



MINUTES OF THE FEBRUARY 3-4, 2020
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, February 3, 2020

9:58 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Ashley Gilbert, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

9:58 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 **Dr. Mahmud Kara, Hudson, Ohio**.

R-2020-0351 Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marshal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.

10:54 a.m. The recess ended and the hearing was opened to the public.

R-2020-0352 After votes were taken in public session, the Board adopted the following order in the matter of **Dr. Mahmud Kara, Hudson, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-1870)

In The Matter Of:

Dr. Mahmud Kara
515 Euclid ave. Apt 2703
Cleveland, Ohio 44114

INTRODUCTION

The Matter of Dr. Mahmud Kara came for hearing on February 3, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Dr. Mahmud Kara was represented by Noah C. Munyer. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

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

1. Lisa Dietsche—State of Ohio Board of Pharmacy Agent
2. William Trey Edwards—State of Ohio Board of Pharmacy Agent
3. Dr. Mahmud Kara—Respondent

Respondent's Witnesses:

1. Dr. Mahmud Kara—Respondent

State's Exhibits:

1. Notice of opportunity for Hearing (with attached redaction patient key marked as "Exhibit A")
2. Request for Hearing
3. Scheduling Letter
4. Confidential Patient Key (unredacted)
5. Phentermine 37.5 mg Log
6. Phendimetrazine 35 mg Log
7. Drug Invoices from Martek Pharmacal Company
8. Summit County Indictment (State of Ohio v. Mahmud Kara, Case No. 2018-04-1378)

Respondent's Exhibits:

A. None

FINDINGS OF FACT

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

1. Between the dates of August 29, 2016 and April 10, 2017, six undercover buys were conducted by the Board with Dr. Mahmud Kara at Alternative Health Services, an unlicensed Terminal Distributor of Dangerous Drugs (TDDD) for which Dr. Mahmud Kara was the owner, located at 2101 Front Street, Cuyahoga Falls, Ohio. A total of one hundred forty (140) phentermine 37.5mg tablets and one hundred forty (140) phendimetrazine 35mg tablets were purchased. That amount is equal to 280 daily doses over the course of 252 days. At no time did the undercover agent meet the Body Mass Index (BMI) requirement.
2. Between August 2016 and February 2017, Dr. Mahmud Kara purchased 19,000 phentermine 37.5mg tablets and 10,000 phendimetrazine 35mg tablets. During the stated six (6) month time frame, Dr. Mahmud Kara could legally personally furnish only 15,000 tablets of controlled substances, however he purchased nearly double that amount.
3. Records document 2,066 tablets of phentermine 37.5mg and 2,164 tablets of phendimetrazine 35mg personally furnished in a thirty-day period between January 4, 2017 through February 1, 2017 for a total of 4,230 unit doses dispensed, far exceeding the allowed amount, as set forth in Exhibit A attached hereto and incorporated as though fully set forth herein. During that time period, Dr. Mahmud Kara personally furnished drugs 191 times, each time in excess of the 72-hour supply.
4. Records document 2,481 tablets of phentermine 37.5mg and 2,621 tablets of phendimetrazine 35mg personally furnished in a thirty-day period between February 6, 2017 through March 7, 2017 for a total of 5,102 unit doses dispensed, more than double the allowed amount, as set forth in Exhibit A attached hereto and incorporated as though fully set forth herein. During that time period, Dr. Mahmud Kara personally furnished drugs 243 times, each time in excess of the 72-hour supply.
5. Records document 2,489 tablets of phentermine 37.5mg and 2,623 tablets of phendimetrazine 35mg personally furnished in a thirty-day period between March 8, 2017 through April 5, 2017 for a total of 5,112 unit doses dispensed, more than double the allowed amount, as set forth in Exhibit A attached hereto and incorporated as though fully set forth herein. During that time period, Dr. Mahmud Kara personally furnished drugs 232 times in excess of the 72-hour supply.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of section 4729.291(C) of the ORC, drugs personally furnished by a prescriber:
 - a. Controlled substances personally furnished by a prescriber in a thirty-day period cannot exceed a total of two thousand five hundred unit doses, ORC Section 4729.291(C)(1)(a); and
 - b. In any seventy-two-hour period, prescribers cannot personally furnish to or for a patient an amount of controlled substance that exceeds the amount necessary for the patient's use in a seventy-two-hour period, ORC Section 4729.291(C)(1)(b).

DECISION OF THE BOARD

Pursuant to Section 4729.56 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$50,000.00. \$35,000.00 of this fine shall be stayed upon condition Dr. Mahmud Kara provides proof of the surrender of his medical license, the conclusion of the related criminal matter, case no. 2018-04-1378 in the Court of Common Plea, County of Summit, Ohio, and the successful completion of the terms of sentencing. \$15,000.00 shall be paid no later than one year from the date of this order. The remaining balance of \$35,000.00 will be due immediately if Dr. Mahmud Kara does not meet the prior conditions of this Order. Payment must be made by means of a personal check made payable to "State of Ohio Board of Pharmacy," and mailed with a copy of this Agreement to, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

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: 4, 5, and 6.

Kilee S. Yarosh moved for Findings of Fact; Donald R. Miller seconded the motion. Motion passed (Aye-7/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Donald R. Miller seconded the motion. Motion passed (Aye-7/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Donald R. Miller seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

- 11:02 a.m.** The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the Matters of **Ziks Family Pharmacy, Inc. # 100 (Case Numbers A-2018-0047, A-2018-0048, A-2018-0049, A-2018-0050, A-2019-0359), Dayton, Ohio and Nnodum Iheme (Case Numbers A-2018-0047, A-2018-0049, A-2018-0048, A-2018-0050, and A-2019-0359), Dayton, Ohio.** Mr. Cox was absent for these matters.
- R-2020-0353** Ms. Rudell moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes; Yarosh-yes.
- 2:12 p.m.** The recess ended and the hearing was opened to the public.
- R-2020-0354** After votes were taken in public session, the Board adopted the following order in the matter of **Ziks Family Pharmacy, Inc. # 100 (Case No. A-2018-0047), Dayton, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2018-0047)

In The Matter Of:

Ziks Family Pharmacy, Inc. #100

1130 West Third Street

Dayton, OH 45402

(License No. 02-2055300)

