

R-2020-0218 Mr. Newlon moved that the Conference Call Minutes of October 11, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.

R-2020-0219 Mr. Newlon moved that the Conference Call Minutes of October 18, 2019 of be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0.

9:05 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 Matters of **Rita McElwain-Kelley, Flushing, Ohio.**

R-2020-0220 Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was

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

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

R-2020-0221 After votes were taken in public session, the Board adopted the following order in the matter of **Rita McElwain-Kelley, Flushing, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0326)

In The Matter Of:

Rita McElwain-Kelley, RPh

301 Stratton Lane

Flushing, OH 43977

(License No. 03-119249)

INTRODUCTION

The Matter of Rita McElwain-Kelley came for hearing on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh and Donald R. Miller, RPh; Absent.

Rita McElwain-Kelley was represented by Dean G. Makricostas. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Rita McElwain-Kelley, RPh—Respondent

Respondent's Witnesses:

1. Rita McElwain-Kelley, RPh—Respondent

State's Exhibits:

- | | |
|-------------------------------------|------------|
| 1. Notice Letter | 07.11.2019 |
| 2. Request for Hearing | 07.26.2019 |
| 3. Notice of Hearing | 07.30.2019 |
| 4. Statement of Respondent | 07.08.2019 |
| 5. Statement of Greg Paisley | 06.25.2019 |
| 6. Statement of Neil Stoneman | 06.28.2019 |
| 7. Statement of Melissa Frazier | 06.28.2019 |
| 8. Statement of Andrew Schmitt | 06.28.2019 |
| 9. Omitted | |
| 10. Statement of Kari Stillion | 06.28.2019 |
| 11. RX Profile of Respondent | Various |
| 12. RX 500874, 503227, dated 6-7-19 | 06.07.2019 |
| 13. RX 502441 dated 2-20-10 | 02.20.2010 |
| 14. RX 503059 dated 4-15-19 | 04.15.2019 |
| 15. RS 503132 dated 4-19-19 | 04.19.2019 |
| 16. RX 50342 dated 5-15-19 | 05.15.2019 |
| 17. RX 503771 dated 6-12-19 | 06.12.2019 |

Respondent's Exhibits:

- | | |
|--|------------|
| A. Rita McElwain-Kelley's Resume | No Date |
| B. Glenbeigh Discharge Plan | 09.18.2019 |
| C. Contract and Compliance Agreement Between Rita Kelley and WVPRN | 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. From on or about June 1, 2018 through June 12, 2019, Rita McElwain-Kelley made and dispensed false prescriptions while employed at Shriver's Pharmacy, located at 501 West Main Street, Carrollton, Ohio 44615. The fraudulent prescriptions include the following:
 - a. Rx #500015 - June 9, 2018, by Dr. Andrew Schmitt, Ibuprofen 600 mg, Qty 90, 2 refills.
 - b. Rx # 500014 - June 14, 2018, by Dr. David Hess, Butalb-APAP-Caff 50-325-40, Qty 60, 0 refills.
 - c. Rx # 500874 - September 28, 2018, by Dr. Andrew Schmitt, Ibuprofen 600 mg, Qty 90, 2 refills.
 - d. Rx # 502441 - February 20, 2019, by Dr. Andrew Schmitt, Doxycycline Hyclate 100 mg, Qty 20, 1 refill.
 - e. Rx # 503059 - April 15, 2019, by Dr. Andrew Schmitt, Lidocaine-Prilocaine Cream, Qty 30, 2 refills.
 - f. Rx # 503132 - April 20, 2019, by Dr. Andrew Schmitt, Triamterene-Hctz 37.5 mg, Qty 30, 1 refill.
 - g. Rx # 503432 - May 15, 2019, by Dr. David Hess, Butalb-APAP-Caff 50-325-40, Qty 60, 1 refill.
 - h. Rx #503703 - June 7, 2019, by Dr. Andrew Schmitt, Clotrimazole-Betamethasone, Qty 45, 0 refills.
 - i. Rx # 503704 - June 7, 2019, by Dr. Andrew Schmitt, Mometasone Furate 0.1% Cream, Qty 15, 5 refills.
 - j. Rx # 503770 - June 12, 2019, by Dr. Andrew Schmitt, Azithromycin 250 mg, Qty 6, 0 refills.
 - k. Rx #503771 - June 12, 2019, by Dr. Andrew Schmitt, Acyclovir 5% Ointment, Qty 15, 0 refills.
2. On or about July 8, 2019, Rita McElwain-Kelley were interviewed by an agent from the Board. Rita McElwain-Kelley made the following statements:

- a. Rita McElwain-Kelley was self-medicating with Fioricet, ibuprofen, Zantac, Triamterene, Zovirax, Z Pak, and Mometasone.
- b. Rita McElwain-Kelley made false prescriptions for medications she felt she needed while employed at Shriver's Pharmacy.
- c. Rita McElwain-Kelley admitted to processing refills for Fioricet without the doctor's authorization for approximately one (1) year.
- d. Rita McElwain-Kelley stated the Fioricet "dulled" the pain .
- e. Rita McElwain-Kelley stated that she was not currently addicted but used the pills as a "crutch."
- f. Rita McElwain-Kelley stated she last processed a false prescription for Fioricet in April 2019.
- g. Rita McElwain-Kelley stated she last processed a false prescription in June 2019. It was for Z Pak and Zovirax.

CONCLUSIONS OF LAW

- 1. Such conduct as set forth in paragraphs (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), (1)(i), (1)(j), (1)(k), (2)(b), and (2)(c) of the Findings of Fact Section each constitutes a violation of Section 2925.23 of the ORC, Illegal Processing of Drug Documents, a felony of the fifth degree.
- 2. Such conduct as set forth in paragraphs (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), (1)(i), (1)(j), and (1)(k) of the Findings of Fact Section each constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug, a felony of the fourth degree.
- 3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017, each violation constituting a minor misdemeanor:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and

- c. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
- 4. Such conduct as set forth in paragraphs (2)(a), (2)(d), and (2)(e) of the Findings of Fact Section constitutes a violation of section 4729.16(A)(2)(c) of the ORC, is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, effective as of April 6, 2017, the violation constituting a minor misdemeanor.
- 5. 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 April 30, 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).
- 6. Such conduct as set forth in paragraphs (2)(a), (2)(d), and (2)(e) of the Findings of Fact Section constitutes a violation of Rule 4729:1-4-01(B)(2)(c) of the OAC, 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, as effective April 30, 2018.

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 Rita McElwain-Kelley on July 11, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist license No. 03-119249, held by Rita McElwain-Kelley and such suspension is effective as of the date of the mailing of this Order.

Rita McElwain-Kelley, 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, beginning in June 2020, the Board will consider any petition filed by Rita McElwain-Kelley for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement one year from the date of the original summary suspension, July 11, 2019. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

1. Rita McElwain-Kelley must maintain a current address with the Board throughout the duration of the suspension.
2. Rita McElwain-Kelley must adhere to the terms of her September 13, 2019 contract with the West Virginia Pharmacist Recovery Network (PRN). The contract, which was included as Exhibit C, in the proceedings, is incorporated by reference to this Order and all terms and conditions of the West Virginia contract are considered to be terms of this Order, a violation of which will result in a violation of this Order.
3. Rita McElwain-Kelley 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 West Virginia PRN, the Board shall treat these results as a violation of the Board's Order and request Rita McElwain-Kelley reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Rita McElwain-Kelley 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 Rita McElwain-Kelley reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Rita McElwain-Kelley 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 Rita McElwain-Kelley to possible additional sanctions, including and up to revocation of license.
6. Rita McElwain-Kelley must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

7. Rita McElwain-Kelley must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Rita McElwain-Kelley must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
10. Violation of any term of suspension, including but not limited to any violation of the 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 Rita McElwain-Kelley's employment is related to the practice of pharmacy, Rita McElwain-Kelley must notify employer of the terms of Rita McElwain-Kelley'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 Rita McElwain-Kelley's license.
14. Rita McElwain-Kelley must obtain, within 90 days from the effective date of this Order, 12 hours of approved continuing pharmacy education (1.2 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

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: 11—17 and Respondent's Exhibit B.

Megan E. Marchal moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

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

Megan E. Marchal moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

10:13 a.m. The Board recessed for a break.

10:17 a.m. Pursuant to Sections 4729.561, 4729.571, and 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy was joined by Tom Pyles, *Chief of Investigations*, for the purpose of whether to consider a summary suspension related to one pharmacist, one Terminal Distributors of Dangerous Drugs, and one Wholesale Distributors of Dangerous Drugs as authorized by Section 3719.121.

R-2020-0222 After hearing Mr. Pyles discuss the significant facts regarding the activities of Christopher Crowley, pharmacist, Mr. Weaver moved pursuant to Section 3719.121 (A & B) that the Board summarily suspend the pharmacist license belonging to Christopher Crowley (License No. 03-331542), Chagrin Falls, Ohio. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.

R-2020-0223 After hearing Mr. Pyles discuss the significant facts regarding the activities of Pacifico National Inc. dba AmEx Pharmacy, Terminal Distributor of Dangerous Drugs (TDDD), Mr. Newlon moved that the Board summarily suspend the TDDD license belonging to Pacifico National Inc. dba AmEx Pharmacy (License No. 02-1897950), Melbourne, FL. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.

10:24 a.m. Ms. Gilbert presented the OBOT Waiver Request of Pro-Health Services LLC to the Board for consideration.

R-2020-0224 Ms. Marchal moved to approve the OBOT Waiver Request of Pro-Health Services LLC. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.

