



**STATE OF  
OHIO**  
BOARD OF PHARMACY

**IN THE MATTER OF:**

**Case No. A-2021-0303  
I-2021-0677**

**Phillip J. Nelson**  
2207 Ronaldo Rd.  
Toledo, OH 43615

**License No. 03-315853**

### **SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY**

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Phillip J. Nelson, RPh, 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 obtaining and/or maintaining appropriate registration with the Board. Together, the Board and Phillip J. Nelson 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 Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Phillip J. Nelson is a licensed pharmacist in the state of Ohio under license number 03-315853.
3. Phillip J. Nelson is the Responsible Person of Mercy Health St. Vincent Medical Center (St. Vincent), located at 2213 Cherry Street, Toledo, OH.

#### **FACTS**

1. The Board initiated an investigation of Phillip J. Nelson, pharmacist license number 03-315853 and Mercy Health St. Vincent Medical Center, related to an employee of St. Vincent performing duties of a pharmacy technician without obtaining appropriate registration with the Board.
2. On or about October 25, 2021 the Board sent a Notice of Opportunity for Hearing to Phillip J. Nelson, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

77 South High Street, 17th Floor, Columbus, Ohio 43215

T: (614) 466.4143 | F: (614) 752.4836 | [contact@pharmacy.ohio.gov](mailto:contact@pharmacy.ohio.gov) | [www.pharmacy.ohio.gov](http://www.pharmacy.ohio.gov)



## TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Phillip J. Nelson neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated October 25, 2021; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Phillip J. Nelson agrees to pay to the Board a monetary penalty in the amount of \$250.00. This fine will be attached to Phillip J. Nelson's license 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](http://www.elicense.ohio.gov) and process the items in the cart.
4. Phillip J. Nelson agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Phillip J. Nelson understands that she has the right to be represented by counsel for review and execution of this agreement.
6. Phillip J. Nelson agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.
7. Phillip J. Nelson explicitly waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

*[SIGNATURE PAGE FOLLOWS]*



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

Approved by:

  
\_\_\_\_\_

Phillip J. Nelson, Respondent

11/3/21  
\_\_\_\_\_

Date of Signature


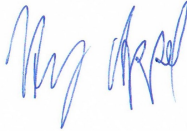
  
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Attorney for Respondent (if applicable)

11/03/2021  
\_\_\_\_\_

Date of Signature

Richard Miller, RPh, President,  
State of Ohio Board of Pharmacy

11.19.2021  
\_\_\_\_\_

Date of Signature

Henry Appel, Ohio Assistant Attorney General

11.19.2021  
\_\_\_\_\_

Date of Signature



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

**IN THE MATTER OF:**

**Case No. A-2021-0303  
I-2021-0677**

**Phillip J. Nelson**  
2207 Ronaldo Rd.  
Toledo, OH 43615

**License No. 03-315853**

October 25, 2021

Dear Mr. Nelson, RPh:

**You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the State of Ohio Board of Pharmacy (Board) proposes to take action against your license for violations of Chapter 4729. of the Revised Code and Section 4729 of the Administrative Code under authority of Section 4729.16 of the Revised Code.**

**JURISDICTION**

1. Pursuant to division (A)(1) of Section 4729.16 (effective April 8, 2019) of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the Board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:
  - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.16(A)(1)(a); and/or
  - b. Reprimand or place the license holder on probation, ORC 4729.16(A)(1)(b); and/or
  - c. Impose a monetary penalty or forfeiture not to exceed in severity any penalty designated under the Revised Code for a similar offense or in the case of a violation of a section of the Revised Code that does not bear a penalty, impose a monetary penalty or forfeiture of not more than \$500, ORC 4729.16(A)(1)(c).
2. Rule 4729:1-4-01 of the Ohio Administrative Code (OAC) provides that the Board may discipline or deny the issuance of a certificate of registration or an identification card to practice pharmacy as a pharmacist in Ohio.
3. Phillip J. Nelson is a licensed pharmacist in the state of Ohio under license number 03-315853, who is listed as the Responsible Person of Mercy Health St. Vincent Medical Center, LLC, Main Campus located at 2213 Cherry Street, Toledo, OH.

77 South High Street, 17th Floor, Columbus, Ohio 43215



## ALLEGATIONS

1. On or about May 5, 2021, while serving as the Responsible Person at Mercy Health St. Vincent Medical Center Pharmacy, you notified the Board that a pharmacy employee was performing pharmacy technician duties without proper registration with the Board. It was discovered that Cathy Wilson had been working as a pharmacy technician at Mercy Health St. Vincent Medical Center from on or about January 11, 2021, to April 30, 2021, without Board issued registration. Ms. Wilson worked a total of 584.75 hours in the IV rooms, unit dose areas, and several vaccine clinics. She was issued registration as a pharmacy technician trainee on or about May 28, 2021, and registration as a certified pharmacy technician on or about August 25, 2021.
2. On or about May 13, 2021, you spoke with an agent of the Board. You stated:
  - a. Every year, Mercy Health verifies all employees are properly licensed/registered and monitors credential expirations.
  - b. The Mercy Health recruiting department and human resources were made aware of the requirement that pharmacy technicians are registered with the State of Ohio Board of Pharmacy.
  - c. The pharmacy department received notification Ms. Wilson's certified pharmacy technician credentials were expiring and discovered she was not registered as a technician with the Board of Pharmacy.

## POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of Section 4729.95(B) of the ORC, No pharmacist shall knowingly allow any person employed or otherwise under the control of the pharmacist to violate division (A) of this section which states: No person who is not a pharmacist, pharmacy intern, registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee shall knowingly engage in any of the activities listed in section 4729.91 of the Revised Code in a location licensed as a terminal distributor of dangerous drugs, a misdemeanor of the second degree, punishable by a maximum penalty of \$750.
2. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of the following sections of Rule 4729:5-2-01 of the OAC, as effective March 1, 2019, each punishable by a maximum penalty of \$500:
  - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs and maintaining all drug records otherwise required, 4729:5-2-01(A)(2); and/or
  - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729:5-2-01 (A)(3).

3. Such conduct as set forth in the Allegations Section, if proven, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019, each violation constituting a minor misdemeanor, each punishable by a maximum penalty of \$150:
  - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and/or
  - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and/or
  - c. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
  
4. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective March 3, 2020, each violation punishable by a maximum penalty of \$500:
  - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and/or
  - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or
  - c. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m).

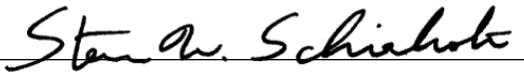
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

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

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

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

BY ORDER OF THE STATE BOARD OF PHARMACY

  
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Steven W. Schierholt, Esq., Executive Director

SWS/alg/kll

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