INTRODUCTION

The Matter of Ziks Family Pharmacy, Inc. #100 came for hearing on February 3, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Ziks Family Pharmacy, Inc. #100 was present by and through its owner, Nnodum Iheme, but had not requested a hearing and was not represented by counsel as required by *Bd. of Edn of*

Worthington v. Bd. of Revisions, 85 Ohio St.3d 156, 160 (1999); *Harvey v. Austinburg Dev. Corp.*, 11th Dist. Ashtabula No. 2006-A-0044, 2007-Ohio-3025, at ¶ 4-5; *K & Y Corp. v. Ohio State Liquor Control Comm.*, 10th Dist. Franklin No. 01AP-219, 2001 Ohio App. LEXIS 3591, at *4 (Aug.16, 2001); *Sheridan Mobile Village, Inc. v. Larson*, 78 Ohio App.3d 203, 205 (4th Dist.1992). The State of Ohio was represented by Henry Appel, Assistant Attorney General. As an initial matter, the Board declined to grant Nnodum Iheme's continuance request on behalf of Ziks Family Pharmacy, Inc. #100, as no hearing had been requested and the State indicated it would call Nnodum Iheme as a witness to afford an opportunity for information to be presented to the Board regarding the allegations.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kelly Monce—State of Ohio Board of Pharmacy Agent
2. Nnodum Iheme—Owner, Ziks Family Pharmacy, Inc. #100

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|--|------------|
| 1a. Notice Letter (Iheme, Cases No. A-2018-0047) | 09.04.2019 |
| 1b. Notice Letter (Iheme, Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 1c. Notice Letter (Ziks Case No. A-2018-0047) | 09.04.2019 |
| 1d. Notice letter (Ziks Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 2. Inspection Report 2016-08-16 | 08.16.2016 |
| 3. Response to Inspection Report 2016-08-16 | 08.16.2016 |
| 4. Inspection Report 2017-02-23 | 02.23.2017 |
| 5. Response to Inspection Report 2017-02-23 | 02.23.2017 |
| 6. Inspection Repot 2017-11-14 | 11.14.2017 |
| 7. Response to Inspection Report 2017-11-14 | 11.14.2017 |
| 8. Inspection Report 2018-01-29 | 01.29.2018 |
| 9. Response to Inspection Report 2018-01-29 | 01.29.2018 |
| 10. Inspection Report 2018-06-28 | 06.28.2018 |

11. Response to Inspection Report 2018-06-28	06.28.2018
12. Inspection Report 2019-12-11	12.11.2019
13. Response to Inspection Report 2019-12-11	12.11.2019
14. Violation 2a – CII Rx Fill Log	01.20.2017
15. Violation 2a – DUR Screen	Various
16. Violation 2a – RX for Methadone	12.02.2016
17. Violation 2a – Patient Profile	02.23.2017
18. Violation 2a – Perpetual Inventory, Methadone 10 mg	Various
19. Violation 2a – Statement for Respondent	02.23.2017
20. Violation 4a – Prescription	11.02.2017
21. Violation 4a – Prescription Label	11.30.2017
22. Violation 4a – Prescription Log	11.30.2017
23. Violation 4a – Patient Profile	01.29.2018
24. Violation 4a – Statement of Respondent	01.29.2018
25. Violation 4a – Photos of Pharmacy	No Date
26. Audit of Ziks Pharmacy	No Date
27. Perpetual Inventory – Oxycodone 30 mg	Various
28. Perpetual Inventory – Amphetamine Salt 20 mg	Various
29. Perpetual Inventory – Amphetamine Sault 30 mg	Various
30. Perpetual Inventory – Dexmethylphenidate ER 30 mg	Various
31. Perpetual Inventory – Oxycodone 5 mg	Various
32. DEA Annual Survey Inventory Provided on 2017-11-14	11.14.2017
33. DEA Annual Survey Inventory Provided on 2018-01-28	01.28.2018

Respondent's Exhibits:

A. None

FINDINGS OF FACT

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

1. Between on or about March 2016 through December 2017, Ziks Pharmacy located at 1130 West Third Street, Dayton, Ohio, dispensed patient specific dangerous drugs to Clearing Paths Therapeutic Services on 39 occasions, as set forth in Attachment A, attached hereto and incorporated as though fully referenced herein. Clearing Paths Therapeutic, which offers its services as a “pick-up station” for the purposes of having prescriptions delivered, was not licensed with the Ohio Board of Pharmacy at the time of the deliveries.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of section 4729.51(G) of the ORC, selling, purchasing, distributing, or delivering dangerous or investigational drugs.
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3).
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-10(B) of the OAC, No pharmacist shall dispense dangerous drugs to a place which offers its services as a “pick-up station” or intermediary for the purpose of having prescriptions filled or delivered unless such place is a pharmacy...or, if not a pharmacy, all of the following apply: The site is licensed as a terminal distributor of dangerous drugs pursuant to Chapter 4729. of the Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, Ziks Family Pharmacy, Inc. #100 must hire a consultant pharmacist who is not a current or former employee of Ziks Family Pharmacy and is not a family member of Ziks Family Pharmacy's current owner. The consultant pharmacist must submit an initial report to the Board, within 60 days of the date of this Board Order, indicating how Ziks Family Pharmacy, Inc. #100 has remedied all violations in the Notice of Opportunity for Hearing dated September 4, 2019, and is in compliance with Pharmacy Board rules and regulations as well as is in compliance with any recommendations made by the consultant pharmacist.

Ziks Family Pharmacy, Inc. #100 is subject to a minimum two-year probationary period to run concurrent with the probationary period ordered on Case Nos. A-2018-0048, A-2018-0049, A-2018-0050, A-2019-0359. During the probationary period, the following terms and conditions apply:

- a. The consultant pharmacist, after submitting the initial report to the Board, will submit every six months thereafter semi-annual reports to the Board for the remainder of the probationary term. Ziks Family Pharmacy, Inc. #100 will be required to comply with any and all recommendations identified in the consultant pharmacist's reports. Reports must be emailed to legal@pharmacy.ohio.gov. The reports must include at a minimum:
 - i. Confirmation of Ziks Family Pharmacy, Inc. #100's compliance with: Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the rules adopted thereunder, and Chapter 4729 of the Ohio Administrative Code.
- b. Ziks Family Pharmacy, Inc. #100 must submit a Change of Responsible Person form to the Board within ten days of the mailing of this notice. Nnodum Iheme shall not serve as Responsible Person for Ziks Family Pharmacy, Inc. #100 during the term of Nnodum Iheme and/or Ziks Family Pharmacy, Inc. #100's probation.
- c. Any current and/or subsequent Responsible Person must attend a Board-sponsored "Responsible Person Roundtable", each year during the term of Ziks Family Pharmacy, Inc. #100's probation, and provide proof of completion to the Board within 30 days of attendance.

Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$2,500.00. One fine of \$2,500.00 is imposed on Ziks Family Pharmacy, #100 for Case Nos. A-2018-0047 and A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359. This fine will be attached to your license record and must be paid no later than 90 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

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: 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, and 31.

Megan E. Marchal moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Action of the Board Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

R-2020-0355 After votes were taken in public session, the Board adopted the following order in the matter of **Ziks Family Pharmacy, Inc. # 100 (Case Numbers A-2018-0048, A-2018-0049, A-2018-0050, A-2019-0359), Dayton, Ohio**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359)

In The Matter Of:

Ziks Family Pharmacy, Inc. #100

c/o Nnodum Iheme, RPh
1130 West Third Street
Dayton, OH 45402
(License No. 02-2055300)

INTRODUCTION

The Matter of Ziks Family Pharmacy, Inc. #100 came for hearing on February 3, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Ziks Family Pharmacy, Inc. #100 was present by and through its owner, Nnodum Iheme, but had not requested a hearing and was not represented by counsel as required by *Bd. of Edn of Worthington v. Bd. of Revisions*, 85 Ohio St.3d 156, 160 (1999); *Harvey v. Austinburg Dev. Corp.*, 11th Dist. Ashtabula No. 2006-A-0044, 2007-Ohio-3025, at ¶ 4-5; *K & Y Corp. v. Ohio State Liquor Control Comm.*, 10th Dist. Franklin No. 01AP-219, 2001 Ohio App. LEXIS 3591, at *4 (Aug.16, 2001); *Sheridan Mobile Village, Inc. v. Larson*, 78 Ohio App.3d 203, 205 (4th Dist.1992). The State of Ohio was represented by Henry Appel, Assistant Attorney General. As an initial matter, the Board declined to grant Nnodum Iheme's continuance request on behalf of Ziks Family Pharmacy, Inc. #100, as no hearing had been requested and the State indicated it would call Nnodum Iheme as a witness to afford an opportunity for information to be presented to the Board regarding the allegations.

SUMMARY OF EVIDENCEState's Witnesses:

1. Kelly Monce—State of Ohio Board of Pharmacy Agent
2. Nnodum Iheme—Owner, Ziks Family Pharmacy, Inc. #100

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|--|------------|
| 1a. Notice Letter (Iheme, Cases No. A-2018-0047) | 09.04.2019 |
| 1b. Notice Letter (Iheme, Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 1c. Notice Letter (Ziks Case No. A-2018-0047) | 09.04.2019 |
| 1d. Notice letter (Ziks Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 2. Inspection Report 2016-08-16 | 08.16.2016 |
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| 5. Response to Inspection Report 2017-02-23 | 02.23.2017 |
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| 11. Response to Inspection Report 2018-06-28 | 06.28.2018 |
| 12. Inspection Report 2019-12-11 | 12.11.2019 |
| 13. Response to Inspection Report 2019-12-11 | 12.11.2019 |
| 14. Violation 2a – CII Rx Fill Log | 01.20.2017 |
| 15. Violation 2a – DUR Screen | Various |
| 16. Violation 2a – RX for Methadone | 12.02.2016 |
| 17. Violation 2a – Patient Profile | 02.23.2017 |
| 18. Violation 2a – Perpetual Inventory, Methadone 10 mg | Various |
| 19. Violation 2a – Statement for Respondent | 02.23.2017 |
| 20. Violation 4a – Prescription | 11.02.2017 |

21. Violation 4a – Prescription Label	11.30.2017
22. Violation 4a – Prescription Log	11.30.2017
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29. Perpetual Inventory – Amphetamine Sault 30 mg	Various
30. Perpetual Inventory – Dexmethylphenidate ER 30 mg	Various
31. Perpetual Inventory – Oxycodone 5 mg	Various
32. DEA Annual Survey Inventory Provided on 2017-11-14	11.14.2017
33. DEA Annual Survey Inventory Provided on 2018-01-28	01.28.2018

Respondent's Exhibits:

A. None

FINDINGS OF FACT

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

1. On or about August 16, 2016, agents of the Board conducted a routine inspection at Ziks Family Pharmacy, Inc. #100 (Ziks) located at 1130 West Third Street, Dayton, Ohio. As a result of the inspection, numerous warnings were issued and written responses were required. The inspection identified the following violations:
 - a. No Positive ID for dispensing.
 - i. Prescriptions were not signed and dated by the pharmacist.
 - ii. The pharmacy was unable to provide end of day reports, which were used by the pharmacy to provide Positive ID for the act of dispensing prescription refills.
 - b. No Positive ID for patient counseling. Acceptance or refusal of counseling was recorded in the computer system, but there was no record of counseling when it was performed.
 - c. Employees were not wearing name tags.

- d. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - i. No DEA annual inventory had been conducted.
 - ii. The perpetual inventory was not accurately maintained or utilized.
 - iii. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule II controlled substances orders were received as required.
 - e. Records and invoices pertaining to the pharmacy's drug stock were not available for review at the time of the inspections.
 - f. Pharmacy technicians did not meet the minimum standards.
 - i. Pharmacy technicians had not taken an approved pharmacy technician examination.
 - ii. FBI/BCI Background checks were not conducted for all technicians working in the pharmacy.
2. On or about February 23, 2017, agents of the Board conducted an inspection at Ziks Family Pharmacy. The inspection identified the following violations:
- a. Inaccurate dispensing records.
 - i. Records for partial fills were inaccurate.
 - ii. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and "owed" to the patient.
 - iii. On or about February 2, 2017, there was an error in dispensing due to the pharmacy not keeping an accurate record of dispensing. Nnodum Ihome, RPh dispensed prescription #2018629. Prescription #2018629 was written for 540 tablets of Methadone 10 mg; however, the patient was given a partial prescription fill of 370 tablets of Methadone 10 mg. On or about February 23, 2017, Agents of the Board identified the error in dispensing was due to a failure to properly document the partial refill in the pharmacy's electronic dispensing records. Ziks pharmacy recorded the partial prescription fill as a full fill, printed an extra prescription label, and attached a handwritten note stating they "owed" the patient the remaining 170 pills. The patient profile reflected that 540 tablets were dispensed during the first fill and did not reflect that a second partial fill was dispensed at any time.
 - b. No DUR was documented for the second fill of prescriptions.
 - c. No Positive ID for dispensing was occurring.
 - i. Pharmacists were not signing and dating hard copy prescriptions.
 - ii. No Positive ID was documented for the second fill of a partially filled prescription.