10:30 a.m. Ms. Dehner presented Cynthia Yu's request to modify her June 7, 2016 Reinstatement Order with the Board.

R-2020-0225 Mr. Weaver moved to grant Cynthia Yu's request. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0. The Board adopted the following order in the matter of **Cynthia Yu, Kettering, Ohio.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY

(Case Number 2015-1877)

In The Matter Of:

Cynthia Yu

453 Rolling Timber Trail
Kettering, Ohio 45429
(License No. 03-127791)

After reviewing the supportive documents submitted by Cynthia Yu, her employer Marc Sweeney, Phar.D., M.Div., BCAMS of Profero Team, LLC, and the Pharmacists Rehabilitation Organization, and upon recommendation of the Probation Committee, the Board hereby modifies Ms. Yu's January 11, 2018 Board Order as follows:

6(b): The State of Ohio Board of Pharmacy hereby declares that Cynthia Yu's pharmacist identification card 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. **This term is stayed with respect to Ms. Yu's inability to be a preceptor or train pharmacy interns for the duration of her employment with Profero Team, LLC.**

Ms. Yu may, as of this date, serve in the role of a preceptor or train pharmacy interns, despite her license not being in good standing. All other Board terms and conditions remain in place.

Mr. Weaver moved the Board grant the exemption from January 11, 2018 Order as noted above, Ms. Marchal seconded the motion. Motion passed (Aye – 5/Nay – 0).

10:33 a.m. Ms. Dehner presented Melissa Dunham's request to modify her September 14, 2016 Reinstatement Order with the Board.

- R-2020-0226** Mr. Weaver moved to grant Melissa Dunham's request. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0. The Board adopted the following order in the matter of **Melissa Dunham, Wheelersburg, Ohio.**
-

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY

(Case Number 2014-1773)

In The Matter Of:

Melissa Dunham, R.Ph.
283 W 5th Street
Chillicothe, OH 45601
(License No. 03-228191)

After reviewing the supporting documents submitted by Melissa Dunham, her employer CVSHealth, through District Leader CVSHealth Region 36 District 1, Jennifer Guthrie, RPh, and the Pharmacists Rehabilitation Organization, and upon recommendation of the Probation Committee, the Board hereby modifies Melissa Dunham's September 14, 2016 Reinstatement Board Order as follows:

6(b): The State of Ohio Board of Pharmacy hereby declares that Melissa Dunham may not serve as a responsible pharmacist is **stayed**.

Ms. Dunham may, as of this date, serve in the role of a responsible pharmacist while employed at CVS store 11086 in Waverly, Ohio. All other Board terms and conditions remain in place.

Mr. Weaver moved the Board grant the exemption from January 11, 2018 Order as noted above, Mr. Newlon seconded the motion. Motion passed (Aye – 5/Nay – 0).

- R-2020-0227** Ms. Yarosh moved that the approval or denial of Medical Marijuana matters, with the exception of routine variances but including settlements, be delegated to Mr. Wilt until the Board reconvenes. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0.

- 10:40 a.m.** Mr. McNamee led a discussion on revisions to rules 4729:5-9-01—Definitions, 4729:5-9-02—Institutional Pharmacies, 4729:5-9-02.1—Minimum Standards for Institutional Pharmacies, 4729: 5-9-02.2—Security, Storage and Control of Dangerous Drugs in an Institutional Pharmacy, 4729:5-9-02.3—Record Keeping At an Institutional Pharmacy, 4729:5-9-02.4—Dispensing of

Controlled Substances by an Institutional Pharmacy, 4729:5-9-02.5—Patient Profiles, 4729:5-9-02.6—Pharmacist Drug Utilization Review, 4729:5-9-02.7—Medication orders for Inpatients and Outpatient Prescriptions, 4729:5-9-02.8—Labeling of Prescriptions for Patients, 4729:5-9-02.9—Licensure of Outpatient Institutional Pharmacies, 4729:5-9-02.10—Temporary Absence of a Pharmacist in an Institutional Pharmacy, 4729:5-9-02.11—Dispensing Customized Patient Medication Packages by an Institutional Pharmacy, 4729:5-9-02.12—Drugs Repackaged or Relabeled by an Institutional Pharmacy, 4729:5-9-03—Institutional Pharmacies, 4729:5-9-03.1—Contingency Deals in an Institutional Facility and Emergency Access to an Institutional Pharmacy, 4729:5-9-03.2—Security, Storage and Control of Dangerous Drugs in an Institutional Facility, 4729:5-9-03.3—Record Keeping in an Institutional Facility, 4729:5-9-03.4—Automated Drug Storage Systems in an Institutional Facility, 4729:5-9-03.5—Hospital Self-Service Employee Prescription Kiosks, 4729:5-9-03.6—Point of Care Locations in an Institutional Facility, and 4729:5-9-16—Return of Dangerous Drugs.

R-2020-0228 Ms. Yarosh moved that the Board Approve Revision to 4729:5-9-01—Definitions, 4729:5-9-02—Institutional Pharmacies, 4729:5-9-02.1—Minimum Standards for Institutional Pharmacies, 4729:5-9-02.2—Security, Storage and Control of Dangerous Drugs in an Institutional Pharmacy, 4729:5-9-02.3—Record Keeping At an Institutional Pharmacy, 4729:5-9-02.4—Dispensing of Controlled Substances by an Institutional Pharmacy, 4729:5-9-02.5—Patient Profiles, 4729:5-9-02.6—Pharmacist Drug Utilization Review, 4729:5-9-02.7—Medication orders for Inpatients and Outpatient Prescriptions, 4729:5-9-02.8—Labeling of Prescriptions for Patients, 4729:5-9-02.9—Licensure of Outpatient Institutional Pharmacies, 4729:5-9-02.10—Temporary Absence of a Pharmacist in an Institutional Pharmacy, 4729:5-9-02.11—Dispensing Customized Patient Medication Packages by an Institutional Pharmacy, 4729:5-9-02.12—Drugs Repackaged or Relabeled by an Institutional Pharmacy, 4729:5-9-03—Institutional Pharmacies, 4729:5-9-03.1—Contingency Deals in an Institutional Facility and Emergency Access to an Institutional Pharmacy, 4729:5-9-03.2—Security, Storage and Control of Dangerous Drugs in an Institutional Facility, 4729:5-9-03.3—Record Keeping in an Institutional Facility, 4729:5-9-03.4—Automated Drug Storage Systems in an Institutional Facility, 4729:5-9-03.5—Hospital Self-Service Employee Prescription Kiosks, 4729:5-9-03.6—Point of Care Locations in an Institutional Facility, and 4729:5-9-16—Return of Dangerous Drugs for filing with CSI. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0.

11:47 a.m. Mr. McNamee and Ms. Wai presented the request and proposed resolution of Appleseed Joint Ambulance District to temporarily store drugs off-site.

R-2020-0229 Ms. Yarosh moved to grant Appleseed Joint Ambulance District's request and resolution. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

Request to Temporarily Store Drugs Off-Site – Appleseed Joint Ambulance District

Pursuant to section 4729.25 of the Ohio Revised Code, the State of Ohio Board of Pharmacy hereby approves the request by the Appleseed Joint Ambulance District (AJAD). As stated in the letter, the licensee shall conduct documented daily inspections to safeguard all controlled substances temporarily stored at the Arlington Volunteer Fire Department (AVFD). The AJAD shall notify the Board's Compliance and Enforcement Department, in writing, on the date the drugs are moved to the AVFD. This resolution is valid for thirty days from the date the drugs are moved to the AVFD.

The AJAD may request a one-time thirty (30) day extension that may be approved by the Board's Executive Director. Any additional extensions will be subject to further approval by the Board.

11:49 a.m. Mr. McNamee and Ms. Wai presented the request and proposed resolution of Medtronic.
The Board tabled the matter.

11:54 a.m. Mr. McNamee and Ms. Wai presented the request and proposed resolution of WENO Exchange for approval as a third-party intermediary.

R-2020-0230 Ms. Rudell moved to grant WENO Exchange's request and resolution. The motion was seconded by Mr. Newlon and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

Board Approved Third-Party Intermediary – WENO Exchange

Pursuant to rule 4729-5-30 and pending rule 4729:5-3-11 of the Ohio Administrative Code, the Board hereby approves WENO Exchange as a third-party intermediary.

11:56 a.m. Mr. McNamee and Ms. Wai presented the following resolution to the Board for approval: *Licensee and Registrant Medical Marijuana Use.*

- R-2020-0231** Mr. Weaver moved to grant *Licensee and Registrant Medical Marijuana Use*. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:
-

Licensee and Registrant Medical Marijuana Use

The Board hereby finds that an individual licensed or registered under Chapter 4729. of the Ohio Revised Code who engages in the lawful use of medical marijuana, in accordance with Chapter 3796. of the Revised Code and rules adopted thereunder, is not automatically subject to disciplinary action pursuant to Chapter 4729. of the Revised Code.

This resolution does not prohibit the Board from taking disciplinary action against an individual licensed or registered under Chapter 4729. of the Ohio Revised Code if the Board finds the licensee/registrant is impaired physically or mentally to such a degree as to render the individual unfit to carry out their professional duties or the licensee/registrant's medical marijuana use endangers the health, safety or welfare of a patient or client.

This resolution shall not affect an employer's rights pursuant to section 3796.28 of the Ohio Revised Code.

- 11:58 a.m.** Mr. McNamee and Ms. Wai presented the request and proposed resolution of Script Health.

