

MINUTES OF THE JUNE 3 AND 4, 2024
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, June 3, 2024

10:04 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, for a public meeting, with the following members present:

Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Anthony Buchta, Sr., RPh; Jason George, RPh; TJ Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Victor Goodman, *Public Member*.

Also present were Steven Schierholt, *Executive Director*; Sharon Maerten-Moore, *Chief Legal Counsel*; Joseph Koltak, *Senior Legal Counsel*; Zoe Saadey Senior Legal Counsel; Kathryn Lewis, *Legal Administrator*; and Jennifer Nelson, *Legal Administrative Assistant*.

10:05 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 Matter of **Khyle Wai-Yee Dutkiewicz-Wilson, RPh, Strongsville, Ohio.**

R-2024-0446

Mr. Grimm 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. Ferris and approved by the Board: Yes-7, No-0.

11:52 a.m.

The deliberation ended and the hearing opened to the public.

R-2024-0447

After votes were taken in public session, the Board adopted the following order in the Matter of **Khyle Wai-Yee Dutkiewicz-Wilson, RPh, Strongsville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

Case Number A-2023-0335

In The Matter Of:

Khyle Wai-Yee Dutkiewicz-Wilson, RPh
20094 Wildwood Lane
Strongsville, OH 44149
License no. 03-129924

INTRODUCTION

The Matter of Khyle Wai-Yee Dutkiewicz-Wilson came for hearing on June 3, 2024, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Jason George, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Victor Goodman, *Public Member*?Absent.

Khyle Wai-Yee Dutkiewicz-Wilson was represented by Levi Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE**State's Witnesses:**

1. None

Respondent's Witnesses:

1. Khyle Wai-Yee Dutkiewicz-Wilson

State's Exhibits:

1. Notice Letter
2. Request for Hearing
3. Scheduling Order
4. Statement of Respondent
5. Statement of Shannon Cassidy
6. Statement of Dr. Sarpreet
7. Statement of Dr. Reed
8. Statement of Dr. HahnFirst Statement of Dr. Berglund
9. Second Statement of Dr. Berglund
10. Fill History (combined) (Sealed)
11. Indictment
12. Admission into ILC Program

13. Court Docket

Respondent's Exhibits:

- A. Resume of Kyle Wai-Yee Dutkiewicz-Wilson, RPh
- B. Discharge Plan (Sealed)
- C. PRO Contract
- D. PRO Participation Summary Report
- E. Andy Pierron Letter of Support
- F. Chris Cowley, Letter of Support
- G. Roseann D. Harper, LPCC

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. From on or about August 2, 2020, to on or about July 17, 2023, Khyle Wai-Yee Dutkiewicz-Wilson created and filled false prescriptions for herself while working for her employer, Discount Drug Mart, at multiple stores. Khyle Wai-Yee Dutkiewicz-Wilson created the following false prescriptions:
 - a. On or about August 3, 2020, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 1840708, fluconazole 150mg, two tablets, at Discount Drug Mart #28 in Olmstead Falls, Ohio.
 - b. On or about December 28, 2022, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 377155, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #84 in Strongsville, Ohio.
 - c. On or about January 16, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 182250, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #90 in Broadview Heights, Ohio.
 - d. On or about January 9, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 124825, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - e. On or about June 16, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135898, methocarbamol 500mg, 60 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - f. On or about July 4, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135898, methocarbamol 500mg, 60 tablets at Discount Drug Mart #93 in Strongsville, Ohio.

- g. On or about July 14, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135898, methocarbamol 500mg, 60 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - h. On or about June 16, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135897, Butalbital-acetaminophen-caffeine 50/325/40mg, 120 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - i. On or about June 26, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135897, Butalbital-acetaminophen-caffeine 50/325/40mg, 120 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - j. On or about July 4, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135897, Butalbital-acetaminophen-caffeine 50/325/40mg, 120 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - k. On or about July 17, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135897, Butalbital-acetaminophen-caffeine 50/325/40mg, 120 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - l. On or about May 19, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 134108, Ondansetron Hcl 4mg, 30 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - m. On or about June 16, 2023, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 135896, Ondansetron Odt 4mg, 30 tablets at Discount Drug Mart #93 in Strongsville, Ohio.
 - n. On or about June 16, 2022, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 1946081, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #28 in Olmstead Falls, Ohio.
 - o. On or about July 11, 2022, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 163819, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #90 in Broadview Heights, Ohio.
 - p. On or about July 26, 2022, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 1949713, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #3 in Brunswick, Ohio.
 - q. On or about August 15, 2022, Khyle Wai-Yee Dutkiewicz-Wilson filled a false prescription she created, RX 1852784, Butalbital-acetaminophen-caffeine 50/325/40mg, 60 tablets at Discount Drug Mart #5 in Lakewood, Ohio.
2. On or about July 19, 2023, Khyle Wai-Yee Dutkiewicz-Wilson was interviewed by agents from the Board. Khyle Wai-Yee Dutkiewicz-Wilson made the following statements:

- a. She may have entered fraudulent prescription for yourself at some point, but not sure how many times.
- b. She stated she did not have an addiction issue.
- c. She stated she was not comfortable calling and asking for refills with the office staff at Dr. Reed's office.
- d. She stated all of the medication received from the fraudulent prescriptions was for personal use.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a) – (1)(q), inclusive, of the Allegations Section, constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug.
2. Such conduct as set forth in paragraphs (1)(a) – (1)(q), inclusive, of the Allegations Section, constitutes a violation of Section 2925.23 of the ORC, Illegal Processing of Drug Documents.
3. Such conduct as set forth in paragraphs (1)(a) – (1)(q), inclusive, of the Allegations Section, constitutes a violation of Section 2925.22 of the ORC, Deception to Obtain a Dangerous Drug.
4. Such conduct as set forth in paragraphs (1)(a) – (1)(q), inclusive, of the Allegations Section, each constitutes a violation of Section 4729.51(E)(1)(c) of the ORC, Possession of Dangerous Drugs.
5. Such conduct as set forth in the Allegations Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019, and October 9, 2021:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - d. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).

6. Such conduct as set forth in paragraphs (1)(b) – (1)(q), inclusive, of the Allegations Section, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective April 25, 2022:
 - 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)(d); 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)(k).

7. Such conduct as set forth in paragraph (1)(a) of the Allegations Section, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020:
 - 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. 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); and
 - e. 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 Khyle Wai-Yee Dutkiewicz-Wilson on August 8, 2023.

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. 03-129924, held by Khyle Wai-Yee Dutkiewicz-Wilson, and such suspension is effective as of the date of the mailing of this Order.

Khyle Wai-Yee Dutkiewicz-Wilson, pursuant to Rule 4729:1-1-01(T) 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 twelve months from the effective date of this Order, the Board will consider any petition filed by Khyle Wai-Yee Dutkiewicz-Wilson 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. Khyle Wai-Yee Dutkiewicz-Wilson must maintain a current address with the Board throughout the duration of the suspension.
2. Khyle Wai-Yee Dutkiewicz-Wilson must enter into and adhere to the terms of a new contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Khyle Wai-Yee Dutkiewicz-Wilson should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Khyle Wai-Yee Dutkiewicz-Wilson to potential sanctions up to and including revocation of license. The monitoring contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.

- d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Khyle Wai-Yee Dutkiewicz-Wilson 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. Khyle Wai-Yee Dutkiewicz-Wilson must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
 - g. 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.
 - h. 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.
 - i. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Khyle Wai-Yee Dutkiewicz-Wilson must comply with the terms of her Intervention in Lieu of Conviction, State of Ohio vs. Khyle Dutkiewicz-Wilson, CR-23-685899-A, Cuyahoga County Court of Common Pleas.
 4. Khyle Wai-Yee Dutkiewicz-Wilson 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 Khyle Wai-Yee Dutkiewicz-Wilson reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Khyle Wai-Yee Dutkiewicz-Wilson 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 Khyle Wai-Yee Dutkiewicz-Wilson reappear before the Board for possible additional sanctions, including and up to revocation of license.
 6. Khyle Wai-Yee Dutkiewicz-Wilson 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 Khyle Wai-Yee Dutkiewicz-Wilson to possible additional sanctions, including and up to revocation of license.