3. On or about November 14, 2017, agents of the Board conducted an inspection at Ziks Family Pharmacy. The inspection identified the following violations:
 - a. Inaccurate dispensing records.
 - i. Partial prescription fills were not accurately documented.
 - ii. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and “owed” to the patient.
 - b. No Positive ID for patient counseling. Acceptance or refusal of counseling was recorded in the computer system, but there was no record of counseling when it was performed.
 - c. Employees were not wearing name tags.
 - d. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - i. The perpetual inventory was inaccurate.
 - i. Drug losses and shortages in the perpetual inventory were neither identified nor reported by pharmacy staff.
 - ii. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule III controlled substance orders were received as required.
 - e. No positive ID for immunizations.
 - f. Refrigerator temperature log was not maintained and had not been checked for 11 days at the time of inspection.
 - g. Old medication containers were reused to fill new prescriptions.
 - h. Expired medications were mixed in with the drug stock, including expired Tdap Vaccine. The expiration and lot number were removed from itraconazole stock bottles.
 - i. Prescription files were not being kept in good order or filed in a timely manner.
 - j. There was no record of State of Ohio Board of Pharmacy approved immunization administration course completion.
 - k. Pharmacy staff was not checking pseudoephedrine sales against the online database.
 - l. Patient information was thrown away in a regular trash bin which was disposed of in an unlocked garbage dumpster.

- m. Records of accountability were stored in the basement and technicians had the key to the storage area.
 - n. Pharmacy staff was taking patient-specific medications back from patients for destruction without a license to do so.
4. On or about January 29, 2018, agents of the Board conducted an inspection of Ziks Family Pharmacy. The inspection identified the following violations:
- a. Inaccurate dispensing records:
 - i. Records for partial fills were inaccurate.
 - ii. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and “owed” to the patient.
 - iii. On or about November 30, 2017, there was an error in dispensing due to the pharmacy not keeping accurate records. Nnodum Iheme, RPh dispensed prescription #4022554. Prescription #4022554 was written for 90 tablets of carisoprodol 350mg; however, the bottle dispensed to the patient contained 60 tablets. The label for prescription #4022554 indicated the bottle contained 90 tablets. After several requests, the patient was eventually delivered the remaining 30 tablets of carisoprodol. On or about January 29, 2018 agents of the Board identified:
 - 1. No dispensing record was created for the additional 30 tablets of carisoprodol that were later delivered.
 - 2. The perpetual inventory did not accurately reflect the dispensing of the additional 30 pills.
 - b. No Positive ID was occurring for patient counseling.
 - c. Employees were not wearing name tags.
 - d. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - i. There were unreported drug losses including Schedule II controlled substances.
 - ii. On or about January 22, 2018, Nnodum Iheme, RPh, was made aware that at least 8 tablets of dexmethylphenidate 30 mg ER, a Schedule II controlled substance, were missing from the pharmacy. Nnodum Iheme, RPh had knowledge that the tablets were stolen, however, he failed to report the missing tablets to the Board or the DEA.
 - iii. The DEA Annual Inventory was not properly conducted. The inventory had a computerized date of 1/1/2017 and also a handwritten date of 2/2/17. There was an additional inventory with a computerized date of 1/1/2017 and a handwritten date of 12/31/16. Both inventories were identical, other than the different dates.
 - iv. The perpetual inventory was not accurately maintained or utilized. Agents of the Board conducted on-hand counts of thirteen drugs on November 14, 2017 and

- January 29, 2018. The counts, along with Cardinal Health records and Ohio Automated Rx Reporting System (OARRS) dispensing data, were used to complete an audit. Twelve of the thirteen drugs showed either a shortage or a surplus.
- v. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule II controlled substance orders were received as required.
- e. Records of accountability were stored in the basement and technicians had the key to the storage area.
 - f. Patient prescription files were not kept in good order or filed in a timely manner.
 - g. Patient information was thrown away in a regular trash bin which was disposed of in an unlocked garbage dumpster.
 - h. Drugs were comingled; medication bottles were found to contain more pills than the intended quantity of the bottle. For example, there were 30 extra tablets found in a methadone bottle.
5. On or about June 20, 2018, agents of the Board conducted an inspection of Ziks Family Pharmacy. The inspection identified the following violations:
- a. Old medication containers were reused to fill new prescriptions.
 - b. Approximately fourteen expired medications dating back to December 2016, were found mixed in with the drug stock.
 - c. The Annual DEA inventory still had not been completed.
 - d. The Responsible Person and owner, Nnodum Iheme, RPh, was unable to log into the OARRS system and was logging into the OARRS system under the name of Brenda Screws, RPh account instead.
 - e. Food was stored in the same refrigerator as the drugs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of section 4729.55(D) of the ORC, adequate safeguards are assured to carry on the business of a TDDD in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner.

2. Such conduct as set forth in paragraph 4(d) of the Findings of Fact Section constitutes a violation of section 2921.22 (A)(1) of the ORC, failure to report a crime, a misdemeanor of the fourth degree.
3. Such conduct as set forth in the paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and
 - c. Except as provided in 4729.89, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, ORC Section 4729.57(A)(4); and
 - d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, ORC Section 4729.57(A)(5); and
 - e. Ceasing to satisfy the qualifications of a TDDD set forth in 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).
4. Such conduct as set forth in paragraphs 1(d), 1(e), 2(a), 2(c), 3(a), 3(b), 3(d), 3 4(a), 4(b), and 4(d) of the Findings of Fact Section each constitutes a violation of the following Section of Rule 4729-9-14 of the OAC, Records of controlled substances:
 - a. Each TDDD shall keep a record of all controlled substances received, administered, personally furnished, dispensed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a controlled substance must be documented with the positive identification of the responsible individual pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code. These records may be kept electronically if the method is approved by the board and the records are backed-up each business day.
 - i. Records of receipt shall contain a description of all controlled substances received, the kind and quantity of controlled substances received, the name and address of the persons from whom received, and the date of receipt, OAC Rule 4729-9-14(A)(1); and
 - ii. Records of administering, dispensing, personally furnishing or using controlled substances shall contain a description of the kind and quantity of the controlled substance administered, dispensed, personally furnished or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the controlled substance was administered, dispensed, or used, OAC Rule 4729-9-14(A)(2).