- R-2020-0232** Ms. Marchal moved to grant the proposed resolution of Script Health. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:

- R-2020-0233** Ms. Marchal moved to grant *Approved HME Continuing Education Providers*. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:
-

Naloxone Exchange Program – Script Health

The Board hereby approves the proposal submitted by Script Health PBC. As part of the approval, the Board waives the in-person training requirements when dispensing naloxone pursuant to a prescriber protocol. All other requirements of rule 4729-5-39 and pending rule 4729:1-3-04 are still applicable.

- 12:04 p.m.** Ms. Alexander presented the following resolution to the Board for approval: *Approved HME Continuing Education Providers.*
- R-2020-0234** Ms. Marchal moved to grant *Approved HME Continuing Education Providers.* The motion was seconded by Ms. Rudell and approved by the Board: Aye-5, Nay-0. The following resolution was adopted by the Board:
-

Resolution: Approved HME Continuing Education Providers

Approved 11/6/2019

Per OAC 4729:11-3-04, HME continuing education can be provided as an in-service education developed and taught by the licensed HME services provider, HME manufacturer, or any organization recognized by the Board that offers continuing education relevant to HME services. The Board hereby approves the following organizations as approved HME CE Providers:

- Ohio Association of Medical Equipment Services
 - Ohio Society for Respiratory Care
 - VGM Education
-

- 12:08 p.m.** Ms. Dehner presented information to the Board, consistent with *Goldman v. State Med. Bd.*, 10th Dist. Franklin (Oct. 20, 1998), pertaining to Medical Marijuana Dispensary Applicants who were not viable for approval and had not requested a hearing in the timeframe set forth in chapter 119 of the Ohio Revised Code (ORC).
- R-2020-0235** Ms. Marchal moved to adopt the following Orders pertaining to those *Goldman* Medical Marijuana Applicants. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5, Nay-0.
-

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M623

(Case Number 2018-M623)

In the Matter of Applicant:

ACCESS MEDICAL MARIJUANA DISPENSARIES, LLC

c/o MELVIN WILDER

6797 N. HIGH STREET, SUITE 304 C/O ALW ASSOCIATES INC

WORTHINGTON OH 43085

Account No./Application No.: 113-623

Application District: NORTHWEST-3

Application Dispensary Address: 3454 DORR STREET, TOLEDO, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to ACCESS MEDICAL MARIJUANA DISPENSARIES, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE **Case No. 2018-M387**

(Case Number 2018-M387)

In the Matter of Applicant:

BLACK DIAMOND INVESTMENTS, LLC

c/o JASMINE CROCKETT

4605 CEDAR SPRINGS 141

DALLAS, TX 75219

Account No./Application No.: 144-387

Application District: NORTHEAST-2

Application Dispensary Address: 1647 ST. CLAIR, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BLACK DIAMOND INVESTMENTS, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested,

the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M884

(Case Number 2018-M884)

In the Matter of Applicant:

BLACK DIAMOND INVESTMENTS, LLC

c/o JASMINE CROCKETT

4605 CEDAR SPRINGS 141

DALLAS, TX 75219

Account No./Application No.: 144-884

Application District: NORTHEAST-2

Application Dispensary Address: 2302 HAMILTON, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BLACK DIAMOND INVESTMENTS, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet

- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M937

(Case Number 2018-M937)

In the Matter of Applicant:

BLACK DIAMOND INVESTMENTS, LLC

c/o JASMINE CROCKETT

4605 CEDAR SPRINGS 141

DALLAS, TX 75219

Account No./Application No.: 144-937

Application District: SOUTHWEST-1

Application Dispensary Address: 550-580 READING RD., CINCINNATI, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BLACK DIAMOND INVESTMENTS, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M411

(Case Number 2018-M411)
In the Matter of Applicant:
BLACK ELK DISPENSARIES, LLC
c/o SCOTT HOLOWICKI
5049 CEMETERY ROAD

HILLIARD, OH 43026
Account No./Application No.: 133-411
Application District: SOUTHEAST-3
Application Dispensary Address: 1305 HOLLY AVENUE, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BLACK ELK DISPENSARIES, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In

accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M352

(Case Number 2018-M352)
In the Matter of Applicant:
BLOSSOM ENTERPRISES, LLC
c/o JUMOKE AKINNAGBE
508 OLD HARBOR COURT
DAYTON OH 45458

Account No./Application No.: 393-352

Application District: SOUTHWEST-4

Application Dispensary Address: 732-740 WATERVLiet AVE, DAYTON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BLOSSOM ENTERPRISES, LLC (Respondent) by the State

of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M535

(Case Number 2018-M535)

In the Matter of Applicant:

BUCKEYE MEDIGREEN, LTD.

c/o JOHN J. VLAHOS

10085 WELLINGTON BLVD

POWELL OH 43065

Account No./Application No.: 291-535

Application District: SOUTHEAST-3

Application Dispensary Address: 1192 WEST MOUND STREET, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BUCKEYE MEDIGREEN, LTD. (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M862

(Case Number 2018-M862)

In the Matter of Applicant:

BUCKEYE STATE WELLNESS LLC

c/o CT CORPORATION SYSTEM

1300 EAST NINTH STREET

CLEVELAND OH 44114

Account No./Application No.: 429-862

Application District: SOUTHEAST-3

Application Dispensary Address: 4825 E. MAIN ST, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to BUCKEYE STATE WELLNESS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M678

(Case Number 2018-M678)

In the Matter of Applicant:
CAPITAL CITY DISPENSARIES LLC
c/o MARK GUTENTAG
22 EAST GAY STREET, SUITE 400
COLUMBUS OH 43215
Account No./Application No.: 27-678
Application District: SOUTHEAST-3
Application Dispensary Address: 2950 N. HIGH STREET, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to CAPITAL CITY DISPENSARIES LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M794

(Case Number 2018-M794)
In the Matter of Applicant:
CONSOLIDATED GROWING SOLUTIONS
c/o CASEY BROWN
625 KEENA DR.
AUBURN, CA 95603
Account No./Application No.: 328-794
Application District: SOUTHEAST-8
Application Dispensary Address: 704 PIKE ST., MARIETTA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to CONSOLIDATED GROWING SOLUTIONS (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M496

(Case Number 2018-M496)

In the Matter of Applicant:

EC ALT PHARM INC.

c/o MICHAEL ATEN

1719 COVENTRY ROAD #1

CLEVELAND HEIGHTS OH 44118

Account No./Application No.: 38-496

Application District: NORTHEAST-2

Application Dispensary Address: 4002 JENNINGS ROAD, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to EC ALT PHARM INC. (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the

following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit

A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1073

(Case Number 2018-M1073)

In the Matter of Applicant:

GOLDEN BUCKEYE WELLNESS LLC

c/o LEGALINC CORPORATE SERVICES INC.

1991 CROCKER ROAD SUITE 600A

WESTLAKE OH 44145

Account No./Application No.: 530-1073

Application District: NORTHEAST-3

Application Dispensary Address: 2884 S. ARLINGTON RD., AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to GOLDEN BUCKEYE WELLNESS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1078

(Case Number 2018-M1078)
In the Matter of Applicant:
GOLDEN BUCKEYE WELLNESS LLC
c/o LEGALINC CORPORATE SERVICES INC.
1991 CROCKER ROAD SUITE 600A
WESTLAKE OH 44145
Account No./Application No.: 530-1078
Application District: SOUTHWEST-5
Application Dispensary Address: 576 COLUMBUS AVE., LEBANON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to GOLDEN BUCKEYE WELLNESS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M1082

(Case Number 2018-M1082)
In the Matter of Applicant:
GOLDEN BUCKEYE WELLNESS LLC
c/o LEGALINC CORPORATE SERVICES INC.
1991 CROCKER ROAD SUITE 600A
WESTLAKE OH 44145
Account No./Application No.: 530-1082
Application District: NORTHWEST-8
Application Dispensary Address: 1028 W. CLEVELAND RD., SANDUSKY, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to GOLDEN BUCKEYE WELLNESS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M1027

(Case Number 2018-M1027)

In the Matter of Applicant:

GREAT LAKES ALTERNATIVE MEDICINE, LLC

c/o JOSEPH FRALEY

580 SOUTH HIGH STREET, SUITE 200

COLUMBUS OH 43215

Account No./Application No.: 430-1027

Application District: NORTHWEST-8

Application Dispensary Address: 1903 CLEVELAND ROAD, SANDUSKY, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to GREAT LAKES ALTERNATIVE MEDICINE, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M844

(Case Number 2018-M844)

In the Matter of Applicant:

GREEN LIGHT MEDICAL, LLC

c/o MILLER CONTRACT LAW

1715 INDIAN WOOD CIRCLE

MAUMEE OH 43537

Account No./Application No.: 245-844

Application District: NORTHWEST-3

Application Dispensary Address: 4015 SECOR ROAD, TOLEDO, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to GREEN LIGHT MEDICAL, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1029

(Case Number 2018-M1029)

In the Matter of Applicant:

HAH OHIO 1 LLC

c/o RYAN KUNKEL

3958 6TH AVE NW

SEATTLE, WA 98107

Account No./Application No.: 53-1029

Application District: SOUTHWEST-4

Application Dispensary Address: 2702 LINDEN AVE, DAYTON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to HAH OHIO 1 LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M1031

(Case Number 2018-M1031)

In the Matter of Applicant:

HAH OHIO 2 LLC

c/o RYAN KUNKEL

3958 6TH AVE NW
SEATTLE, WA 98107
Account No./Application No.: 336-1031
Application District: SOUTHEAST-3
Application Dispensary Address: 1124 W MOUND ST, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to HAH OHIO 2 LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In

accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1022

(Case Number 2018-M1022)

In the Matter of Applicant:

HAH OHIO 3 LLC

c/o RYAN KUNKEL

3958 6TH AVE NW

SEATTLE, WA 98107

Account No./Application No.: 513-1022

Application District: NORTHEAST-2

Application Dispensary Address: 6201 STUMPH RD, PARMA HEIGHTS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to HAH OHIO 3 LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter.