7. Khyle Wai-Yee Dutkiewicz-Wilson 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.
8. Khyle Wai-Yee Dutkiewicz-Wilson 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 4729:1-5-02 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
9. If reinstatement is not accomplished within three years of the effective date of the summary suspension, Khyle Wai-Yee Dutkiewicz-Wilson 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.
10. Khyle Wai-Yee Dutkiewicz-Wilson must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.
11. When deemed appropriate by the Board, Khyle Wai-Yee Dutkiewicz-Wilson must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
12. Khyle Wai-Yee Dutkiewicz-Wilson must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of suspension, other than in instances where the board or its probation committee can be assured that monitoring is otherwise being performed.
13. Violation of any term of suspension, including but not limited to any violation of the contract signed with the treatment monitor and/or ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.

14. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state, federal, or local 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.
15. Periods during which Khyle Wai-Yee Dutkiewicz-Wilson is not in compliance with all terms of suspension shall toll the length of time of suspension during which Khyle Wai-Yee Dutkiewicz-Wilson was out of compliance. The minimum length of time each violation will toll the suspension term is available on the Board's website, www.pharmacy.ohio.gov. The Board may implement additional disciplinary action in addition to or instead of tolling suspension.
16. If Khyle Wai-Yee Dutkiewicz-Wilson's employment is related to the practice of pharmacy, Khyle Wai-Yee Dutkiewicz-Wilson must provide copies of the board order to all employers or prospective employers, all licensing authorities in which Khyle Wai-Yee Dutkiewicz-Wilson holds a professional license or applies for a professional license, all persons who provide Khyle Wai-Yee Dutkiewicz-Wilson chemical dependency treatment monitoring, and law enforcement and court personnel if Khyle Wai-Yee Dutkiewicz-Wilson has court involvement, such as ILC, drug court or diversion, related the suspension, during the effective period of this order or agreement.
17. 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, may result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Khyle Wai-Yee Dutkiewicz-Wilson's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibit 11 and Respondent's exhibit B.

Ms. Pfaff moved for Findings of Fact; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Ms. Pfaff moved for Conclusions of Law; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

Ms. Pfaff moved for Action of the Board; Ms. Ferris seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

11:54 a.m.

Assistant Attorney General Henry Appel conducted an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matter of **White Oak Pharmacy, Vincent, Ohio.**

R-2024-0448

Ms. Ferris 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. Huston and approved by the Board: Yes-7, No-0.

12:39 p.m.

The deliberation ended and the hearing opened to the public.

R-2024-0449

After votes were taken in public session, the Board adopted the following order in the Matter of **White Oak Pharmacy, Vincent, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Numbers A-2021-0350, A-2021-0355)

In The Matter Of:

White Oak Pharmacy

5908 Breckenridge Parkway

Tampa, FL 33610

(License No. 02-32000037)

INTRODUCTION

On January 27, 2022, the State of Ohio Board of Pharmacy (Board) issued a Notice of Opportunity for Hearing (Notice) to White Oak Pharmacy (Respondent) via certified mail, return receipt requested to Respondent's mailing address of record. Pursuant to Ohio Revised Code Section 119.07, Respondent had a right to a hearing if requested within thirty days of the mailing. Respondent failed to request a hearing by the thirtieth and final day. Accordingly, as no hearing was requested, the matter came before the Board under the authority of *Goldman v. State Medical Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996) on June 3, 2024, before the following members of the Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Anthony Buchta, Sr., RPh; Jason George, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Victor Goodman, *Public Member*; Absent.

Respondent was not present. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE**State's Witnesses:**

1. David Ryan, Board Compliance Agent

Respondent's Witnesses:

1. None

State's Exhibits:

1. Notice Letter
2. Inspection Report 6-1-2021
3. Temperature Logs
4. Janssen Temperature Requirements
5. E-mail from Department of Health
6. Statement of David Drayer
7. Second Statement of David Drayer
8. Statement of Thomas Glazier
9. Statement of Katie Doyle
10. Statement of Brian Ledney
11. Statement of Ashley Johnson
12. Application of David Drayer for CSOS
13. Omitted
14. Omitted
15. Invoices from Amerisource Bergen
16. Cite for David Drayer
17. Settlement with David Drayer
18. Cite for Thomas Glazier
19. Settlement with Thomas Glazier

Respondent's Exhibits:

1. None

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On or about June 1, 2021, during a Board-inspection, Board agents discovered that White Oak Pharmacy was storing and administering Janssen COVID-19 vaccines in temperatures that were outside the manufacturer's prescribed range of 36 to 46 degrees Fahrenheit and those vaccines had been administered to sixteen patients. Specifically, temperature logs from April 14, 2021, through June 1, 2021, identified that the pharmacy's refrigerator which contained the Janssen COVID-19 vaccines was too cold for all days during that period, except two, with the lowest temperature logged at 20 degrees Fahrenheit. As a result, the Ohio Department of Health ordered that forty vials of Janssen COVID-19 vaccines on-hand at the pharmacy that day needed to be destroyed.

2. From on or about April 6, 2021, through May 5, 2021, David Drayer accessed the former Responsible Person's (Thomas Glazier) Controlled Substance Ordering System ("CSOS") account to place orders on behalf of White Oak Pharmacy for Schedule II-V controlled substances, or David Drayer allowed technicians working at the pharmacy to do so. Controlled substance orders were placed by White Oak Pharmacy employees under the former-Responsible-Person-Glazier's account on or about the following dates:
 - a. April 6, 2021
 - b. April 8, 2021
 - c. April 10, 2021
 - d. April 12, 2021
 - e. April 13, 2021
 - f. April 15, 2021
 - g. April 17, 2021
 - h. April 20, 2021
 - i. April 22, 2021
 - j. April 23, 2021
 - k. April 24, 2021
 - l. May 1, 2021
 - m. May 3, 2021
 - n. May 5, 2021.

CONCLUSIONS OF LAW

1. Such conduct, as set forth in paragraph (1) of the Findings of Fact Section, constitute violations of Ohio Adm.Code 4729:5-5-02(E)(2) (effective December 1, 2020), All areas where drugs and devices are stored and prepared shall be dry, well-lit, well-ventilated, and maintained in a clean, sanitary, and orderly condition. Storage areas shall be maintained at temperatures and conditions which will ensure the integrity of the drugs prior to their dispensing or administering as stipulated by the USP/NF and/or the manufacturer's or distributor's labeling.
2. Such conduct, as set forth in paragraph (1) of the Findings of Fact Section, constitute violations of Ohio Adm.Code 4729:5-5-23(B) (effective December 1, 2020), Prescription Processes:
 - a. Refrigerators and freezers used for the storage of dangerous drugs shall. . . maintain either of the following to ensure proper refrigeration and/or freezer temperatures are maintained:
 - i. Temperature logs with, at a minimum, daily observations, Ohio Adm.Code 4729:5-5-23(B)(1)(a); and
 - ii. A temperature monitoring system capable of detecting and alerting staff of a temperature excursion, Ohio Adm.Code 4729:5-5-23(B)(1)(b); and
 - b. The terminal distributor shall develop and implement policies and procedures to respond to any out-of-range individual temperature readings or excursions to ensure the integrity of stored drugs, Ohio Adm.Code 4729:5-5-23(B)(2).

3. Such conduct, as set forth in paragraph (2) of the Findings of Fact Section, constitute violations of Ohio Adm.Code 4729:5-5-23(A)(1) (effective December 1, 2020), Prescription Processes: ...a pharmacist shall provide supervision of dangerous drugs, hypodermics, D.E.A. Controlled substance order forms, all records relating to the distribution of dangerous drugs...at all times in order to deter and detect theft of diversion.
4. Such conduct, as set forth in paragraphs (1) and (2) of the Findings of Fact Section, each constitutes a violation of each of the following paragraphs of R.C. 4729.55, TDDD License Requirements (effective March 31, 2021):
 - 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, R.C. 4729.55(A); and
 - b. A pharmacist, licensed health professional authorized to prescribe drugs, other person authorized by the Board, animal shelter licensed under R.C. 4729.531, or laboratory will maintain supervision and control over the possession and custody of dangerous drugs and controlled substances that may be acquired by or on behalf of the applicant, R.C. 4729.55(B); and
 - c. Adequate safeguards are assured that the applicant will carry on the business of a TDDD in a manner that allows pharmacists and pharmacy interns employed by the TDDD to practice pharmacy in a safe and effective manner, R.C. 4729.55(D).
5. Such conduct, as set forth in paragraphs (1) and (2) of the Findings of Fact Section, each constitutes a violation of each of the following paragraphs of R.C. 4729.57 (effective September 29, 2017):
 - a. Violating any rule of the Board, R.C. 4729.57(A)(2); and
 - b. Violating any provision of this chapter, R.C. 4729.57(A)(3); and
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in R.C. 4729.55, R.C. 4729.57(A)(7); and
 - d. Any other cause for which the Board may impose discipline as set forth in rules adopted under R.C. 4729.26 , R.C. 4729.57(A)(10).
6. Such conduct, as set forth in the Findings of Fact Section, each constitutes a violation of the following paragraphs of Ohio Adm.Code 4729:5-4-01 (effective March 1, 2019):
 - a. Violating any rule of the Board, Ohio Adm.Code 4729:5-4-01(B)(2); and
 - b. Violating any provision of R.C. Chapter 4729., Ohio Adm.Code 4729:5-4-01(B)(3); and

- c. Ceasing to satisfy the qualifications of a TDDD set forth in R.C. 4729.55, Ohio Adm.Code 4729:5-4-01(B)(7); and
- d. The method used by the terminal distributor to store, possess, or distribute dangerous drugs poses serious harm to others, Ohio Adm.Code 4729:5-4-01(B)(25).