5. Such conduct as set forth in paragraphs 2(a), 3(a), and 4(a) of the Findings of Fact Section each constitutes a violation of the following Rules 4729-9-22(B) of the OAC, records of administering, dispensing, personally furnishing, or using dangerous drugs shall contain a description of the kind and quantity of the dangerous drugs administered, dispensed, sold, or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the dangerous drug was administered, dispensed, or used.
6. Such conduct as set forth in paragraphs 1(d), 1(e), 3(d), and 4(d) of the Findings of Fact Section each constitutes a violation of the following section of Rule 4729-9-22(A) of the OAC, records of receipt shall contain a description of all dangerous drugs received, the kind and quantity of dangerous drugs received, the name and address of the persons from whom received, and the date of receipt.
7. Such conduct as set forth in paragraphs 1(a), 1(b), 2(a), 2(c), 3(b), 3(e), 4(a)(iii), 4(b) of the Findings of Fact Section each constituted a violation of the following section of Rule 4729-5-27(A) of the OAC, there must be positive identification of the pharmacist or pharmacists responsible for performing all activities relating to the practice of pharmacy.
8. Such conduct as set forth in paragraph 2(a) and 4(a) of the Findings of Fact Section constitutes a violation of OAC Rule 4729-5-27(M)(1) through (M)(3), a log must be maintained of all changes made to a prescription record after the prescription has been dispensed. Such log may be accessible to the pharmacist for review, but shall be protected from being altered in any way.
9. Such conduct as set forth in paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729.55 of the ORC:
 - a. A pharmacist will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and
 - b. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C).
10. Such conduct as set forth in paragraphs 3(d), and 4(d) of the Findings of Fact Section constitutes a violation of Rule 4729-9-15(A) of the OAC, as effective April 28, 2016, Each...TDDD...shall notify the [state board of pharmacy, by telephone immediately upon discovery of the theft or significant loss; if a controlled substance, the DEA; law enforcement authorities] upon discovery of the theft or significant loss of any dangerous drug or controlled substance.

11. Such conduct as set forth in paragraph 1(d), 4(d), and 5(c) of the Findings of Fact Section constitutes a violation of Rule 4729-9-14(B)(4) of the OAC, Each...TDDD shall maintain an inventory of all controlled substances as follows...each TDDD shall take a new inventory of all stocks of controlled substances on hand every year following the date on which the initial inventory is taken.
12. Such conduct as set forth in paragraphs 3(g), 3(f), 3(m), 4(e), and 5(a), 5(e) of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729-9-02 of the OAC, minimum standards for a pharmacy.
 - a. The stock of prescription containers shall include such containers as are necessary to dispense drugs in accordance with federal and state laws, OAC Rule 4729-9-02(D); and
 - b. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the USP/NF and/or the manufacturer's or distributors labeling unless otherwise indicated by the board OAC Rule 4729-9-02(E)(1).
13. Such conduct as set forth in paragraphs 3(h) and 5(b) of the Findings of Fact Section each constitutes a violation of Rule 4729-9-17(A) of the OAC, as effective March 1, 2017, Adulterated drugs must be stored in a separate and secure area apart from the storage of drugs used for dispensing...and shall be stored no longer than one year from the date of expiration by those holding a TDDD.
14. Such conduct as set forth in paragraph 5(d) of the Findings of Fact Section constitutes a violation of section 4729.86(A)(1) of the ORC, No person....shall disseminate or otherwise provide another person access to the information that the person receives from the database.
15. Such conduct as set forth in paragraphs 3(i) and 4(f) of the Findings of Fact Section each constitutes a violation of Rule 4729-5-09 of the OAC, prescription filling.
16. Such conduct as set forth in 4(h) of the Findings of Fact Section constitutes a violation of section 3715.52(A)(2) of the ORC, the adulteration or misbranding of any food, drug, device or cosmetic.
17. Such conduct as set forth in paragraphs 1, 2, 3, 4 and 5 of the Findings of Fact Section each constitutes a violation of Rules 4729-9-19(A)(4) and (B)(3)(f) of the OAC, not of good habits.

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, Ziks Family Pharmacy, Inc. #100 must hire a consultant pharmacist who is not a current or former employee of Ziks Family Pharmacy and is not a family member of Ziks Family Pharmacy's current owner. The consultant pharmacist must submit an initial report to the Board, within 60

days of the date of this Board Order, indicating how Ziks Family Pharmacy, Inc. #100 has remedied all violations in the Notice of Opportunity for Hearing dated September 4, 2019, and is in compliance with Pharmacy Board rules and regulations as well as is in compliance with any recommendations made by the consultant pharmacist.

Ziks Family Pharmacy, Inc. #100 is subject to a minimum two-year probationary period beginning the effective date of this Order and to run concurrent with the probationary period ordered on Case No. A-2018-0047. During the probationary period, the following terms and conditions apply:

- a. The consultant pharmacist, after submitting the initial report to the Board, will submit every six months thereafter semi-annual reports to the Board for the remainder of the probationary term. Ziks Family Pharmacy, Inc. #100 will be required to comply with any and all recommendations identified in the consultant pharmacist's reports. Reports must be emailed to legal@pharmacy.ohio.gov. The reports must include at a minimum:
 - i. Confirmation of Ziks Family Pharmacy, Inc. #100's compliance with: Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the rules adopted thereunder, and Chapter 4729 of the Ohio Administrative Code.
- b. Ziks Family Pharmacy, Inc. #100 must submit a Change of Responsible Person form to the Board within ten days of the mailing of this notice. Nnodum Iheme shall not serve as Responsible Person for Ziks Family Pharmacy, Inc. #100 during the term of Nnodum Iheme and/or Ziks Family Pharmacy, Inc. #100's probation.
- c. Any current and/or subsequent Responsible Person must attend a Board-sponsored "Responsible Person Roundtable", each year during the term of Ziks Family Pharmacy, Inc. #100's probation, and provide proof of completion to the Board within 30 days of attendance.

Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$2,500.00. One fine of \$2,500.00 is imposed on Ziks Family Pharmacy, #100 for Case Nos. A-2018-0047 and A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359. This fine will be attached to your license record and must be paid no later than 90 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

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: 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, and 31.

Fred M. Weaver moved for Findings of Fact; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

Fred M. Weaver moved for Conclusions of Law; Donald R. Miller seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

R-2020-0356 After votes were taken in public session, the Board adopted the following order in the matter of **Nnodum Iheme (Case No. A-2018-0049, A-2018-0048, A-2018-0050, and A-2019-0359), Dayton, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2018-0049, A-2018-0048, A-2018-0050, and A-2019-0359)

In The Matter Of:

Nnodum Iheme, RPh
1130 West Third St.
Dayton, OH 45402
Montgomery County
(License No. 03-219692)

INTRODUCTION

The Matter of Nnodum Iheme came for hearing on February 3, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Nnodum Iheme was present, was not represented by counsel, and had not timely requested a hearing. The State of Ohio was represented by Henry Appel, Assistant Attorney General. As an initial matter, the Board declined to grant Nnodum Iheme's continuance request, as the Notice of Opportunity for Hearing had been properly served and no hearing had been requested. The State indicated it would call Nnodum Iheme as a witness to afford an opportunity for information to be presented to the Board regarding the allegations

SUMMARY OF EVIDENCEState's Witnesses:

1. Kelly Monce—State of Ohio Board of Pharmacy Agent
2. Nnodum Iheme—Owner, Ziks Family Pharmacy, Inc. #100

Respondent's Witnesses:

1. None

State's Exhibits:

- | | | |
|-----|--|------------|
| 1a. | Notice Letter (Iheme, Cases No. A-2018-0047) | 09.04.2019 |
| 1b. | Notice Letter (Iheme, Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 1c. | Notice Letter (Ziks Case No. A-2018-0047) | 09.04.2019 |
| 1d. | Notice letter (Ziks Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 2. | Inspection Report 2016-08-16 | 08.16.2016 |
| 3. | Response to Inspection Report 2016-08-16 | 08.16.2016 |
| 4. | Inspection Report 2017-02-23 | 02.23.2017 |
| 5. | Response to Inspection Report 2017-02-23 | 02.23.2017 |
| 6. | Inspection Report 2017-11-14 | 11.14.2017 |
| 7. | Response to Inspection Report 2017-11-14 | 11.14.2017 |
| 8. | Inspection Report 2018-01-29 | 01.29.2018 |
| 9. | Response to Inspection Report 2018-01-29 | 01.29.2018 |
| 10. | Inspection Report 2018-06-28 | 06.28.2018 |
| 11. | Response to Inspection Report 2018-06-28 | 06.28.2018 |
| 12. | Inspection Report 2019-12-11 | 12.11.2019 |
| 13. | Response to Inspection Report 2019-12-11 | 12.11.2019 |
| 14. | Violation 2a – CII Rx Fill Log | 01.20.2017 |
| 15. | Violation 2a – DUR Screen | Various |
| 16. | Violation 2a – RX for Methadone | 12.02.2016 |
| 17. | Violation 2a – Patient Profile | 02.23.2017 |
| 18. | Violation 2a – Perpetual Inventory, Methadone 10 mg | Various |
| 19. | Violation 2a – Statement for Respondent | 02.23.2017 |
| 20. | Violation 4a – Prescription | 11.02.2017 |

21. Violation 4a – Prescription Label	11.30.2017
22. Violation 4a – Prescription Log	11.30.2017
23. Violation 4a – Patient Profile	01.29.2018
24. Violation 4a – Statement of Respondent	01.29.2018
25. Violation 4a – Photos of Pharmacy	No Date
26. Audit of Ziks Pharmacy	No Date
27. Perpetual Inventory – Oxycodone 30 mg	Various
28. Perpetual Inventory – Amphetamine Salt 20 mg	Various
29. Perpetual Inventory – Amphetamine Sault 30 mg	Various
30. Perpetual Inventory – Dexmethylphenidate ER 30 mg	Various
31. Perpetual Inventory – Oxycodone 5 mg	Various
32. DEA Annual Survey Inventory Provided on 2017-11-14	11.14.2017
33. DEA Annual Survey Inventory Provided on 2018-01-28	01.28.2018

Respondent's Exhibits:

A. None

FINDINGS OF FACT

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

1. On or about August 16, 2016, agents of the Board conducted a routine inspection at Ziks Family Pharmacy, Inc. #100 (Ziks) located at 1130 West Third Street, Dayton, Ohio. As a result of the inspection, numerous warnings were issued and written responses were required. The inspection identified the following violations:
 - a. No Positive ID for dispensing.
 - iii. Prescriptions were not signed and dated by the pharmacist.
 - iv. The pharmacy was unable to provide end of day reports, which were used by the pharmacy to provide Positive ID for the act of dispensing prescription refills.
 - b. No Positive ID for patient counseling. Acceptance or refusal of counseling was recorded in the computer system, but there was no record of counseling when it was performed.
 - c. Employees were not wearing name tags.

- d. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - iv. No DEA annual inventory had been conducted.
 - v. The perpetual inventory was not accurately maintained or utilized.
 - vi. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule II controlled substances orders were received as required.
 - e. Records and invoices pertaining to the pharmacy's drug stock were not available for review at the time of the inspections.
 - f. Pharmacy technicians did not meet the minimum standards.
 - iii. Pharmacy technicians had not taken an approved pharmacy technician examination.
 - iv. FBI/BCI Background checks were not conducted for all technicians working in the pharmacy.
2. On or about February 23, 2017, agents of the Board conducted an inspection at Ziks Family Pharmacy. The inspection identified the following violations:
- a. Inaccurate dispensing records.
 - i. Records for partial fills were inaccurate.
 - ii. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and "owed" to the patient.
 - iii. On or about February 2, 2017, there was an error in dispensing due to the pharmacy not keeping an accurate record of dispensing. Nnodum Ihome, RPh dispensed prescription #2018629. Prescription #2018629 was written for 540 tablets of Methadone 10 mg; however, the patient was given a partial prescription fill of 370 tablets of Methadone 10 mg. On or about February 23, 2017, Agents of the Board identified the error in dispensing was due to a failure to properly document the partial refill in the pharmacy's electronic dispensing records. Ziks pharmacy recorded the partial prescription fill as a full fill, printed an extra prescription label, and attached a handwritten note stating they "owed" the patient the remaining 170 pills. The patient profile reflected that 540 tablets were dispensed during the first fill and did not reflect that a second partial fill was dispensed at any time.
 - b. No DUR was documented for the second fill of prescriptions.
 - c. No Positive ID for dispensing was occurring.
 - iii. Pharmacists were not signing and dating hard copy prescriptions.
 - iv. No Positive ID was documented for the second fill of a partially filled prescription.

