



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:

CASE NO. A-2019-0493

**Benjamin Prewitt
376 Leatherleaf Ln.
Lebanon, OH 45036**

License No. 03-328679

August 24, 2021

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 Benjamin Prewitt, for the purpose of resolving all issues between the parties relating to the Board investigation of an error in dispensing in violation of Chapter 4729 of the Ohio Revised Code (ORC), and Chapter 4729:1-4-01 of the Ohio Administrative Code (OAC). Together, the Board and Benjamin Prewitt are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to division (A)(1) of Section 4729.16 of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of ORC 4729.16:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, ORC 4729.16(A)(1)(a); and/or
 - b. Reprimand or place the license holder on probation, ORC 4729.16(A)(1)(b); and/or
 - c. Impose a monetary penalty or forfeiture not to exceed in severity any fine 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. Pursuant to paragraph (B)(1) of Rule 4729:1-4-01 of the Ohio Administrative Code (OAC) (effective May 1, 2018) the Board may impose any one or more of the following sanctions on a pharmacist or applicant for a pharmacist license if the board finds the individual engaged in any of the conduct set forth in paragraph (B)(2) of OAC 4729:1-4-01:
 - a. Revoke, suspend, restrict, limit, or refuse to grant or renew a license, OAC 4729:1-4-01(B)(1)(a); and/or
 - b. Reprimand or place the license holder on probation, OAC 4729:1-4-01(B)(1)(b); and/or



- c. Impose a monetary penalty or forfeiture not to exceed in severity any fine 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 4729:1-4-01(B)(1)(c).
3. Benjamin Prewitt is a licensed pharmacist in the state of Ohio under license number 03-328679.

FACTS

1. The Board initiated an investigation of Benjamin Prewitt for an error in dispensing after receiving a complaint.
2. On or about August 24, 2021, the Board sent a Notice of Opportunity for Hearing to Benjamin Prewitt, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Benjamin Prewitt neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated August 24, 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. Benjamin Prewitt agrees to pay a fine of \$500.00 to the State of Ohio Board of Pharmacy. The fine shall be paid no later than thirty (30) days from the effective date of this Settlement Agreement. You must login to www.elicense.ohio.gov and process the items in your cart to pay this fine.
4. Benjamin Prewitt must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs), which may not be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Benjamin Prewitt agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Benjamin Prewitt understands that he has the right to be represented by counsel for review and execution of this agreement.

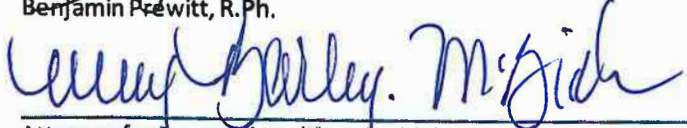
7. Benjamin Prewitt agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
8. Benjamin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

[SIGNATURE PAGE FOLLOWS]

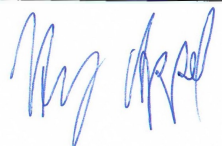
IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:


Benjamin Prewitt, R.Ph.


Attorney for Respondent (if applicable)
Mary Bgrry-McBride

Rich Miller, R.Ph., President
State of Ohio Board of Pharmacy



Henry Appel, Ohio Assistant Attorney General

12/14/21

Date of Signature

12/15/2021

Date of Signature

01.04.2022

Date of Signature

01.04.2022

Date of Signature



**STATE OF
OHIO**
BOARD OF PHARMACY



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

IN THE MATTER OF:

CASE NO. A-2019-0493

Benjamin Prewitt, R.Ph.
376 Leather Leaf Ln.
Lebanon, OH 45036

License No. 03-328679

August 24, 2021

Dear Mr. Benjamin Prewitt, R.Ph.:

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 September 9, 2017) of the Ohio Revised Code (ORC), the Board may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the Board finds the individual engaged in any of the conduct set forth in division (A)(2) of 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).