The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit

A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M745

(Case Number 2018-M745)

In the Matter of Applicant:

HERBAL WELLNESS CLINIC

c/o MICHAEL RICH

9603 GRAND OAKS TRAIL

OLMSTED FALLS, OH 44138

Account No./Application No.: 413-745

Application District: NORTHEAST-1

Application Dispensary Address: 230 SOUTH LOGAN STREET, ELYRIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to HERBAL WELLNESS CLINIC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice

- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1036

(Case Number 2018-M1036)
In the Matter of Applicant:
HERBAL WELLNESS GROUP, LLC
c/o KGM AGENT, INC.
100 S. 4TH STREET, SUITE 100
COLUMBUS OH 43215
Account No./Application No.: 496-1036
Application District: SOUTHEAST-3
Application Dispensary Address: 977 W. BROAD ST, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to HERBAL WELLNESS GROUP, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M500

(Case Number 2018-M500)

In the Matter of Applicant:

JEFFDAVE LLC

c/o DARNELL MARTEMUS

3036 ALEXA CT

TWINSBURG OH 44087
Account No./Application No.: 194-500
Application District: NORTHEAST-6
Application Dispensary Address: 2302 METCALF DR. UNIT 23, ASHTABULA TOWNSHIP, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to JEFFDAVE LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M647

(Case Number 2018-M647)

In the Matter of Applicant:

KRONIC CARE, LLC.

c/o KELLEY MOTTOLA

8576 MAJOR PLACE

GALLOWAY OH 43119

Account No./Application No.: 315-647

Application District: SOUTHEAST-3

Application Dispensary Address: 5405 ROBERTS RD., HILLIARD, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to KRONIC CARE, LLC. (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard

J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M935

(Case Number 2018-M935)
In the Matter of Applicant:
LAKE FRONT MEDICAL, LLC
c/o DAVID V. PATTON
33595 BAINBRIDGE ROAD, SUITE 200A
OLON OH 44139-2981
Account No./Application No.: 451-935
Application District: NORTHEAST-5
Application Dispensary Address: 30509 EUCLID AVENUE, WILLOWICK, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to LAKE FRONT MEDICAL, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M86

(Case Number 2018-M86)
In the Matter of Applicant:
LONDON PROFESSIONAL DISPENSARY, LLC
c/o ERNEST S. SPARKS
54 W. HIGH ST.
LONDON OH 43140
Account No./Application No.: 292-86
Application District: SOUTHWEST-7
Application Dispensary Address: 101 WEST HIGH STREET, LONDON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to LONDON PROFESSIONAL DISPENSARY, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M888

(Case Number 2018-M888)

In the Matter of Applicant:

LUCID OF OHIO LLC

c/o ROBERT GABRIEL

2005 MONROE STREET, SUITE 3

TOLEDO OH 43604

Account No./Application No.: 165-888

Application District: NORTHWEST-3

Application Dispensary Address: 2112 -2138 N REYNOLDS RD, TOLEDO, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to LUCID OF OHIO LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M892

(Case Number 2018-M892)

In the Matter of Applicant:

MAHONING VALLEY DISTRIBUTORS, LLC

c/o MH BUSINESS SERVICES LLC

600 SUPERIOR AVENUE E., SUITE 2100

CLEVELAND OH 44114

Account No./Application No.: 468-892

Application District: NORTHEAST-6

Application Dispensary Address: 890 EAST MIDLOTHIAN BLVD, YOUNGSTOWN, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to MAHONING VALLEY DISTRIBUTORS, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn

C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit

A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M148

(Case Number 2018-M148)

In the Matter of Applicant:

MEDOH, LLC

c/o MARGOT ANDRUS

7991 ASHLEY VIEW DRIVE

CINCINNATI OH 45227

Account No./Application No.: 295-148

Application District: SOUTHWEST-1

Application Dispensary Address: 5236 KENNEDY AVENUE, CINCINNATI, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to MEDOH, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service

- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M181

(Case Number 2018-M181)

In the Matter of Applicant:

NATURAL REMEDIES

c/o ANGEL DAWSON

3405 SPRUCE CT.

AVON, OH 44011

Account No./Application No.: 174-181

Application District: NORTHEAST-1

Application Dispensary Address: 1268 E BROAD ST. #3, ELYRIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to NATURAL REMEDIES (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M1113

(Case Number 2018-M1113)

In the Matter of Applicant:

NATURE'S APEX, LLC

c/o ROBERT BONDER

1316 RACE STREET UNIT #5

CINCINNATI OH 45202

Account No./Application No.: 540-1113

Application District: SOUTHWEST-1

Application Dispensary Address: 3241 SPRING GROVE AVENUE, CINCINNATI, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to NATURE'S APEX, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M673

(Case Number 2018-M673)

In the Matter of Applicant:

NATURE'S CARE & WELLNESS OF OHIO, LLC

c/o QI SERVICES, INC.

150 EAST FOURTH STREET, 4TH FLOOR

CINCINNATI OH 45202

Account No./Application No.: 41-673

Application District: SOUTHWEST-2

Application Dispensary Address: 360 BREADEN DRIVE, MONROE, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to NATURE'S CARE & WELLNESS OF OHIO, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M668

(Case Number 2018-M668)

In the Matter of Applicant:

NATURE'S CARE & WELLNESS OF OHIO, LLC

c/o QI SERVICES, INC.

150 EAST FOURTH STREET, 4TH FLOOR

CINCINNATI OH 45202

Account No./Application No.: 179-0

Application District: SOUTHWEST-5

Application Dispensary Address: 1515 STATE ROAD 28, SUITES C AND D, GOSHEN TOWNSHIP
(LOVELAND), OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to NATURE'S CARE & WELLNESS OF OHIO, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M550

(Case Number 2018-M550)
In the Matter of Applicant:
NATURE'S CARE & WELLNESS OF OHIO, LLC
c/o QI SERVICES, INC.
150 EAST FOURTH STREET, 4TH FLOOR
CINCINNATI OH 45202
Account No./Application No.: 244-550
Application District: NORTHEAST-3
Application Dispensary Address: 1727-1731 VERNON ODOM BOULEVARD, AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to NATURE'S CARE & WELLNESS OF OHIO, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M1156

(Case Number 2018-M1156)

In the Matter of Applicant:

OHIO BIOTHERAPY LLC

c/o VICTORIA THORNTON

1011 HILL ST

CINCINNATI OH 45202

Account No./Application No.: 93-1156

Application District: SOUTHWEST-6

Application Dispensary Address: 972 WEST MAIN STREET, HILLSBORO, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO BIOTHERAPY LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M676

(Case Number 2018-M676)
In the Matter of Applicant:
OHIO CARE SOLUTIONS, LLC
c/o STEVE ANEVSKI
6701 RUWES OAK DRIVE, SUITE 14
CINCINNATI OH 45248
Account No./Application No.: 52-676
Application District: SOUTHWEST-1
Application Dispensary Address: 126 W SIXTH ST, CINCINNATI, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO CARE SOLUTIONS, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M928

(Case Number 2018-M928)
In the Matter of Applicant:
OHIO MEDICAL MARIJUANA PRODUCTS LLC
c/o 1836 STATUTORY AGENT CORP
3723 PEARL ROAD, STE 200
CLEVELAND OH 44109
Account No./Application No.: 486-928
Application District: NORTHEAST-6
Application Dispensary Address: 2302 METCALF DRIVE, ASHTABULA TOWNSHIP, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO MEDICAL MARIJUANA PRODUCTS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M310

(Case Number 2018-M310)
In the Matter of Applicant:
OHIO VALLEY MEDCAN, INC
c/o RONALD A. NAYLOR
67497 KIRKWOOD HEIGHTS
BRIDGEPORT OH 43912
Account No./Application No.: 234-310
Application District: SOUTHEAST-9
Application Dispensary Address: 55160 NATIONAL ROAD, LANSING, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO VALLEY MEDCAN, INC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M653

(Case Number 2018-M653)
In the Matter of Applicant:
OHIO VALLEY WELLNESS LLC.
c/o JOSEPH L. PICCIN, ESQ.
3010 HAYDEN RD

COLUMBUS OH 43235-7243

Account No./Application No.: 321-653

Application District: NORTHEAST-4

Application Dispensary Address: 1561 PENNSYLVANIA AVE. E., EAST LIVERPOOL, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO VALLEY WELLNESS LLC. (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**

Case No. 2018-M236

(Case Number 2018-M236)

In the Matter of Applicant:

OHIO WAY LLC

c/o LAW OFFICES OF IAN HEYMAN LLC

81 MILL ST, SUITE 300

GAHANNA OH 43230

Account No./Application No.: 388-236

Application District: NORTHWEST-7

Application Dispensary Address: 1526 W. STATE ST., FREMONT, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO WAY LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M416

(Case Number 2018-M416)
In the Matter of Applicant:
OHIO WAY LLC
c/o LAW OFFICES OF IAN HEYMAN LLC
81 MILL ST, SUITE 300
GAHANNA OH 43230
Account No./Application No.: 388-416
Application District: NORTHEAST-5
Application Dispensary Address: 35742 Vine Street, Eastlake, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHIO WAY LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M1055