3. On or about November 14, 2017, agents of the Board conducted an inspection at Ziks Family Pharmacy. The inspection identified the following violations:
 - o. Inaccurate dispensing records.
 - i. Partial prescription fills were not accurately documented.
 - ii. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and “owed” to the patient.
 - p. No Positive ID for patient counseling. Acceptance or refusal of counseling was recorded in the computer system, but there was no record of counseling when it was performed.
 - q. Employees were not wearing name tags.
 - r. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - i. The perpetual inventory was inaccurate.
 - ii. Drug losses and shortages in the perpetual inventory were neither identified nor reported by pharmacy staff.
 - ii. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule III controlled substance orders were received as required.
 - s. No positive ID for immunizations.
 - t. Refrigerator temperature log was not maintained and had not been checked for 11 days at the time of inspection.
 - u. Old medication containers were reused to fill new prescriptions.
 - v. Expired medications were mixed in with the drug stock, including expired Tdap Vaccine. The expiration and lot number were removed from itraconazole stock bottles.
 - w. Prescription files were not being kept in good order or filed in a timely manner.
 - x. There was no record of State of Ohio Board of Pharmacy approved immunization administration course completion.
 - y. Pharmacy staff was not checking pseudoephedrine sales against the online database.
 - z. Patient information was thrown away in a regular trash bin which was disposed of in an unlocked garbage dumpster.

- aa. Records of accountability were stored in the basement and technicians had the key to the storage area.
 - bb. Pharmacy staff was taking patient-specific medications back from patients for destruction without a license to do so.
4. On or about January 29, 2018, agents of the Board conducted an inspection of Ziks Family Pharmacy. The inspection identified the following violations:
- a. Inaccurate dispensing records:
 - iv. Records for partial fills were inaccurate.
 - v. Prescriptions were recorded electronically as a complete fill but were still on order to the pharmacy and “owed” to the patient.
 - vi. On or about November 30, 2017, there was an error in dispensing due to the pharmacy not keeping accurate records. Nnodum Iheme, RPh dispensed prescription #4022554. Prescription #4022554 was written for 90 tablets of carisoprodol 350mg; however, the bottle dispensed to the patient contained 60 tablets. The label for prescription #4022554 indicated the bottle contained 90 tablets. After several requests, the patient was eventually delivered the remaining 30 tablets of carisoprodol. On or about January 29, 2018 agents of the Board identified:
 - 1. No dispensing record was created for the additional 30 tablets of carisoprodol that were later delivered.
 - 2. The perpetual inventory did not accurately reflect the dispensing of the additional 30 pills.
 - b. No Positive ID was occurring for patient counseling.
 - c. Employees were not wearing name tags.
 - d. Security of the pharmacy drug stock was not adequate to detect and deter drug theft and diversion.
 - vi. There were unreported drug losses including Schedule II controlled substances.
 - vii. On or about January 22, 2018, Nnodum Iheme, RPh, was made aware that at least 8 tablets of dexmethylphenidate 30 mg ER, a Schedule II controlled substance, were missing from the pharmacy. Nnodum Iheme, RPh had knowledge that the tablets were stolen, however, he failed to report the missing tablets to the Board or the DEA.
 - viii. The DEA Annual Inventory was not properly conducted. The inventory had a computerized date of 1/1/2017 and also a handwritten date of 2/2/17. There was an additional inventory with a computerized date of 1/1/2017 and a handwritten date of 12/31/16. Both inventories were identical, other than the different dates.
 - ix. The perpetual inventory was not accurately maintained or utilized. Agents of the Board conducted on-hand counts of thirteen drugs on November 14, 2017 and

- January 29, 2018. The counts, along with Cardinal Health records and Ohio Automated Rx Reporting System (OARRS) dispensing data, were used to complete an audit. Twelve of the thirteen drugs showed either a shortage or a surplus.
- x. There was no record of receipt electronically linked to the original Controlled Substance Ordering System (CSOS) orders for Schedule II controlled substances. Only approximately 5% of all Schedule II controlled substance orders were received as required.
- e. Records of accountability were stored in the basement and technicians had the key to the storage area.
 - f. Patient prescription files were not kept in good order or filed in a timely manner.
 - g. Patient information was thrown away in a regular trash bin which was disposed of in an unlocked garbage dumpster.
 - h. Drugs were comingled; medication bottles were found to contain more pills than the intended quantity of the bottle. For example, there were 30 extra tablets found in a methadone bottle.
5. On or about June 20, 2018, agents of the Board conducted an inspection of Ziks Family Pharmacy. The inspection identified the following violations:
- a. Old medication containers were reused to fill new prescriptions.
 - b. Approximately fourteen expired medications dating back to December 2016, were found mixed in with the drug stock.
 - c. The Annual DEA inventory still had not been completed.
 - d. The Responsible Person and owner, Nnodum IHEME, RPh, was unable to log into the OARRS system and was logging into the OARRS system under the name of Brenda Screws, RPh account instead.
 - e. Food was stored in the same refrigerator as the drugs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of section 4729.55(D) of the ORC, adequate safeguards are assured to carry on the business of a TDDD in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner.