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

T: (614) 466.4143 | F: (614) 752.4836 | contact@pharmacy.ohio.gov | www.pharmacy.ohio.gov



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. Benjamin Prewitt is a licensed pharmacist in the state of Ohio under license number 03-328679.

ALLEGATIONS

1. On or about July 2, 2019, you performed final product verification of prescription #6264995 while working as a pharmacist at Kroger Pharmacy, located at 2917 West Alex-Bell Road, Dayton, Ohio. Prescription #6264995 was labeled as containing 60 tablets of lamotrigine 150mg, the bottle actually contained 60 tablets of lamotrigine 25mg tablets. The error was identified by patient H.M. prior to ingesting any of the medication.
2. On or about September 20, 2019, you were interviewed by a representative of the Board. You made the following statements:
 - a. You stated you were responsible for the error.
 - b. You stated the error was precipitated by a return to stock bottle of lamotrigine 25mg tablets that had been incorrectly labeled as lamotrigine 150mg tablets, and therefore scanned as such when the technician added them to prescription #6264995.
 - c. You stated you misidentified the lamotrigine tablets due to similar markings between the strengths when performing final verification.

POTENTIAL VIOLATIONS OF LAW

1. 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 September 29, 2017, each violation constituting a minor misdemeanor, each punishable by a maximum fine of \$500:
 - 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 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).
 - 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).
2. Such conduct as set forth in the Allegations section, if proven, constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018, each violation punishable by a maximum fine 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. Committed an act involving moral turpitude that constitutes a misdemeanor or a felony in this state, regardless of the jurisdiction in which it was committed, OAC Rule 4729:1-4-01(B)(2)(l); and/or
 - 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/or
 - e. Failed to conform to prevailing standards of care 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).
- 3. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes a violation of section 3715.52(A)(2) of the ORC, the adulteration or misbranding of any food, drug, device, or cosmetic, a misdemeanor of the fourth degree, punishable by a maximum fine of \$2,000.
- 4. Such conduct as set forth in paragraphs (1) and (2) of the Allegations Section, if proven, constitutes a violation of division (A) of section 3715.64 of the ORC, A drug or device is misbranded within the meaning of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, punishable by a maximum fine of \$1,000 if committed by an organization:
 - a. If its labeling is false or misleading in any particular. ORC Section 3715.64(A)(1); and/or
 - b. If it is a drug and its container is so made, formed, or filled as to be misleading, ORC Section 3715.64(A)(10)(a); and/or
 - c. The drug sold or dispensed is not the brand or drug specifically prescribed or ordered or, when dispensed by a pharmacist upon prescription, the drug is neither the brand or drug prescribed nor a generically equivalent drug or, in the case of a drug of a drug that is a biological product, is neither the brand or biological product prescribed nor an interchangeable biological product, ORC Section 3715.64(A)(10)(d).
- 5. Such conduct as set forth in the Allegations Section, if proven, each constitutes a violation of Rule 4729-9-11, security and control of dangerous drugs, a pharmacist, prescriber, and responsible person pursuant to rule 4729-5-11 of the Administrative Code shall provide supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, and adequate safeguards to ensure that dangerous drugs are being distributed in accordance with all state and federal laws as required in section 4729.55 of the Revised Code, punishable by a maximum fine of \$1,000 if committed by an organization.

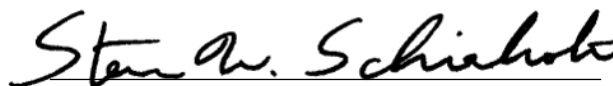
YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119. and 4729. of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

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

YOU ARE FURTHER ADVISED that if there is no request for such a hearing received by the Board on or prior to the 30th day following the mailing of this notice, the State of 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 or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE BOARD OF PHARMACY

A handwritten signature in black ink, reading "Steven W. Schierholt". The signature is written in a cursive, flowing style.

Steven W. Schierholt, Esq., Executive Director

SWS/jak/kll

Enclosure: Patient Identification Key

CMRRR: 9414 7118 9956 1411 3948 96