(Case Number 2018-M1055)

In the Matter of Applicant:

OHRE 2 LLC

c/o EIVAN SHAHARA

3623 E. KRISTAL WAY
PHOENIX, AZ 85050
Account No./Application No.: 491-1055
Application District: SOUTHWEST-5
Application Dispensary Address: 726 E MAIN ST, LEBANON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to OHRE 2 LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In

accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M595

(Case Number 2018-M595)

In the Matter of Applicant:

SOUTH EUCLID MEDICAL SOLUTIONS LLC

c/o JAMES GILLECE

627 PATRIOT LANE

PHOENIXVILLE, PA 19460

Account No./Application No.: 398-595

Application District: NORTHEAST-2

Application Dispensary Address: 1976 WARRENSVILLE CTR RD, SOUTH EUCLID, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to SOUTH EUCLID MEDICAL SOLUTIONS LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on

November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit

A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M1149

(Case Number 2018-M1149)

In the Matter of Applicant:

SWYF, LLP

c/o DANA WEST

917 COMMERCIAL AVE SE

NEW PHILADELPHIA, OH 44663

Account No./Application No.: 549-1149

Application District: NORTHEAST-4

Application Dispensary Address: 2421 EAST HIGH AVENUE, NEW PHILADELPHIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to SWYF, LLP (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet

- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M577

(Case Number 2018-M577)

In the Matter of Applicant:

THE RELEAF CENTER LLC

c/o MOHAMMAD DAYEM

4200 WEST 130TH ST.

CLEVELAND OH 44135

Account No./Application No.: 387-577

Application District: NORTHEAST-2

Application Dispensary Address: 3540 W140TH ST, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to THE RELEAF CENTER LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE

Case No. 2018-M911

(Case Number 2018-M911)

In the Matter of Applicant:

TRICH3 INC.

c/o TERRIE ANN RICH

967 W. LIBERTY STREET

HUBBARD OH 44425

Account No./Application No.: 480-911

Application District: NORTHEAST-6

Application Dispensary Address: 973 WEST LIBERTY STREET, HUBBARD, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to TRICH3 INC. (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR MEDICAL MARIJUANA DISPENSARY LICENSE **Case No. 2018-M347**

(Case Number 2018-M347)
In the Matter of Applicant:
TWENTY PAST FOUR, LLC
c/o BOYMEL LAW FIRM, LLC
12500 REED HARTMAN HIGHWAY SUITE 200
CINCINNATI OH 45241
Account No./Application No.: 70-347
Application District: SOUTHWEST-4
Application Dispensary Address: 101 QUINTER FARM ROAD, UNION, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to TWENTY PAST FOUR, LLC (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 8, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy: Shawn C. Wilt, RPh, Presiding; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh.; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board

proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

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 Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

After thorough review of the entire administrative record, the Board hereby confirms and approves the facts contained in the affidavits submitted by Nicole Dehner and Erin Reed.

Respondent was properly served and informed of its right to contest the denial of its application for a medical marijuana provisional dispensary license. As Respondent failed to request a hearing, no additional facts were presented to the Board on behalf of Respondent.

Under R.C. 3796.05 and Ohio Adm. Code 3796:6-2-05, the Board determined that it would issue up to sixty (60) medical marijuana provisional dispensary licenses for applications submitted between November 3, 2017 and November 17, 2017.

The State was split into thirty-one (31) separate districts. The maximum number of dispensaries in each district varied from one (1) to (5). The entities eligible to receive a medical marijuana provisional dispensary license were determined through a competitive application process. In accordance with R.C. 3796.10 and Ohio Adm. Code 3796:6-2-04(A) and 3796:6-2-01, the Board awarded provisional dispensary licenses based on the ranking of scores in each district.

Respondent timely applied to receive a medical marijuana provisional dispensary license to operate at the address identified in State's Exhibit A. The address is located in the district number listed in the caption.

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent does not qualify to receive a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough to meet the minimum viability threshold of 138 out of 230 points.

DECISION OF THE BOARD

Based on the above information, Respondent's application is hereby DENIED.

Ms. Marchal moved for the findings of fact, conclusions of law, and decision of the Board. Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

12:17 p.m. Mr. McNamee led a discussion on the 2020 Rules Review Committee Member selection process and whether any changes on the selection process were needed.

The Board agreed that the standard selection process would continue.

R-2020-0236 Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Wilt as follows: Marchal-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

R-2020-0236 After votes were taken in public session, the Board adopted the following order in the matter of **Cannabiz, LLC, Fort Wayne, IN.**

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

(Case Number 2018-M959)
In the Matter of Applicant:
Cannabiz, LLC
8526 Greyhawk Drive
Fort Wayne, IN 46835
Account No./Application No.: 498-959
Application District: Northwest-1

Application Dispensary Address: 1219 Tuendawie Street, Defiance, OH 43512

INTRODUCTION

The Matter of Cannabiz, LLC came for hearing before Hearing Examiner Kristin Rosan via a stipulation between the parties to submit exhibits and written contentions in lieu of an oral hearing. Cannabiz, LLC was represented by Joel A. Holt and James Ickes; the State of Ohio was represented by Vivian P. Tate, Principal Assistant Attorney General. The Matter came for consideration by the Board on November 6, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh; and Richard Newlon, *Public Member*.

BOARD REVIEW OF THE RECORD

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

- 1) Notice of Opportunity for Hearing for Application ID 959
- 2) Cannabiz, LLC's Scorecard for Application ID 959
- 3) The following Joint Exhibits admitted by the Hearing Examiner:
 - Joint Exhibit 1: Dispensary Application Cannabiz, LLC
 - Joint Exhibit 2: Notice of Intent to Deny Application
 - Joint Exhibit 3: Request for a Hearing
 - Joint Exhibit 4: Cannabiz, LLC Scorecard
 - Joint Exhibit 5A: Dispensary Application Instructions
 - Joint Exhibit 5B: Model Application
 - Joint Exhibit 5C: Tax Authorization Form
 - Joint Exhibit 5D: Zoning Form
 - Joint Exhibit 5E: Trade Secret Form
 - Joint Exhibit 5F: Attestation and Release Authorization Form
 - Joint Exhibit 5G: Dispensary Application Tips
 - Joint Exhibit 5H: Dispensary Application Frequently Asked Question
 - Joint Exhibit 5I: Pharmacy First Round Question and Answer Responses
 - Joint Exhibit 5J: Pharmacy Second Round Question and Answer Responses
 - Joint Exhibit 6A: Dispensary Award Process Frequently Asked Questions
 - Joint Exhibit 6B: Medical Marijuana Dispensary Districts
 - Joint Exhibit 6C1: Key Indicators for Application Evaluation - Business Plan
 - Joint Exhibit 6C2: Key Indicators for Application Evaluation - Operations Plan
 - Joint Exhibit 6C3: Key Indicators for Application Evaluation - Patient Care Plan
 - Joint Exhibit 6C4: Key Indicators for Application Evaluation - Security Plan / Operation C&E

- Joint Exhibit 6D: Medical Marijuana Dispensary Licensing Report
 - Joint Exhibit 6E: Full List of Application Scores by District
 - Joint Exhibit 6F: List of Dispensary License Awards
 - Joint Exhibit 6G: All Scores Chart
 - Joint Exhibit 7A: Confidential Evaluator Key
 - Joint Exhibit 7B: Cannabiz, LLC Dispensary Application – Scored Questions
 - Joint Exhibit 7C: Dispensary Provisional License Awards
 - Joint Exhibit 7D: Medical Marijuana Dispensaries - Ranking by Score
 - Joint Exhibit 7E: Provisional Dispensary License Allocation
 - Joint Exhibit 7F: Cannabiz, LLC Individual Evaluators' Scores for Scoreable Questions
- 4) The following additional filings in the case record:
- 07.09.2018 - State Notice of Appearance
 - 10.22.2018 - Amended Scheduling Order
 - 01.04.2019 - Entry
 - 01.25.2019 - Exhibit R1
 - 01.25.2019 - Exhibit R2
 - 01.25.2019 - Exhibit R3
 - 01.25.2019 - Exhibit R4
 - 01.25.2019 - Notice of Stipulated Exhibits
 - 01.25.2019 - Respondent Written Position and Arguments
 - 01.25.2019 - Schedule of Attachments - Exhibits 5a-5t
 - 02.26.2019 - State Motion to Extend Briefing Schedule
 - 03.11.2019 - Affidavit of Erin C. Reed
 - 03.11.2019 - Affidavit of Nicole M. Dehner
 - 03.11.2019 - State Written Response to Respondent Written Position and Arguments (and attached State of Ohio Exhibits A, B, C, D, E, F, and G)
 - 09.06.2019 - Report and Recommendation
 - 09.06.2019 - Report and Recommendation Cover Letter
 - 09.16.2019 - Report and Recommendation Cover Letter Proof of Service
 - 09.17.2019 - State Objections to Report and Recommendation

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts in its entirety Hearing Examiner Rosan's Report and Recommendation, as it relates to the Board's *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Cannabiz, LLC for Application ID 959, including the Findings of Fact and Conclusions of Law, subject to the following modifications:

Paragraph 112:

The Board modifies the standard of proof to remain consistent with the law applicable to administrative cases. The appropriate standard of proof in administrative cases is a

preponderance of the evidence. *VFW Post 8586 v. Ohio Liquor Control Comm.*, 83 Ohio St.3d 79, 81, 697 N.E.2d 655 (1998); *see also Ohio State Bd. of Pharmacy v. Weinstein*, 33 Ohio Misc.2d 25, 27, 514 N.E.2d 1143 (C.P.1987); *Buckeye Bar, Inc. v. Liquor Control Comm.*, 32 Ohio App.2d 89, 91, 288 N.E.2d 318 (10th Dist.1972). Preponderance of the evidence means “more likely than not.” Here, the Hearing Examiner applied the standard of review upon appeal of an agency’s order to a court of common pleas. *See* R.C. 119.12(M) (“The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law.”); *see also Burneson v. Ohio State Racing Comm’n*, 10th Dist. Franklin No. 03AP-925, 2004-Ohio-3313, ¶ 6.