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy imposes a written reprimand and a monetary penalty in the amount of \$500.00 on White Oak Pharmacy's license to practice pharmacy. This fine will be attached to White Oak Pharmacy's license record and must be paid no later than six months from the effective date of this Order. To pay this fine White Oak Pharmacy must login to www.elicense.ohio.gov and process the items in its cart.

Ms. Ferris moved for Findings of Fact; Mr. George seconded the motion. Motion passed (Yes-7/No-0).

Ms. Ferris moved for Conclusions of Law; Mr. George seconded the motion. Motion passed (Yes-7/No-0).

Ms. Ferris moved for Action of the Board; Mr. George seconded the motion. Motion passed (Yes-7/No-0).

SO ORDERED.

- 12:41 p.m.** Ms. Defiore-Hyrmer provided the OARRS Report.
 - 12:45 p.m.** Mr. Griffin provided the Compliance and Enforcement Report.
 - 12:48 p.m.** Ms. Southard provided the Licensing Report.
 - 12:51 p.m.** Ms. Southard presented the Pharmacist Examination Request of Raymond Jenkins – South Euclid, OH (APP-000721768) to the Board for consideration.
 - R-2024-0450** Mr. Miller moved that the Board grant Raymond Jenkins a six (6) month extension. The motion was seconded by Ms. Ferris and approved by the Board: Yes-7, No-0.
 - 12:52 p.m.** Ms. Southard presented the Pharmacist Examination Request of Mavis Adu-Bonsu – Columbus, OH (APP-000577650) to the Board for consideration.
 - R-2024-0451** Ms. Ferris moved that the Board grant Mavis Adu-Bonsu one (1) additional attempt to pass the NAPLEX. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.
 - 12:56 p.m.** Mr. Miller left the Board Meeting for a short time.
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12:56 p.m. The Board voted to appoint Melissa Cross (Port Clinton, OH) to the Home Medical Equipment Service Provider Advisory Council.

R-2024-0452 Ms. Ferris moved to approve the appointment of Melissa Cross to the Home Medical Equipment Service Provider Advisory Council. The motion was seconded by Mr. Buchta and approved by the Board: Yes-6, No-0.

12:57 p.m. Mr. McNamee presented a resolution titled Creation of the Ohio Board of Pharmacy Controlled Substances Advisory Committee (CSAC).

R-2024-0453 Ms. Ferris moved to approve the resolution. The motion was seconded by Mr. Buchta and approved by the Board: Yes-6, No-0. The following resolution was adopted by the Board:

**Resolution: Creation of the Ohio Board of Pharmacy Controlled
Substances Advisory Committee (CSAC)**

The Ohio Board of Pharmacy Controlled Substances Advisory Committee (hereafter designated as "the Committee") shall be established pursuant to OAC 4729-2-02. The committee shall consist of the following individuals with requisite experience in pharmacology, forensic science, drug policy, public health, substance use disorder, or toxicology:

- (1) A member of the Ohio Board of Pharmacy, who shall serve as the Committee Chair;
- (2) the Executive Director of the Ohio Board of Pharmacy or the Executive Director's designee;
- (2) a representative from the Ohio Attorney General's Office;
- (3) a representative from the Ohio Department of Health;
- (4) a representative of the Ohio Department of Mental Health and Addiction Services;
- (5) a representative from the Ohio Department of Public Safety;
- (6) a representative from the Ohio Department of Agriculture;
- (7) a county coroner or medical examiner;
- (8) the director of an Ohio poison control center or the director's designee;
- (9) a county prosecutor or the county prosecutor's designee;
- (10) a representative from the Ohio Chemical Dependency Board; and
- (11) a medical toxicologist.

The Committee shall act in an advisory capacity to the Board by recommending the addition or rescheduling of compounds that meet the scheduling criteria set forth in ORC 3719.

If, after considering the factors prescribed, the Committee decides to recommend that a compound be added to or rescheduled under section 3719 of the Revised Code, the Board shall review the recommendation and approve it or deny it within sixty days of receipt of the recommendation. If the recommendation is not approved by the Board, the Board shall issue notification to the Committee stating the reasons why the recommendation was not approved for filing pursuant to chapter 3719 of the Revised

Code. If the recommendation is approved, the Board shall file the recommended rule pursuant to Chapters 119. and 3719. of the Revised Code.

The Committee shall not meet less than once a year or more often as required to carry out its duties specified in this resolution. Any committee member may petition the Chair to convene a meeting regarding the addition or rescheduling of compounds that meet the criteria pursuant to Chapter 3719. of the Revised Code.

Six members of the Committee constitute a quorum, except that a smaller number may adjourn a meeting in the absence of a quorum. The members of this committee shall serve in a voluntary capacity and shall not be reimbursed for time or travel.

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- 1:00 p.m.** Mr. McNamee led a discussion on Drug Scheduling – Placement into Schedule I (OAC 4729:9-1-01.1 – Emergency / OAC 4729:9-1-01 Permanent). The discussion was tabled.
- 1:06 p.m.** Mr. McNamee and Ms. Wai led a discussion on Zoning Requirements:
4729:5-2-05 – Zoning Requirements for Terminal Distributors of Dangerous Drugs (NEW)
- 1:16 p.m.** Mr. McNamee and Ms. Wai led a discussion on Proposed Responsible Person Requirements – Supervision Requirements
- 2:11 p.m.** The Board took a short recess.
- 2:20 p.m.** The Board returned to public session. Mr. Miller rejoined the Board Meeting.
- 2:20 p.m.** Ms. Wai presented a request from The Cleveland Clinic Foundation Hospital Pharmacy Department to temporarily store medications at Fresh Air Camp from June 9 – June 13, 2024.
- R-2024-0454** Mr. Huston moved to approve the request of The Cleveland Clinic Foundation Hospital Pharmacy Department to temporarily store medications at Fresh Air Camp for a period of five (5) years, unless there is a change in the medication list. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.
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- 2:23 p.m.** Mr. McNamee presented rules *4729:6-3-06 - Controlled substances inventory requirements, 4729:8-4-04 - Access to overdose data provided by the Ohio Department of Health, Rule 4729:6-6-01 / Virtual wholesalers - general operations, Rule 4729:6-7-01 / Brokers - general operations, and Rule 4729:6-11-01 / Third Party Logistics Providers - General Operations* to the Board for approval.
- R-2024-0455** Ms. Ferris moved that the Board approve rules *4729:6-3-06 - Controlled substances inventory requirements, 4729:8-4-04 - Access to overdose data provided by the Ohio Department of Health, Rule 4729:6-6-01 / Virtual wholesalers - general operations, Rule 4729:6-7-01 / Brokers - general operations, and Rule 4729:6-11-01 / Third Party Logistics*

Providers - General Operations for filing with JCARR. The motion was seconded by Mr. Grimm and approved by the Board: Yes-7, No-0.

2:27 p.m.