The Hearing Examiner correctly provided that “a government agency is bound to adhere to...[the] conditions and provisions it had itself set forth in the RFP.” *Report & Recommendation* at ¶ 71, citing *Danis Clarkco Landfill Co. v. Clark Cty. Solid Waste Mgt. Dist.*, 73 Ohio St.3d 590, 603, 653 N.E.2d 646 (1995). The Hearing Examiner also stated correctly that “a disappointed bidder (or applicant) must show the agency either committed fraud or abused its discretion in awarding funding (or, in this case, a license) elsewhere.” *Report & Recommendation* at ¶ 72, citing *Danis Clarkco Landfill Co.* at 605. To establish an abuse of discretion, the Hearing Examiner correctly noted, “the supposedly aggrieved party must demonstrate that the government agency acted in bad faith, or with an unreasonable, arbitrary, or unconscionable attitude.” *Report & Recommendation* at ¶ 73, citing *Danis Clarkco Landfill Co.* at 605.

Thus, to prevail, Respondent was required to prove by a preponderance of the evidence that the Board abused its discretion by acting in bad faith or in a way that was unreasonable, arbitrary, or unconscionable.

Applying the appropriate standard of proof, the Board agrees with the Hearing Examiner’s conclusion and finds Respondent failed to establish by a preponderance of the evidence that “the Board’s selection of the evaluators and their use of the ‘key indicators’ to evaluate the applications, prejudiced the Respondent to a greater degree than any other applicant.”

Paragraph 113:

As detailed above, the Board modifies the standard of proof to remain consistent with the law applicable to administrative cases. Thus, to prevail, Respondent was required to prove by a preponderance of the evidence that the Board abused its discretion by acting in bad faith or in a way that was unreasonable, arbitrary, or unconscionable in scoring and ultimately denying Respondent’s application.

Applying the appropriate standard of proof, the Board concludes that Respondent did not prove by a preponderance of the evidence that the Board acted in bad faith, or with an unreasonable, arbitrary, or unconscionable attitude, in scoring and ultimately denying Respondent’s application.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Rosan, affirming the Board's license award process, which includes a denial of a Dispensary Provisional License to Cannabiz, LLC Application ID 959, on the grounds that Respondent does not qualify for a dispensary license because its score fell below the minimum level required for licensure. The Board finds Respondent failed to prove by a preponderance of the evidence that the Board abused its discretion in the evaluation and scoring of Application ID 959. The Board affirms its determination to deny Applicant's application for a license as a Medical Marijuana Dispensary under authority of Section 3796.14(B) of the Ohio Revised Code and Chapter 3796:6 of the Ohio Administrative Code, because Respondent's score was not high enough to qualify Applicant to receive a Dispensary Provisional License in District Northwest-1.

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

SO ORDERED.

R-2020-0237 After votes were taken in public session, the Board adopted the following order in the matter of **Mission Apollo, Phoenix, AZ.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING & APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number 2018-M487)
In the Matter of Applicant:
Mission Apollo, LLC
5060 N. 40th St., Suite 120
Phoenix, AZ 85018
Account No./Application No.: 332-487
Application District: Southeast-3
Application Dispensary Address: 3246, 3252 & 3258 East Main Street, Columbus, OH 43213

INTRODUCTION

The Matter of Mission Apollo, LLC came for hearing before Hearing Examiner Anna Bates via a stipulation between the parties to submit exhibits and written contentions in lieu of an oral hearing. Mission Apollo, LLC was represented by Joel A. Holt and James Ickes; the State of Ohio was represented by Vivian P. Tate, Principal Assistant Attorney General. The Matter came for consideration by the Board on November 6, 2019 before the following members of the State of

Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh; and Richard Newlon, *Public Member*.

BOARD REVIEW OF THE RECORD

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

- 1) Notice of Opportunity for Hearing for Application ID 487
- 2) Mission Apollo, LLC's Scorecard for Application ID 487
- 3) The following Joint Exhibits admitted by the Hearing Examiner:
 - Joint Exhibit 1: Dispensary Application Mission Apollo, LLC
 - Joint Exhibit 2: Notice of Intent to Deny Application
 - Joint Exhibit 3: Request for a Hearing
 - Joint Exhibit 4: Mission Apollo, LLC Scorecard
 - Joint Exhibit 5A: Dispensary Application Instructions
 - Joint Exhibit 5B: Model Application
 - Joint Exhibit 5C: Tax Authorization Form
 - Joint Exhibit 5D: Zoning Form
 - Joint Exhibit 5E: Trade Secret Form
 - Joint Exhibit 5F: Attestation and Release Authorization Form
 - Joint Exhibit 5G: Dispensary Application Tips
 - Joint Exhibit 5H: Dispensary Application Frequently Asked Question
 - Joint Exhibit 5I: Pharmacy First Round Question and Answer Responses
 - Joint Exhibit 5J: Pharmacy Second Round Question and Answer Responses
 - Joint Exhibit 6A: Dispensary Award Process Frequently Asked Questions
 - Joint Exhibit 6B: Medical Marijuana Dispensary Districts
 - Joint Exhibit 6C1: Key Indicators for Application Evaluation - Business Plan
 - Joint Exhibit 6C2: Key Indicators for Application Evaluation - Operations (Dispensing Medical Marijuana)
 - Joint Exhibit 6C3: Key Indicators for Application Evaluation - Operations (Patient Care)
 - Joint Exhibit 6C4: Key Indicators for Application Evaluation - Security Operations
 - Joint Exhibit 6D: Medical Marijuana Dispensary Licensing Report – June 2018 (Gartner Report)
 - Joint Exhibit 6E: Full List of Application Scores by District
 - Joint Exhibit 6F: Full List of Provisional Dispensary License Awards
 - Joint Exhibit 6G: All Scores Chart

- Joint Exhibit 6H¹: All Scores Abstract
 - Joint Exhibit 7A: Application Scoring Information - Evaluator Key
 - Joint Exhibit 7B: Application Scoring Information - Scored questions for Mission Apollo, LLC Dispensary Application
 - Joint Exhibit 7C: Application Scoring Information - Dispensary Provisional License Awards
 - Joint Exhibit 7D: Application Scoring Information - Statewide Ranking by Score
 - Joint Exhibit 7E: Application Scoring Information - Provisional Dispensary License Allocation
- 4) The following additional filings in the case record:
- 06.29.2018 - State's Notice of Appearance
 - 08.14.2018 - Notice Reassigning Hearing Examiner
 - 08.14.2018 - Proof of Service
 - 09.26.2018 - Decision and Scheduling Order
 - 11.14.2018 - Respondent's Motion to Extend Briefing Schedule
 - 11.20.2018 - Entry Granting Mission Apollo LLC's Motion to Extend Briefing Schedule
 - 11.29.2018 - State's Cover Letter
 - 11.29.2018 - State's Prehearing Brief
 - 12.06.2018 - Joint Motion to Extend Briefing Schedule
 - 12.08.2018 - Entry Granting Joint Motion to Extend Briefing Schedule
 - 12.21.2018 - Proposed Joint Exhibits List
 - 12.21.2018 - Respondent's Written Position and Arguments (and attached Exhibits)
 - 01.21.2019 - Amended Motion to Extend Briefing Schedule
 - 01.22.2019 - Entry Granting State's Motion to Extend Briefing Schedule
 - 02.12.2019 - Affidavit of Erin C. Reed
 - 02.12.2019 - Affidavit of Steven W. Schierholt
 - 02.12.2019 - State's Written Response to Respondent Written Position and Arguments (and attached Exhibits A, B, C, D, E, F, and G)
 - 02.22.2019 - Respondent's Reply to Pharmacy Position and Arguments
 - 09.25.2019 - Report and Recommendation
 - 09.25.2019 - Proof of Service
 - 09.25.2019 - Report and Recommendation Cover Letter

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts in its entirety Hearing Examiner Bates' Report and Recommendation, as it relates to the Board's *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary*

¹ Respondent also "provided the excel spreadsheet version of [Joint Exhibit] 6H as Exhibit R3." Exhibit R3 was also considered by the Board.

License to Mission Apollo, LLC for Application ID 487, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Bates, affirming the Board's license award process, which includes a denial of Dispensary Provisional Licenses to Mission Apollo, LLC Application ID 487.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Bates. Ms. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

R-2020-0238 After votes were taken in public session, the Board adopted the following order in the matter of **HVV Mission Ohio, Phoenix, AZ.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING & APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number 2018-M996)
In the Matter of Applicant:
HVV Mission Ohio, LLC
5060 N. 40th St., Suite 120
Phoenix, AZ 85018
Account No./Application No.: 509-996
Application District: Southwest-4
Application Dispensary Address: 3010 Harshman Road, Dayton, OH 45424

&

(Case Number 2018-M1059)
In the Matter of Applicant:
HVV Mission Ohio, LLC
5060 N. 40th St., Suite 120
Phoenix, AZ 85018
Account No./Application No.: 525-1059
Application District: Northeast-3

Application Dispensary Address: 85 Massillon Road, Akron, OH 44312

INTRODUCTION

The Matter of HVV Mission Ohio, LLC came for hearing before Hearing Examiner Anna Bates via a stipulation between the parties to submit exhibits and written contentions in lieu of an oral hearing. HVV Mission Ohio, LLC was represented by Joel A. Holt and James Ickes; the State of Ohio was represented by Vivian P. Tate, Principal Assistant Attorney General. The Matter came for consideration by the Board on November 6, 2019 before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Kilee S. Yarosh, RPh; and Richard Newlon, *Public Member*.