Mr. McNamee presented rules *Continuous Quality Improvement Programs in Pharmacy Services, Rule 4729:1-4-02 | Duty to report, Rule 4729:2-4-02 | Duty to report, Rule 4729:3-4-02 | Duty to report, Rule 4729:5-4-02 | Duty to Report, 4729:5-14-01 | Emergency Medical Services - Definitions, Rule 4729:5-14-02 | Licensure, Rule 4729:5-14-03 | Security and control of dangerous drugs, Rule 4729:5-14-04 | Record keeping, Rule 4729:5-14-05 | Protocols and Verbal Orders for Drug Administration, 4729:5-5-01 | Definitions, and 4729:5-5-04 - Record keeping, Rule 4729:1-2-01 | Criteria for licensure to the Board for approval.*

R-2024-0456

Ms. Ferris moved that the Board approve rules *Continuous Quality Improvement Programs in Pharmacy Services, Rule 4729:1-4-02 | Duty to report, Rule 4729:2-4-02 | Duty to report, Rule 4729:3-4-02 | Duty to report, Rule 4729:5-4-02 | Duty to Report, 4729:5-14-01 | Emergency Medical Services - Definitions, Rule 4729:5-14-02 | Licensure, Rule 4729:5-14-03 | Security and control of dangerous drugs, Rule 4729:5-14-04 | Record keeping, Rule 4729:5-14-05 | Protocols and Verbal Orders for Drug Administration, 4729:5-5-01 | Definitions, 4729:5-5-04 - Record keeping, Rule 4729:1-2-01 | Criteria for licensure for filing with CSI and JCARR. The motion was seconded by Mr. Huston and approved by the Board: Yes-7, No-0.*

3:11 p.m.

Ms. Ferris 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. The motion was seconded by Mr. Buchta and a roll-call vote was conducted by President Buettner as follows: Buchta-yes; Ferris-yes, George-yes; Grimm-yes; Huston-yes, Miller-yes, and Pfaff-yes

4:02 p.m.

Board Meeting Concluded for the day.

Tuesday, June 4, 2024

9:04 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, for a public meeting, with the following members present:

Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, *Vice President*; Jason George, RPh; TJ Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Absent: Anthony Buchta, Sr., RPh; and Victor Goodman, *Public Member*.

Also present were Steven Schierholt, *Executive Director*; Sharon Maerten-Moore, *Chief Legal Counsel*; Joseph Koltak, *Senior Legal Counsel*; Kathryn Lewis, *Legal Administrator*; and Jennifer Nelson, *Legal Administrative Assistant*.

9:04 a.m.

Mr. Scheirholt presented a resolution for Brenda S. Cooper – Executive Assistant for Ohio Board of Pharmacy.

R-2024-0457

Ms. Ferris moved that the Board approve the resolution. The motion was seconded by Mr. Huston and approved by the Board: Yes-6, No-0. The following resolution was adopted by the Board:

A RESOLUTION

WHEREAS, Brenda S. Cooper, demonstrated dedication, friendship, and unwavering support to the members and staff of the Ohio Board of Pharmacy;

WHEREAS, the Board recognizes Brenda’s kindness, humor, and commitment to the Board and its mission to protect the citizens of this state;

WHEREAS, the Board recognizes Brenda’s love and devotion to her family and friends and how her compassion and positivity was an example to all;

WHEREAS, the Board sends its deepest condolences to Brenda’s family and friends upon her untimely passing;

BE IT RESOLVED that we, the undersigned Members of the Ohio Board of Pharmacy, in the Board’s one hundred fortieth year, do hereby honor the life of Brenda S. Cooper and express our appreciation for her commitment and service to the Board and the citizens of Ohio;

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

Brenda S. Cooper

On this 4th day of June 2024

at the Ohio Board of Pharmacy, Columbus, Ohio

R-2024-0458

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on July 24, 2020, in the matter of St. Luke Lutheran Home (Case No. A-2020-0348).

R-2024-0459

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on August 6, 2020, in the matter of Medina Meadows Rehab (Case No. A-2020-0351).

R-2024-0460

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on July 24, 2020, in the matter of Solon Pointe (Case No. A-2020-0342).

R-2024-0461

Ms. Buettner announced the dismissal of the Notice of Opportunity for Hearing issued on June 3, 2021, in the matter of Phillip's Pharmacy (Case No. A-2018-0141).

R-2024-0462

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

**IN THE MATTER OF:
CASE NO. A-2023-0434**

**Restorative Health
License No. 02-2496250**
c/o Shane Dodgen
5920 Wilcox Place, Suite D
Dublin, OH 43016

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 Restorative Health for the purpose of resolving all issues between the parties relating to the Board investigation of Restorative Health's reporting requirements, minimum qualifications, and drug storage and security. Together, the Board and Restorative Health are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Restorative Health is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2496250, which lists Meghan Lyn Blum, APRN, as the Responsible Person.

FACTS

1. The Board initiated an investigation of Restorative Health, Terminal Distributor of Dangerous Drugs license number 02-2496250, related to Restorative Health's reporting requirements, minimum qualifications, and drug storage and security.
2. On or about June 8, 2023, the Board sent a Notice of Opportunity for Hearing to Restorative Health, 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. On or about November 28, 2023, the Board sent an Amended Notice of Opportunity for Hearing to Restorative Health, which outlined the amended allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. On or about July 6, 2023, Restorative Health, through counsel Daniel S. Zinsmaster, timely requested an administrative hearing, which was subsequently scheduled for January 10, 2024. At the request of Restorative Health, the hearing was continued and rescheduled for June 5, 2024.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Restorative Health neither admits nor denies the allegations stated in the Amended Notice of Opportunity for Hearing letter dated November 28, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Restorative Health 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 Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. The Board hereby imposes a written reprimand on Restorative Health's TDDD license, number 02-2496250.
5. Restorative Health agrees that its Responsible Person will attend a Board-approved responsible person continuing education course no later than 180 days from the effective date of this Agreement.
6. Restorative Health 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.

7. Restorative Health agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Restorative Health 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 Restorative Health by the Board and will NOT discharge Restorative Health from any obligation under the terms of this Agreement.
8. Restorative Health agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Restorative Health understands that it has the right to be represented by counsel for review and execution of this agreement.
10. 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 Restorative Health will operate.
11. Restorative Health explicitly withdraws its request for a hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
15. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0463

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

**IN THE MATTER OF:
CASE NO. A-2024-0092**

Scott B. Geiger
Pending Application No.: APP-000751105
7610 Peppergrass Crossing
Maumee, OH 43537

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 Scott Geiger for the purpose of resolving all issues between the parties relating to the issuance of the pharmacy intern license for Scott Geiger. Together, the Board and Scott Geiger 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 Revoke, suspend, restrict, limit, or refuse to grant or renew a license issued pursuant to Section 4729.11 of the Ohio Revised Code to practice pharmacy as an intern in the State of Ohio.
2. Scott Geiger applied to be a licensed intern in the State of Ohio under intern license application number APP-000751105.

FACTS

1. The Board initiated an investigation related the issuance of the pharmacy intern license for Scott Geiger (pharmacy intern license application number APP-000751105).
2. On or about March 6, 2024, the Board sent a Notice of Opportunity for Hearing to Scott Geiger which outlined the allegations and provided notice of the right to a hearing, the rights in such hearing, and the right to submit contentions in writing.
3. On or about March 11, 2024, Scott Geiger, through counsel Gregory A. Tapocsi, timely requested an administrative hearing, which was subsequently scheduled for June 5, 2024.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Scott Geiger neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 6, 2024; 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. Scott Geiger agrees to undergo a substance use disorder evaluation to be conducted by a Board-approved evaluator and complete any and all recommended treatment in the event such treatment is ordered.
4. Before beginning practice as a pharmacy intern, Scott Geiger agrees to submit to the Board in writing the name and curriculum vitae of a pharmacist mentor for prior written approval by the Board. The pharmacist mentor shall monitor Scott Geiger and his practice and submit correspondence to the Board every six (6) months for a period of two years or until Scott Geiger obtains his full pharmacy license, whichever is later. The correspondence shall discuss Scott Geiger's progress in his education/training, professionalism, and overall work product, along with any other topics deemed relevant by the pharmacy mentor or the Board.
5. Scott Geiger agrees to obtain, within six (6) months from the effective date of this Agreement, twenty (20) hours of approved continuing education (2.0 CEUs) in the topic of Ethics, Law, and/or controlled substances, which may not also be used for license renewal.
6. Scott Geiger agrees to appear for an interview with the Board or its designated representative, at any time as requested by the Board.
7. The Board agrees to grant the intern license for Scott Geiger, application number APP-000751105.
8. Scott Geiger agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Scott Geiger understands the right to be represented by counsel for review and execution of this agreement.
10. Scott Geiger 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 a current professional license is held, including the Board on renewal applications or applications for a new license.
11. Scott Geiger explicitly withdraws the request for hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.

12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
15. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0464

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

**IN THE MATTER OF:
CASE No. A-2022-0480**

Terri Ann Renner
License No. 09-204506
4648 Clayton Drive
Cincinnati, OH 45244

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 Terri Ann Renner for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing while working at Meijer Pharmacy #148, located at 888 Eastgate North Road, Cincinnati, Ohio. Together, the Board and Terri Ann Renner 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, restrict, limit, or refuse to grant or renew any license issued pursuant to Sections 4729.90 and 4729.92 of the Ohio Revised Code to perform the duties of a registered pharmacy technician in the state of Ohio.
2. Terri Ann Renner is a registered pharmacy technician in the state of Ohio under registration number 09-204506.

FACTS

4. The Board initiated an investigation of Terri Ann Renner, registered pharmacy technician registration number 09-204506, related to Terri Ann Renner's error in dispensing while working at Meijer Pharmacy #148.
5. On or about February 26, 2024, the Board sent a Notice of Opportunity for Hearing to Terri Ann Renner 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 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. Terri Ann Renner neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated February 26, 2024; 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. Terri Ann Renner agrees to pay to the Board the amount of amount of \$100. This fine will be attached to the registration record and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.license.ohio.gov and process the items in the cart.
4. Terri Ann Renner must obtain two hours of approved continuing pharmacy education (0.2 CEUs) which may not also be used for registration renewal or for purposes of obtaining/maintaining registered or certified pharmacy technician certification. The 0.2 CEUs must be completed within six months from the effective date of this agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. The Board hereby imposes a written reprimand on Terri Ann Renner's technician registration, number 09-204506.
6. Terri Ann Renner agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Terri Ann Renner understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Terri Ann Renner 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. Terri Ann Renner explicitly waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0465

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

**IN THE MATTER OF:
Case No. A-2023-0323**

Medicap Pharmacy
License No. 02-1002600
c/o Kristine Kingsbury, RPh
2012 Lincoln Way NW
Massillon, OH 44647

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

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Medicap Pharmacy has an active TDDD license with the Board under license number 02-1002600, which lists Kristine Kingsbury, RPh, as the Responsible Person.

FACTS

1. The Board initiated an investigation of Medicap Pharmacy, TDDD license number 02-1002600, related to an employee performing duties of a pharmacy technician without maintaining appropriate registration with the Board.
2. On or about April 4, 2024, the Board sent a Notice of Opportunity for Hearing to Medicap Pharmacy, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Medicap Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 4, 2024, 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. Medicap Pharmacy agrees to pay the Board a monetary penalty in the amount of \$1,000. This fine will be attached to the license record of Medicap Pharmacy and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. The Board hereby imposes a written reprimand on the Medicap Pharmacy TDDD license, number 02-1002600.
5. Medicap Pharmacy agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.

6. Medicap Pharmacy agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the “Federal Food, Drug, and Cosmetic Act,” 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Medicap Pharmacy of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Medicap Pharmacy by the Board and will NOT discharge Medicap Pharmacy from any obligation under the terms of this Agreement.
7. Medicap Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Medicap Pharmacy understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Medicap Pharmacy will operate.
10. Medicap Pharmacy 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 Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0466

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

**IN THE MATTER OF:
CASE NO. A-2023-0195**

Lisa Cotter
License No. 03-124474
1215 Collins Rd
Axton, VA 24054

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 Cotter, RPh, for the purpose of resolving all issues between the parties relating to the Board's investigation of disciplinary action by Board of Pharmacy agencies in other states and its effect on licensee's registration with the Board. Together, the Board and Lisa Cotter 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, restrict, limit, 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. Lisa Cotter is a licensed pharmacist in the state of Ohio under license number 03-124474.

FACTS

1. The Board initiated an investigation of Lisa Cotter, pharmacist license number 03-124474, related to disciplinary action by Board of Pharmacy agencies in other states and its effect on applicant's registration with the Board. On or about September 28, 2023, the Board sent a Notice of Opportunity for Hearing to Lisa Cotter, which outlined the allegations and provided notice of the right to a hearing, the rights in such hearing, and the right to submit contentions in writing.
2. On or about October 19, 2023, Lisa Cotter, through counsel Elizabeth Y. Collis and LaTawnda N. Moore, timely requested an administrative hearing, which was subsequently scheduled for August 6, 2024.

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

TERMS

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

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

2. Lisa Cotter neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 28, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Lisa Cotter agrees to pay to the Board a monetary penalty in the amount of \$1,000. This fine will be attached to Lisa Cotter's license record and must be paid no later than 180 days from the effective date of this Agreement. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. Lisa Cotter must obtain twelve hours of approved continuing pharmacy education (1.2 CEUs) which may not also be used for license renewal. The 1.2 CEUs must be completed within six months from the effective date of this Agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Lisa Cotter agrees to a period of chart review by a licensed pharmacist for a period of two (2) years.
6. Lisa Cotter agrees to appear for an interview with the Board or its designated representative, at any time as requested by the Board.
7. The Board hereby imposes a permanent restriction on Lisa Cotter working at a compounding pharmacy.
8. The Board hereby imposes a permanent restriction on Lisa Cotter serving as a responsible person at any entity licensed by the Board.
9. The Board hereby imposes a written reprimand on Lisa Cotter's pharmacist license, number 03-124474.
10. Lisa Cotter agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
11. Lisa Cotter understands the right to be represented by counsel for review and execution of this agreement.
12. Lisa Cotter 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 a professional license is held, including the Board on renewal applications or applications for a new license.
13. Lisa Cotter explicitly withdraws her request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0467

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

**IN THE MATTER OF:
CASE NO. A-2023-0181**

Carrie Richardson
License No. 09-305542
15 Jeffery Avenue
Shelby, OH 44875

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 Carrie Richardson for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing (wrong drug) while working as a pharmacy technician. Together, the Board and Carrie Richardson 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, restrict, limit, or refuse to grant or renew any license issued pursuant to Sections 4729.90 and 4729.92 of the Ohio Revised Code to perform the duties of a certified pharmacy technician in the state of Ohio.
2. Carrie Richardson is a certified pharmacy technician in the state of Ohio under registration number 09-305542.

FACTS

1. The Board initiated an investigation of Carrie Richardson, certified pharmacy technician registration number 09-305542, related to Carrie Richardson’s error in

dispensing (wrong drug) while working as a certified pharmacy technician at CVS Pharmacy #6169.

2. On or about February 23, 2024, the Board sent a Notice of Opportunity for Hearing to Carrie Richardson 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 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. Carrie Richardson neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated February 23, 2024; 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. Carrie Richardson agrees to pay to the Board the amount of \$100.00. This fine will be attached to the registration record and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. The Board hereby imposes a written reprimand on Carrie Richardson's technician registration, number 09-305542.
5. Carrie Richardson agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Carrie Richardson understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Carrie Richardson 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. Carrie Richardson 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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0468

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

**IN THE MATTER OF:
CASE NO. A-2023-0398**

Elaina Martauz, RPh
License No. 03-237402
12744 N. Palmyra Road
North Jackson, OH 44451

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 Elaina Martauz, 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 Elaina Martauz 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, restrict, limit, 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. Elaina Martauz is a licensed pharmacist in the state of Ohio under license number 03-237402.

FACTS

3. The Board initiated an investigation of Elaina Martauz, pharmacist license number 03-237402, related to an error in dispensing.

4. On or about April 17, 2024, the Board sent a Notice of Opportunity for Hearing to Elaina Martauz, 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 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. Elaina Martauz neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated April 17, 2024; 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. Elaina Martauz agrees to pay to the Board a monetary penalty in the amount of \$500.00. This fine will be attached to Elaina Martauz's license record and must be paid no later than 180 days from the effective date of this Agreement. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. Elaina Martauz must obtain six hours of approved continuing pharmacy education (0.6 CEUs) in the topics of medication errors and/or patient safety, which may not also be used for license renewal. The 0.6 CEUs must be completed within six months from the effective date of this Agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. The Board hereby imposes a written reprimand on Elaina Martauz's pharmacist license, number 03-237402.
6. Elaina Martauz agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Elaina Martauz understands that she has the right to be represented by counsel for review and execution of this agreement.
8. Elaina Martauz 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 she currently holds a professional license, including the Board on renewal applications or applications for a new license.