BOARD REVIEW OF THE RECORD

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

- 1) Notices of Opportunity for Hearing for Application ID 996 and Application ID 1059
- 2) HVV Mission Ohio, LLC's Scorecards for Application ID 996 and Application No. 1059
- 3) The following Joint Exhibits admitted by the Hearing Examiner under Case Number 2018-M996:
 - Joint Exhibit 1: Dispensary Application HVV Mission Ohio, LLC (Dayton)
 - Joint Exhibit 2: Notice of Intent to Deny Application
 - Joint Exhibit 3: Request for a Hearing
 - Joint Exhibit 4: HVV Mission Ohio, LLC (Dayton) Scorecard
 - Joint Exhibit 5A: Dispensary Application Instructions
 - Joint Exhibit 5B: Model Application
 - Joint Exhibit 5C: Tax Authorization Form
 - Joint Exhibit 5D: Zoning Form
 - Joint Exhibit 5E: Trade Secret Form
 - Joint Exhibit 5F: Attestation and Release Authorization Form
 - Joint Exhibit 5G: Dispensary Application Tips
 - Joint Exhibit 5H: Dispensary Application Frequently Asked Question
 - Joint Exhibit 5I: Pharmacy First Round Question and Answer Responses
 - Joint Exhibit 5J: Pharmacy Second Round Question and Answer Responses
 - Joint Exhibit 6A: Dispensary Award Process Frequently Asked Questions
 - Joint Exhibit 6B: Medical Marijuana Dispensary Districts
 - Joint Exhibit 6C1: Key Indicators for Application Evaluation - Business Plan
 - Joint Exhibit 6C2: Key Indicators for Application Evaluation - Operations (Dispensing Medical Marijuana)

- Joint Exhibit 6C3: Key Indicators for Application Evaluation - Operations (Patient Care)
 - Joint Exhibit 6C4: Key Indicators for Application Evaluation - Security Operations
 - Joint Exhibit 6D: Medical Marijuana Dispensary Licensing Report – June 2018 (Gartner Report)
 - Joint Exhibit 6E: Full List of Application Scores by District
 - Joint Exhibit 6F: Full List of Provisional Dispensary License Awards
 - Joint Exhibit 6G: All Scores Chart
 - Joint Exhibit 6H²: All Scores Abstract
 - Joint Exhibit 7A: Application Scoring Information - Evaluator Key
 - Joint Exhibit 7B: Application Scoring Information - Scored questions for HVV Mission Ohio, LLC (Dayton) Dispensary Application
 - Joint Exhibit 7C: Application Scoring Information - Dispensary Provisional License Awards
 - Joint Exhibit 7D: Application Scoring Information - Statewide Ranking by Score
 - Joint Exhibit 7E: Application Scoring Information - Provisional Dispensary License Allocation
- 4) The following Joint Exhibits admitted by the Hearing Examiner under Case Number 2018-M1059:
- Joint Exhibit 1: Dispensary Application HVV Mission Ohio, LLC (Akron)
 - Joint Exhibit 2: Notice of Intent to Deny Application
 - Joint Exhibit 3: Request for a Hearing
 - Joint Exhibit 4: HVV Mission Ohio, LLC (Akron) Scorecard
 - Joint Exhibit 5A: Dispensary Application Instructions
 - Joint Exhibit 5B: Model Application
 - Joint Exhibit 5C: Tax Authorization Form
 - Joint Exhibit 5D: Zoning Form
 - Joint Exhibit 5E: Trade Secret Form
 - Joint Exhibit 5F: Attestation and Release Authorization Form
 - Joint Exhibit 5G: Dispensary Application Tips
 - Joint Exhibit 5H: Dispensary Application Frequently Asked Question
 - Joint Exhibit 5I: Pharmacy First Round Question and Answer Responses
 - Joint Exhibit 5J: Pharmacy Second Round Question and Answer Responses
 - Joint Exhibit 6A: Dispensary Award Process Frequently Asked Questions
 - Joint Exhibit 6B: Medical Marijuana Dispensary Districts
 - Joint Exhibit 6C1: Key Indicators for Application Evaluation - Business Plan
 - Joint Exhibit 6C2: Key Indicators for Application Evaluation - Operations (Dispensing Medical Marijuana)

² Respondent also “provided the excel spreadsheet version of [Joint Exhibit] 6H as Exhibit R3.” Exhibit R3 was also considered by the Board.

- Joint Exhibit 6C3: Key Indicators for Application Evaluation - Operations (Patient Care)
- Joint Exhibit 6C4: Key Indicators for Application Evaluation - Security Operations
- Joint Exhibit 6D: Medical Marijuana Dispensary Licensing Report – June 2018 (Gartner Report)
- Joint Exhibit 6E: Full List of Application Scores by District
- Joint Exhibit 6F: Full List of Provisional Dispensary License Awards
- Joint Exhibit 6G: All Scores Chart
- Joint Exhibit 6H³: All Scores Abstract
- Joint Exhibit 7A: Application Scoring Information - Evaluator Key
- Joint Exhibit 7B: Application Scoring Information - Scored questions for HVV Mission Ohio, LLC (Akron) Dispensary Application
- Joint Exhibit 7C: Application Scoring Information - Dispensary Provisional License Awards
- Joint Exhibit 7D: Application Scoring Information - Statewide Ranking by Score
- Joint Exhibit 7E: Application Scoring Information - Provisional Dispensary License Allocation

5) The following additional filings in the case record:

- 06.29.2018 - State's Notice of Appearance
- 09.26.2018 - Scheduling Order
- 11.14.2018 - Respondent's Motion to Extend Briefing Schedule
- 11.20.2018 - Entry Granting Mission Ohio LLCs Motion to Extend Briefing Schedule
- 11.29.2018 - State's Cover Letter
- 11.29.2018 - State's Prehearing Brief - 2018-M1059
- 11.29.2018 - State's Prehearing Brief - 2018-M996
- 12.06.2018 - Joint Motion to Extend Briefing Schedule
- 12.08.2018 - Entry Granting Joint Motion to Extend Briefing Schedule
- 12.21.2018 - Proposed Joint Exhibits List - 2018-M1059
- 12.21.2018 - Proposed Joint Exhibits List - 2018-M996
- 12.21.2018 - Respondent's Written Position and Arguments (and attached Exhibits) - 2018-M1059
- 12.21.2018 - Respondent's Written Position and Arguments (and attached Exhibits) - 2018-M996
- 01.21.2019 - Amended Motion to Extend Briefing Schedule - 2018-M1059
- 01.21.2019 - Amended Motion to Extend Briefing Schedule - 2018-M996
- 01.22.2019 - Entry Granting State's Motion to Extend Briefing Schedule
- 02.12.2019 - Affidavit of Erin C. Reed - 2018-M1059
- 02.12.2019 - Affidavit of Erin C. Reed - 2018-M996
- 02.12.2019 - Affidavit of Steven W. Schierholt - 2018-M1059

³ Respondent also "provided the excel spreadsheet version of [Joint Exhibit] 6H as Exhibit R3." Exhibit R3 was also considered by the Board.

- 02.12.2019 - Affidavit of Steven W. Schierholt - 2018-M996
- 02.12.2019 - State's Written Response to Respondent Written Position and Arguments (and attached Exhibits A, B, C, D, E, F, and G) (Case No. 2018-M1059)
- 02.12.2019 - State's Written Response to Respondent Written Position and Arguments (and attached Exhibits A, B, C, D, E, F, and G) (Case No. 2018-M966)
- 02.22.2019 - Respondent's Reply to Pharmacy Position and Arguments (Case No. 2018-M1059)
- 02.22.2019 - Respondent's Reply to Pharmacy Position and Arguments (Case No. 2018-M996)
- 09.17.2019 - Report and Recommendation
- 09.17.2019 - Report and Recommendation Cover Letter

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts in its entirety Hearing Examiner Bates' Report and Recommendation, as it relates to the Board's *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to HVV Mission Ohio, LLC for Application ID 996 and Application ID 1059, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Bates, affirming the Board's license award process, which includes a denial of Dispensary Provisional Licenses to HVV Mission Ohio, LLC Application ID 996 and Application ID 1059.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Bates. Ms. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

R-2020-0239 After votes were taken in public session, the Board adopted the following order in the matter of **Melinda West, Dayton, OH.**

ORDER OF THE STATE BOARD OF PHARMACY

(2018-1606)

In The Matter Of:

Melinda West

2012 Bohemian Avenue

Dayton, OH 45406

(PENDING Registration No. 09-208698)

INTRODUCTION

A Notice of Opportunity for Hearing was issued by the Board to Melinda West on December 3, 2018 proposing to deny Ms. West's application for registration as a registered pharmacy technician. The Matter of Melinda West came for hearing before Hearing Examiner Krista Weida on July 30, 2019. Respondent appeared *pro se* on her own behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about September 23, 2019 and, without having received any written objections, the Matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Megan E. Marchal, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, *Presiding*, 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: Hearing transcript; State of Ohio Exhibits 1, 2, 3, 4a, 4b, 5, 6, 7, 8*, 9*, 10, and 11; Respondent Exhibits A, B, and C; and Hearing Examiner Weida's Report and Recommendation.