9. Elaina Martauz waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0469

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

**IN THE MATTER OF:
Case No. A-2023-0322**

**Brenda Kenneweg
Registration No. 09-303236
961 Vindell Ave. NW
Massillon, OH 44647**

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 Brenda Kenneweg for the purpose of resolving all issues between the parties relating to the Board investigation of working at Medicap Pharmacy, located at 2012 Lincoln Way Northwest, Massillon, Ohio, without a valid registration as a pharmacy technician. Together, the Board and Brenda Kenneweg 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, restrict, limit, or refuse to grant or renew any license issued pursuant to Sections 4729.90 and 4729.92 of the Ohio Revised Code to perform the duties of a Certified pharmacy technician in the state of Ohio.

2. Brenda Kenneweg is a Certified pharmacy technician in the state of Ohio under registration number 09-303236.

FACTS

1. The Board initiated an investigation of Brenda Kenneweg, Certified pharmacy technician registration number 09-303236, related to Brenda Kenneweg's working as a pharmacy technician at Medicap Pharmacy without maintaining a valid registration as a pharmacy technician.
2. On or about April 4, 2024, the Board sent a Notice of Opportunity for Hearing to Brenda Kenneweg 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 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. Brenda Kenneweg neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated April 4, 2024; 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. Brenda Kenneweg agrees to pay to the Board the amount of \$300. This fine will be attached to the registration record and must be paid no later than 180 days from the effective date of this Order. To pay this fine, login to www.elicense.ohio.gov and process the items in the cart.
4. The Board hereby imposes a written reprimand on Brenda Kenneweg's technician registration, number 09-303236.
5. Brenda Kenneweg agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Brenda Kenneweg understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Brenda Kenneweg 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. Brenda Kenneweg 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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0470

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

**IN THE MATTER OF:
CASE NO. A-2021-0529**

Shelly Forbes, RPh
License No. 03-331437
8920 Kennard Rd.
Lodi, OH 44254

SETTLEMENT AGREEMENT WITH THE OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the Ohio Board of Pharmacy (Board) and Shelly Forbes, RPh, for the purpose of resolving all issues between the parties relating to the Board investigation of theft of a dangerous drug (non-controlled substance). Together, the Board and Shelly Forbes 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, restrict, limit, 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. Shelly Forbes is a licensed pharmacist in the state of Ohio under license number 03-331437.

FACTS

1. The Board initiated an investigation of Shelly Forbes, pharmacist license number 03-331437, related to a missing COVID-19 vaccine vial for children ages 5-11 that was later found in her possession. On or about October 24, 2023, the Board sent a Notice of Opportunity for Hearing to Shelly Forbes, 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.
2. On or about November 13, 2023, Shelly Forbes, through counsel Levi Tkach, timely requested an administrative hearing, which was subsequently scheduled for June 4, 2024.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Shelly Forbes neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated October 24, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Shelly Forbes agrees to pay to the Board a monetary penalty in the amount of \$1,000. This fine will be attached to Shelly Forbes' license record and must be paid no later than 180 days from the effective date of this Agreement. To pay this fine, login to www.license.ohio.gov and process the items in the cart.
4. Shelly Forbes must obtain three hours of approved continuing pharmacy education (0.3 CEUs) which may not also be used for license renewal. The 0.3 CEUs must be completed within six months from the effective date of this Agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Shelly Forbes may not serve as the Responsible Person for any entity licensed by the Board for a period of two years from the effective date of this Agreement.
6. The Board hereby imposes a written reprimand on Shelly Forbes' pharmacist license, number 03-331437.

7. Shelly Forbes agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Shelly Forbes understands that she has the right to be represented by counsel for review and execution of this agreement.
9. Shelly Forbes 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 she currently holds a professional license, including the Board on renewal applications or applications for a new license.
10. Shelly Forbes explicitly withdraws her request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
14. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0471

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

**IN THE MATTER OF:
Case No. A-2023-0179**

Curtis Fitzgerald Green, CPhT
SUSPENDED Registration No. 09-304211
6501 Marsol Road, Apartment 528
Mayfield Heights, OH 44124

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 Curtis Green, for the purpose of resolving all issues between the parties relating to the fraudulent purchases and theft of controlled substances from the pharmacy where you were employed and trafficking of controlled substances. Together, the Board and Curtis Green 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. Curtis Green is an Ohio certified pharmacy technician under suspended registration number 09-304211.

FACTS

1. The Board initiated an investigation of Curtis Green, registered pharmacy technician, registration number 09-304211, related to Curtis Green placing fraudulent orders for and stealing controlled substances from the pharmacy where he was employed and trafficking controlled substances.
2. On or about April 20, 2023, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Curtis Green, 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 proceedings. Any criminal proceedings resulting from this investigation are not affected by this Agreement.

TERMS

NOW WHEREFORE, 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. Curtis Green neither admits nor denies the allegations stated in the Summary Suspension/Notice of Opportunity for Hearing letter dated April 20, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. **CURTIS GREEN VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS REGISTRATION AS A REGISTERED PHARMACY TECHNICIAN, REGISTRATION NO. 09-304211.**

4. Curtis Green agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Curtis Green understands that he has the right to be represented by counsel for review and execution of this agreement.
6. Curtis Green agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
7. Curtis Green waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter and waives any right to an appeal.
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.

R-2024-0472

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

**IN THE MATTER OF:
CASE NO. A-2022-0394**

Dr. Diethra Cox
34500 Chardon Road Ste 7
Willoughby, Ohio 44094

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 Dr. Diethra Cox for the purpose of resolving all issues between the parties relating to the Board investigation of personally furnishing to patients prescriptions for phentermine. Together, the Board and Dr. Diethra Cox are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.291(C)(2) of the Ohio Revised Code (ORC), the state board of pharmacy may impose a fine of not more than five thousand dollars on a

prescriber who fails to comply with the limits established under division (C)(1) of the section. A separate fine may be imposed for each instance of failing to comply with the limits. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

2. Dr. Diethra Cox is licensed as a Doctor of Medicine by the State Medical Board of Ohio under license number 35.054360.

FACTS

1. The Board initiated an investigation of Aesthetic Essentials and Dr. Diethra Cox related to Aesthetic Essentials' personally furnishing to patients prescriptions for phentermine.
2. On or about August 30, 2023, the Board sent a Notice of Opportunity for Hearing to Dr. Diethra Cox, 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 September 5, 2023, Dr. Diethra Cox, through counsel Kenton Steele, timely requested an administrative hearing, which was subsequently scheduled for March 6, 2024. This matter was settled via this Agreement in lieu of hearing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Dr. Diethra Cox neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 30, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Dr. Diethra Cox must obtain six hours of approved continuing education (0.6 CEUs) in the topics of medication safety and/or compounding, which may not also be used for license renewal. The 0.6 CEUs must be completed within twelve months from the effective date of this Agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
4. The Board hereby imposes a written reprimand.
5. Dr. Diethra Cox agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

6. Dr. Diethra Cox understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Dr. Diethra Cox 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 she currently holds a professional license, including the Board on renewal applications or applications for a new license.
8. Dr. Diethra Cox explicitly withdraws her request for a hearing, waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
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. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0473

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

**IN THE MATTER OF:
CASE NO. A-2022-0395**

**Aesthetic Essentials
License No. 02-72000052**
c/o Diethra Cox, MD
34500 Chardon Road Ste 7
Willoughby, Ohio 44094

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 Aesthetic Essentials for the purpose of resolving all issues between the parties relating to the Board investigation of personally furnishing to patients prescriptions for phentermine. Together, the Board and Aesthetic Essentials are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, restrict, limit or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Pursuant to Section 4729.291(C)(2) of the Ohio Revised Code (ORC), the state board of pharmacy may impose a fine of not more than five thousand dollars on a prescriber who fails to comply with the limits established under division (C)(1) of the section. A separate fine may be imposed for each instance of failing to comply with the limits. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.
3. Aesthetic Essentials is a licensed Terminal Distributor of Dangerous Drugs under license number 02-72000052.

FACTS

1. The Board initiated an investigation of Aesthetic Essentials, Terminal Distributor of Dangerous Drugs license number 02-72000052, related to Aesthetic Essentials' personally furnishing to patients prescriptions for phentermine.
2. On or about August 30, 2023, the Board sent a Notice of Opportunity for Hearing to Aesthetic Essentials, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about September 5, 2023, Aesthetic Essentials, through counsel Kenton Steele, timely requested an administrative hearing, which was subsequently scheduled for March 6, 2024. This matter was settled via this Agreement in lieu of hearing.

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

TERMS

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

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

2. Aesthetic Essentials neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 30, 2023; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Aesthetic Essentials agrees to pay to the Board a monetary penalty the amount of \$50,000. \$25,000 of this monetary penalty shall be stayed upon the conditions:
 - a. Aesthetic Essentials pays \$25,000 to the Board no later than twelve (12) months from the date of this Agreement; and
 - b. Aesthetic Essentials does not engage in personally furnishing phentermine to patients for no less than twelve (12) months from the date of this Agreement.
 - c. The remaining balance will be due immediately if Aesthetic Essentials does not meet conditions 3(a) and 3(b), as outlined above.
 - d. This monetary penalty will be attached to the license record for Aesthetic Essentials and must be paid no later than twelve (12) months from the effective date of this Agreement. To pay this fine, a representative for Aesthetic Essentials must login to www.elicense.ohio.gov and process the items in the cart.
4. Aesthetic Essentials 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. Aesthetic Essentials agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Aesthetic Essentials 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 Aesthetic Essentials by the Board and will NOT discharge Aesthetic Essentials from any obligation under the terms of this Agreement.
6. Aesthetic Essentials agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Aesthetic Essentials 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 Aesthetic Essentials will operate.

9. Aesthetic Essentials explicitly withdraws its request for a hearing, waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. If any of the provisions, terms, or clauses of this Agreement are declared illegal, unenforceable, or ineffective by an authority of competent jurisdiction, those provisions, terms, and clauses shall be deemed severable, such that all other provisions, terms, and clauses of this Agreement shall remain valid and binding upon both Parties.

R-2024-0474

Ms. Ferris moved that the April 9, 2024, Board Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-0.

R-2024-0475

Ms. Ferris moved that the April 15, 2024, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-0.

R-2024-0476

Ms. Ferris moved that the May 1, 2024, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-0.

R-2024-0477

Ms. Ferris moved that the May 8, 2024, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-0.

R-2024-0478

Ms. Ferris moved that the May 22, 2024, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-0.

R-2024-0479

Ms. Ferris moved that the May 29, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Grimm and approved by the Board: Yes-6, No-

0.

R-2024-0480

Mr. George moved that the May 15, 2024, Conference Call Meeting Minutes be approved as written. The motion was seconded by Mr. Huston and approved by the Board: Yes-6, No-0.

R-2024-0481

Ms. Ferris 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. The motion was seconded by Mr. Grimm and a roll-call vote was conducted by *President* Buettner as follows: Ferris-yes, George-yes, Grimm-yes; Huston-yes, Miller-yes, and Pfaff-yes.

9:39 a.m.

The Board returned to public session.

9:39 a.m.

The Board was joined by Assistant Attorney General Grant Wilson to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matter of **Stephen Marcum, Cincinnati, Ohio.**

R-2024-0482

Mr. Grimm 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. Ferris and approved by the Board: Yes-6, No-0.

10:38 a.m.

The deliberation ended and the hearing opened to the public.

R-2024-0483

After votes were taken in public session, the Board adopted the following order in the Matter of **Stephen Marcum, Cincinnati, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2023-0003)

In The Matter Of:
Stephen Marcum
620 Probasco Street
Cincinnati, Ohio 45220
(Suspended License no. 03-335238)

INTRODUCTION

The Matter of Stephen Marcum came for hearing on June 4, 2024, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Jason George, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Anthony Buchta, Sr., RPh and Victor Goodman, *Public Member*, Absent.

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

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kyle Chapman – Agent of the Board
2. Stephen Marcum – Respondent

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Notice Letter
- 1b. Patient Key (under seal)
2. Prescriptions for Patient 1 (under seal)
3. Prescriptions for Patient A.W.
4. Prescriptions for Patient D.J.
5. Prescriptions for Patient D.M.
6. Prescriptions for Patient M.W.
7. Prescriptions for Patient R.B.
8. Statement of Dr. Ellison (under seal)
9. Statement of Dr. Klein
10. Statement of Dr. Niemeyer
11. Statement of Dr. Peerless
12. Statement of Dr. Thind (under seal)
13. Intervention in Lieu of Conviction
14. Violation of Probation
15. Finding of No PC for Probation Violation
16. Motion to Mitigate
17. Court Docket

18. Letter from Court (under seal)

Respondent's Exhibits:

A. None

FINDINGS OF FACT

After hearing the testimony, observing the demeanor of the witnesses, considering the evidence, and weighing the credibility of each, the Board finds the following to be fact:

1. On or about December 14, 2022, the Board was notified by Stephen Marcum's employer, that while employed as a pharmacist at Walgreens Pharmacy, located at 57 W Main Street, Amelia Ohio, he was seen on video on or about November 18, 2022 processing fraudulent prescription #1550685, which was written for 120 amphetamine/dextroamphetamine ER 30 mg capsules.
2. Investigation revealed between on or about November 21, 2020 and December 26, 2022, while working as a pharmacist, Stephen Marcum created 75 fraudulent prescriptions for controlled substances, as set forth in Attachment A, attached hereto and incorporated as though fully set forth herein. Upon review of the fraudulent prescriptions, the following was discovered:
 - a. The controlled substances he illegally processed prescriptions for include: amphetamine/dextroamphetamine salts (various strengths) (a Schedule II controlled substance), hydrocodone/APAP 5/325 (a Schedule II controlled substance), alprazolam 1 mg (a Schedule IV controlled substance), and diazepam 5 mg (a Schedule IV controlled substance).
 - b. The prescriptions are attached to fraudulent patient profiles he created while employed as a pharmacist with access to the pharmacies' internal software.
 - i. All patient profiles used are fictitious, except for one that includes a real patient name/patient information, Patient 1. The prescriptions for Patient 1 are fraudulent and were not authorized by the prescriber listed.
 - c. Each of the prescribers listed on the fraudulent prescriptions confirmed the patient is not one of their patients and they did not issue the prescription, despite being listed as the prescriber.
 - d. Each of the prescriptions was filled, dispensed, and picked up from a CVS or Walgreens location. The prescriptions were filled by Stephen Marcum, while he was working as a pharmacist, or dropped off at a pharmacy where he was not employed at the time.
 - e. The fraudulent prescriptions were illegally processed at 27 separate stores. Stephen Marcum currently- or had previously been- a floater pharmacist at each of the stores when they were processed.
3. On or about December 29, 2022, Stephen Marcum was interviewed by agents of the Board. He admitted the following:

- a. "Clearly I've been addicted to Adderall for a long time."
 - b. He made up patient information on the prescriptions he passed. He did not realize Patient 1 was a real person; he does not know how he got her information.
 - c. He could not sleep because of all the Adderall he ingested so he created a prescription for alprazolam. He took the alprazolam and drank alcohol to help his insomnia.
 - d. He used information of multiple doctors to create the fraudulent prescriptions. He did so without authorization and he signed their names without permission.
 - e. He took the medications for personal use.
 - f. He created the prescription for Norco (hydrocodone/APAP) because he took a spill and did not want to seek treatment.
 - g. He ingested four capsules prior to his shift (as a pharmacist) and one capsule on his lunch break.
4. After the conclusion of the interview, Stephen Marcum took the agents to his car. He removed an unlabeled vial containing capsules and handed it to the agents. The capsules included 12 amphetamine/dextroamphetamine XR 25 mg and two amphetamine/dextroamphetamine XR 30 mg.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2913.02 of the ORC, theft of a dangerous drug (Schedule II-IV controlled substance).
2. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2925.11(A) of the ORC, aggravated possession of a Schedule II controlled substance- drug equals or exceeds the bulk amount but is less than five times the bulk amount.
3. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2925.11(A) of the ORC, aggravated possession of a Schedule II controlled substance.
4. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2925.11(A) of the ORC, possession of a Schedule IV controlled substance.
5. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2925.23 of the ORC, illegal processing of drug documents.

6. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2921.13(A)(5) of the ORC, Falsification.
7. Such conduct as set forth in the Findings of Fact, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019, and October 9, 2021:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - d. Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
8. Such conduct as set forth in the Findings of Fact, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective April 25, 2022:
 - 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)(d); 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)(k).

9. Such conduct as set forth in the Findings of Fact, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 20, 2020:
 - 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 such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired vehicle registration, OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Stephen Marcum on January 5, 2024.

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. 03-335238 held by Stephen Marcum and such suspension is effective as of the date of the mailing of this Order.

Stephen Marcum, pursuant to Rule 4729:1-1-01(T) 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 five months from the effective date of this Order, the Board will consider any petition filed by Stephen Marcum 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. Stephen Marcum must maintain a current address with the Board throughout the duration of the suspension.