***Exhibit 8 and Exhibit 9 were placed under seal.**

DECISION OF THE BOARD**FINDINGS OF FACT**

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Weida's Findings of Fact, Paragraphs (2) through (8).

The Board hereby modifies the Finding of Fact contained within Paragraph (1) from "...due to violations of Chapter 4727 of the Ohio Revised Code" to read "...due to violations of Chapter **4729** of the Ohio Revised Code..." (Emphasis added.).

CONCLUSIONS OF LAW

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Weida's Conclusions of Law, Paragraphs 1(a), 1(e), (2), and (3). The Board disapproves Conclusion of Law 1(b), because it was not included as an alleged "Potential Violation of Law" in the Notice of Opportunity for Hearing dated December 3, 2018.

After thorough review of the entire administrative record, the Board hereby modifies the following Conclusions of Law contained within Paragraph (4) to reflect the correct Administrative Code sections at the time Respondent submitted the application for registered pharmacy technician registration⁴:

- "Pursuant to Section 4729:3-4-01(C) of the Administrative Code..." to "Pursuant to Section 4729:3-4-01(**B**) of the Administrative Code..." (Emphasis added.).
- "(7) 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. ... to "(6) Committed acts of moral turpitude."
- "(8) Engaged in dishonesty or unprofessional conduct" to the following:
 - "(7) Engaged in dishonesty. Dishonesty includes, but is not limited to, making any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in a licensed location or in the operation or conduct of a licensed location, OAC Rule 4729:3-4-01(B)(7)."

After thorough review of the entire administrative record, the Board hereby finds the following additional Conclusions of Law as referenced in the December 3, 2018 Notice of Opportunity for Hearing's "Potential Violations of Law" section:

- Melinda West engaged in conduct as set forth in the Findings of Fact that constitutes a violation of Rule 4729:3-1-01(G) of the Ohio Administrative Code, not of good moral character and habits. *See* State of Ohio Exhibit 5, Exhibit 7, Exhibit 8, and Exhibit 9; Tr. at 12-16.
- Melinda West engaged in conduct as set forth in the Findings of Fact that demonstrates Melinda West violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of 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. *See* State of Ohio Exhibit 7, Exhibit 8, and Exhibit 9; Tr. at 12-16;

⁴ Ohio Adm.Code 4729:3-4-01 was amended, effective March 1, 2019.

- Melinda West engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.94 of the Revised Code. See Exhibit 7, Exhibit 8, and Exhibit 9; Tr. at 12-16; and
- Melinda West has been convicted of, plead guilty to, is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state under section 2951.041 of the Revised Code or the equivalent thereof in another jurisdiction. See Exhibit 7, Exhibit 8, and Exhibit 9; Tr. at 12-16.

DECISION OF THE BOARD

In reviewing the hearing transcript, including Melinda West's explanation in falsifying her application for registration as a registered pharmacy technician, the exhibits admitting by the State and Melinda West, the Board finds that convictions set forth in Exhibit 8 and Exhibit 9 bear a direct and substantial relationship to the registration applied for by Melinda West. Accordingly, the State of Ohio was permitted to inquire as to those convictions, notwithstanding the fact that those convictions were sealed pursuant to R.C. 2953.32. See R.C. 2953.33(B)(1) ("...a person may be questioned only with respect to convictions not sealed * * * unless the question bears a direct and substantial relationship to the position for which the person is being considered."). Additionally, the Board notes that Ohio Adm.Code 4729:5-3-10 provides, "Pursuant to 21 C.F.R. 1301.76 [], a terminal distributor of dangerous drugs that is a United States drug enforcement administration registrant shall not employ in a position which allows access to controlled substances any person who has been convicted of a felony relating to controlled substances * * * unless a waiver is obtained pursuant to 21 C.F.R. 1307.03."

Accordingly, on the basis of Findings of Fact (1) through (8) and Conclusions of Law (1) through (4) as confirmed and approved or modified by the Board, the Board hereby disapproves the Hearing Examiner's Recommendation that Melinda West be issued a registration as a registered pharmacy technician with conditions deemed appropriate and necessary by the Board and denies Melinda West's application for registration as a registered pharmacy technician.

Ms. Marchal moved to approve and confirm Hearing Examiner Weida's Report and Recommendation, subject to the modifications set forth herein. Ms. Rudell seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

R-2020-0240

After votes were taken in public session, the Board adopted the following order in the matter of **Tyler Selbe, Columbus, OH.**

AMENDED ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number I-2019-0118 & A-2019-0039)

In The Matter Of Tyler Selbe:

Tyler Selbe, Pharmacy Technician Trainee
9168 Tahoma Street
Columbus, OH 43240
(Registration No. 09-106670)

INTRODUCTION

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on January 24, 2019. The Matter of Tyler Selbe came for hearing before Hearing Examiner Krista M. Weida on July 26, 2019 at which time Tyler Selbe appeared, without representation. The Board received a letter from an attorney stating the attorney represented the respondent, but did not request a hearing. The attorney withdrew his representation of the respondent on July 23, 2019. Respondent did not believe that a hearing would be taking place. He did indicate to the hearing examiner he wished to testify, though. The parties agreed to treat the hearing as a "Goldman Hearing" and that the State would call the Respondent as a witness so that he could testify. 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 September 3, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on November 6, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, 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 (7), the hearing transcript, and Hearing Examiner Weida's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Weida's Findings of Facts (1) through (10), including those that specifically relate to the Board's Notice letter dated January 24, 2019.

The Board confirms and approves Conclusions of Law (1), (2) and (4) as set forth by Hearing Examiner Weida as they relate to the Violations of Law in the Notice of Hearing issued by the Board on January 29, 2019.

The Board further modifies the Report and Recommendation to amend the OAC Rules in Conclusion of Law (6) as follows:

- (a) Has engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, OAC Rule 4729:3-4-01(B)(1).
- (b) Violated any state or federal law or rule regardless of jurisdiction in which the acts were committed, except for minor traffic violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration, OAC Rule 4729:3-04-01(B)(2).
- (d) Committed acts of moral turpitude, OAC Rule 4729:3-4-01(B)(6).
- (e) Has engaged in dishonesty, OAC Rule 4729:3-4-01(B)(7).
- (f) Has engaged in unprofessional conduct, (B)(8).

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:

- (3) Not of good moral character and habits, in violation of ORC Section 4729.92(A)(1) and OAC Rule 4729:3-1-01(G).
- (5) Is addicted to or abusing alcohol or drugs, or is impaired physically or mentally to such a degree as to render the individual unable to perform the individual's duties, in violation of ORC Section 4729.96(A)(2)(c).
- (6)(a) Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729:3-4-01(B)(5)

All three violations of law are supported based on the evidence in the record. This evidence includes:

- (a) Mr. Selbe testified to stealing six oxycodone pills from the pharmacy. Transcript, pgs. 13 and 15.
- (b) Mr. Selbe testified to the recreational use of marijuana. Transcript, pgs. 16 and 23.
- (c) Mr. Selbe's statement from January 17, 2019 to a Board agent admitting the theft of dangerous drugs from the pharmacy and to the recreational use of marijuana, Exhibit 4.

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 modifies the Hearing Examiner's Recommendation from a permanent suspension to permanent revocation of the Respondent's registration. The permanent revocation is ordered due to the seriousness of the offense; respondent stole dangerous drugs from the pharmacy in which he worked within days of being given access to said drugs. The Board does

not find a suspension, permanent or otherwise to be an appropriate sanction for violations of the basic principles of pharmacy regulations. 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 (10) and the Board's additional finding of Conclusion of Law paragraph (3) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's additional finding of Conclusion of Law paragraph (4) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's additional finding of Conclusion of Law paragraph (5)(a) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's additional finding of Conclusion of Law paragraph (5)(d) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's additional finding of Conclusion of Law paragraph (5)(g) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Hearing Examiner's Conclusion of Law (6)(1), with the modifications as noted above, as it relates to the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Hearing Examiner's Conclusion of Law (6)(2), with the modifications as noted above, as it relates to the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Hearing Examiner's Conclusion of Law (6)(7), with the modifications as noted above, as it relates to the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the

pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Hearing Examiner's Conclusion of Law (6)(9), with the modifications as noted above, as it relates to the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's modification to include the violations of law as noted above, as it relates to paragraph (3) of the Potential Violations of Law in the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (10) and the Board's modification to include the violations of law as noted above, as it relates to paragraph (5) of the Potential Violations of Law in the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

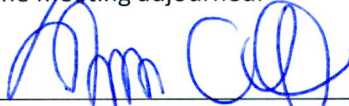
On the basis of the Findings of Facts (1) through (10) and the Board's modification to include the violations of law as noted above, as it relates to paragraph (6)(a) of the Potential Violations of Law in the Notice dated January 24, 2019, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-106670, held by Tyler Selbe, effective as of the date of the mailing of this order.

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

SO ORDERED.

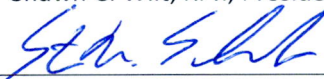
R-2020-0241 Ms. Marchal moved that the Board adjourn. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.

2:30 p.m. The meeting adjourned.



Shawn C. Wilt, RPh, President

Date: 12/10/19



Steven W. Schierholt, Executive Director

Date: 12/17/19