2. Stephen Marcum must enter into and adhere to the terms of a new contract, signed within thirty days after the effective date of this Order, with a Board approved treatment monitor for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Stephen Marcum should also submit to the Board documentation demonstrating compliance with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider, if applicable. Failure to adhere to the terms of the treatment contract and/or monitoring contract will be considered a violation of the Board's Order and subject Stephen Marcum to potential sanctions up to and including revocation of license. The monitoring contract must provide that:
 - j. Random, observed urine drug screens shall be conducted at least once each month.
 - k. 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.
 - l. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - m. 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.
 - n. In the event of a negative diluted screen, a hair sample test must be completed at the cost of Stephen Marcum 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.
 - o. Stephen Marcum must meet the daily check-in requirements of the testing center or check-in requirements as otherwise proscribed by the treatment monitor.
 - p. 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.
 - q. 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.
 - r. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

3. Stephen Marcum 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 Stephen Marcum reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Stephen Marcum 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 Stephen Marcum reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Stephen Marcum 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 Stephen Marcum to possible additional sanctions, including and up to revocation of license.
6. Stephen Marcum 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. Stephen Marcum 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 4729:1-5-02 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 Summary Suspension, Stephen Marcum 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. Stephen Marcum must provide continuing authorization for disclosure by the monitor and treatment provider (when applicable) to the Board, to treating and monitoring physicians, and to others involved in the monitoring process, of information necessary for those individuals to fulfill their duties.

10. When deemed appropriate by the Board, Stephen Marcum must submit to a psychiatric evaluation, and, where appropriate, continued treatment acceptable to the Board.
11. Stephen Marcum must obtain prior approval of the board or the board's probation committee of departures or absences in excess of ten days from the country. Periods of departure or absence shall not change the probationary term, unless otherwise determined by motion of the board or the board's probation committee. For absences of three months or longer, the board or its probation committee may toll the length of suspension, other than in instances where the board or its probation committee can be assured that monitoring is otherwise being performed.
12. Violation of any term of suspension, including but not limited to any violation of the contract signed with the treatment monitor and/or ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.
13. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state, federal, or local 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.
14. Periods during which Stephen Marcum is not in compliance with all terms of suspension shall toll the length of time of suspension during which Stephen Marcum was out of compliance. The minimum length of time each violation will toll the suspension term is available on the Board's website, www.pharmacy.ohio.gov. The Board may implement additional disciplinary action in addition to or instead of tolling suspension.
15. If Stephen Marcum's employment is related to the practice of pharmacy, Stephen Marcum must provide copies of the board order or settlement agreement to all employers or prospective employers, all licensing authorities in which Stephen Marcum holds a professional license or applies for a professional license, all persons who provide Stephen Marcum chemical dependency treatment monitoring, and law enforcement and court personnel if Stephen Marcum has court involvement, such as ILC, drug court or diversion, related the suspension, during the effective period of this order or agreement.
16. 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, may result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Stephen Marcum's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically State's exhibits: 1(b), 2, 8, 12, and 18.

Mindy Ferris moved for Findings of Fact; Jeff Huston seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Conclusions of Law; Jeff Huston seconded the motion. Motion passed (Yes-6/No-0).

Mindy Ferris moved for Action of the Board; Jeff Huston seconded the motion. Motion passed (Yes-6/No-0).

SO ORDERED.

10:40 a.m.

The Board took a short recess.

10:52 a.m.

The Board returned to public session and Mr. McNamee presented a correction to rules *4729:6-6-01 - Virtual wholesalers - general operations*

10:53 a.m.

Pursuant to section 3719.45 of the Ohio Revised Code, Mr. McNamee led a discussion on the classification of the following compounds as Schedule I controlled substances: N-Pyrrolidino metonitazene, N-Pyrrolidino protonitazen, Ethyleneoxynitazene, N-Desethyl isotonitazene, 5-Methyl etodesnitazene, 3', 4'-Methylenedioxyntazene, N-Pyrrolidino isotonitazene, and Ethylene etonitazene, including the consideration of the following criteria: (1) The actual or relative potential for abuse; (2) The scope, duration, and significance of abuse; and (3) The risk to the public health.

R-2024-0484

Mr. Grimm moved that the Board pass the resolution classifying the nine compounds as Schedule I controlled substances and authorize the filing of rule 4729:9-1-01.2 – Nitazene Compounds to classify N-Pyrrolidino metonitazene, N-Pyrrolidino protonitazen, Ethyleneoxynitazene, N-Desethyl isotonitazene, 5-Methyl etodesnitazene, 3', 4'-Methylenedioxyntazene, N-Pyrrolidino isotonitazene, and Ethylene etonitazene as Schedule I Controlled Substances. The motion was seconded by Mr. Huston and approved by the Board: Yes-6, No-0.

11:01 a.m.

The Board took a brief recess.

11:06 a.m.

The Board returned to public session and 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 **America's Pharmacy Source, Akron, Ohio.**

R-2024-0485

Ms. Ferris 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. Grimm and approved by the Board: Yes-6, No-0.

12:27 a.m.

The deliberation ended and the hearing opened to the public.

R-2024-0486

After votes were taken in public session, the Board adopted the following order in the Matter of **America's Pharmacy Source, Akron, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2022-0202)

In The Matter Of:

America's Pharmacy Source

c/o Douglas Behrens

947 Waterloo Road

Akron, Ohio 44314

(License no. 02-30000002)

INTRODUCTION

The Matter of America's Pharmacy Source came for hearing on June 4, 2024, before the following members of the State of Ohio Board of Pharmacy (Board): Trina Buettner, RPh, *Presiding*; Mindy Ferris, RPh, Vice President; Jason George, RPh; T.J. Grimm, RPh; Jeff Huston, RPh; Rich Miller, RPh; and Christine Pfaff, RPh.

Anthony Buchta, Sr., RPh and Victor Goodman, *Public Member*, Absent.

America's Pharmacy Source was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

DECISION OF THE BOARD

The Board leaves the record in this matter open until the Board convenes in August 2024. Further, the Board hereby directs the State of Ohio, through the Assistant Attorney General, to gather the following information regarding America's Pharmacy Source, to be presented to the Board at the continuation of this hearing during the August 2024 Board meeting:

1. How many sales of dangerous drugs does America's Pharmacy Source make to Ohio patients in each year?
2. How many sales of dangerous drugs does America's Pharmacy Source make to patients outside of Ohio?
3. In what states is America's Pharmacy Source licensed to sell dangerous drugs?
 - a. Please provide a list of each state in which the pharmacy is licensed. Include verifiable license information from each state.
4. To what states has America's Pharmacy Source shipped dangerous drugs in the last 12 months?
 - a. Please provide a list of each state, including the approximate number of sales, if available.
5. Is America's Pharmacy Source compounding medications it sells at retail?

- a. If yes, what is the number of compounded drugs sold at retail per year?
6. What is the process to become accredited as a verified internet pharmacy by the National Association of Boards of Pharmacy (NABP), and what is the timeframe to achieve accreditation?
7. Provide any additional information the State deems important to this matter.

Mindy Ferris moved for Action of the Board; T.J. Grimm seconded the motion. Motion passed (Yes- 6/No- 0).

SO ORDERED.

12:31 p.m.

Ms. Buettner administered the Oath of President to Ms. Ferris, hereafter President of the State of Ohio Board of Pharmacy for Fiscal year 2025:

Oath of President

I, Mindy Ferris, as President of the Ohio Board of Pharmacy, do solemnly swear to uphold the Constitution of the United States and the State of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the State of Ohio without bias or prejudice, so help me God

12:32 p.m.

Ms. Ferris, ***Presiding***, administered the Oath of Vice President to Mr. Huston, hereafter Vice President of the State of Ohio Board of Pharmacy for Fiscal year 2025:

Oath of Vice President

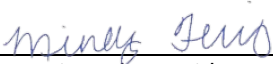
I, Jeff Huston, as Vice President of the Ohio Board of Pharmacy, do solemnly swear to uphold the Constitution of the United States and the State of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the State of Ohio without bias or prejudice, so help me God.

R-2024-0487

Mr. Grimm moved to adjourn the June 2024 State of Ohio Board of Pharmacy Meeting. The motion was seconded by Ms. Ferris and approved by the Board: Yes-6, No-0.

12:33 p.m.

The Board Meeting Adjourned.

 Date: 7/9/2024
Mindy Ferris, RPh, President

 Date: 7/9/2024
Steven W. Schierholt, Executive Director