2. Such conduct as set forth in paragraph 4(d) of the Findings of Fact Section constitutes a violation of section 2921.22 (A)(1) of the ORC, failure to report a crime.
3. Such conduct as set forth in the paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and
 - c. Except as provided in 4729.89, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, ORC Section 4729.57(A)(4); and
 - d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, ORC Section 4729.57(A)(5); and
 - e. Ceasing to satisfy the qualifications of a TDDD set forth in 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).
4. Such conduct as set forth in paragraphs 1(d), 1(e), 2(a), 2(c), 3(a), 3(b), 3(d), 3 4(a), 4(b), and 4(d) of the Findings of Fact Section each constitutes a violation of the following Section of Rule 4729-9-14 of the OAC, Records of controlled substances:
 - a. Each TDDD shall keep a record of all controlled substances received, administered, personally furnished, dispensed, sold, destroyed, or used. The acts of prescribing, administering, dispensing, and destroying of a controlled substance must be documented with the positive identification of the responsible individual pursuant to paragraph (N) of rule 4729-5-01 of the Administrative Code. These records may be kept electronically if the method is approved by the board and the records are backed-up each business day.
 - i. Records of receipt shall contain a description of all controlled substances received, the kind and quantity of controlled substances received, the name and address of the persons from whom received, and the date of receipt, OAC Rule 4729-9-14(A)(1); and
 - ii. Records of administering, dispensing, personally furnishing or using controlled substances shall contain a description of the kind and quantity of the controlled substance administered, dispensed, personally furnished or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the controlled substance was administered, dispensed, or used, OAC Rule 4729-9-14(A)(2).

5. Such conduct as set forth in paragraphs 2(a), 3(a), and 4(a) of the Findings of Fact Section each constitutes a violation of the following Rules 4729-9-22(B) of the OAC, records of administering, dispensing, personally furnishing, or using dangerous drugs shall contain a description of the kind and quantity of the dangerous drugs administered, dispensed, sold, or used, the date, the name and address of the person to whom or for whose use, or the owner and identification of the animal for which, the dangerous drug was administered, dispensed, or used.
6. Such conduct as set forth in paragraphs 1(d), 1(e), 3(d), and 4(d) of the Findings of Fact Section each constitutes a violation of the following section of Rule 4729-9-22(A) of the OAC, records of receipt shall contain a description of all dangerous drugs received, the kind and quantity of dangerous drugs received, the name and address of the persons from whom received, and the date of receipt.
7. Such conduct as set forth in paragraphs 1(a), 1(b), 2(a), 2(c), 3(b), 3(e), 4(a), 4(b) of the Findings of Fact Section each constituted a violation of the following section of Rule 4729-5-27(A) of the OAC, there must be positive identification of the pharmacist or pharmacists responsible for performing all activities relating to the practice of pharmacy.
8. Such conduct as set forth in paragraph 2(a) and 4(a) of the Findings of Fact Section constitutes a violation of OAC Rule 4729-5-27(M)(1) through (M)(3), a log must be maintained of all changes made to a prescription record after the prescription has been dispensed. Such log may be accessible to the pharmacist for review, but shall be protected from being altered in any way.
9. Such conduct as set forth in paragraphs 1, 2, 3, 4, and 5 of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729.55 of the ORC:
 - c. A pharmacist will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC Section 4729.55(B); and
 - d. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C).
10. Such conduct as set forth in paragraphs 3(d), and 4(d) of the Findings of Fact Section constitutes a violation of Rule 4729-9-15(A) of the OAC, as effective April 28, 2016, Each...TDDD...shall notify the [state board of pharmacy, by telephone immediately upon discovery of the theft or significant loss; if a controlled substance, the DEA; law enforcement authorities] upon discovery of the theft or significant loss of any dangerous drug or controlled substance.

11. Such conduct as set forth in paragraph 1(d), 4(d), and 5(c) of the Findings of Fact Section constitutes a violation of Rule 4729-9-14(B)(4) of the OAC, Each...TDDD shall maintain an inventory of all controlled substances as follows...each TDDD shall take a new inventory of all stocks of controlled substances on hand every year following the date on which the initial inventory is taken.
12. Such conduct as set forth in paragraphs 3(g), 3(f), 3(m), 4(e), and 5(a), 5(e) of the Findings of Fact Section each constitutes a violation of each of the following divisions of section 4729-9-02 of the OAC, minimum standards for a pharmacy.
 - a. The stock of prescription containers shall include such containers as are necessary to dispense drugs in accordance with federal and state laws, OAC Rule 4729-9-02(D); and
 - b. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the USP/NF and/or the manufacturer's or distributors labeling unless otherwise indicated by the board OAC Rule 4729-9-02(E)(1).
13. Such conduct as set forth in paragraphs 3(h) and 5(b) of the Findings of Fact Section each constitutes a violation of Rule 4729-9-17(A) of the OAC, as effective March 1, 2017, Adulterated drugs must be stored in a separate and secure area apart from the storage of drugs used for dispensing...and shall be stored no longer than one year from the date of expiration by those holding a TDDD.
14. Such conduct as set forth in paragraph 5(d) of the Findings of Fact Section constitutes a violation of section 4729.86(A)(1) of the ORC, No person....shall disseminate or otherwise provide another person access to the information that the person receives from the database.
15. Such conduct as set forth in paragraphs 3(i) and 4(f) of the Findings of Fact Section each constitutes a violation of Rule 4729-5-09 of the OAC, prescription filling.
16. Such conduct as set forth in 4(h) of the Findings of Fact Section constitutes a violation of section 3715.52(A)(2) of the ORC, the adulteration or misbranding of any food, drug, device or cosmetic.
17. Such conduct as set forth in paragraphs 1, 2, 3, 4 and 5 of the Findings of Fact Section each constitutes a violation of Rules 4729-9-19(A)(4) and (B)(3)(f) of the OAC, not of good habits.
18. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, as effective April 4, 2015, September 1, 2016, and February 17, 2017:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs

as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and

- b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729-5-11(A)(3).
19. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.08(B) of the ORC, not of good habits.
 20. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective July 16, 2015:
 - a. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - b. Guilty of willfully violating...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 Section 4729.16(A)(5); and
 21. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - b. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - c. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
 22. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and

- b. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby places the pharmacist license No. 03-219692, held by Nnodum Iheme, on a period of probation for a minimum of two years beginning on the effective date of this Order to run concurrent with the probationary period ordered on Case No. A-2018-0047. During the probationary period, the following terms and conditions apply:

- a. The State of Ohio Board of Pharmacy hereby declares that Nnodum Iheme's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- b. Nnodum Iheme may not serve as a responsible pharmacist at Ziks Family Pharmacy, Inc. #100 during the term of his probation.
- c. Nnodum Iheme may not serve as a responsible pharmacist or designated representative at any other Board licensed facility including medical marijuana dispensaries or home medical equipment providers during the term of his probation.
- d. Nnodum Iheme must not violate the drug laws of Ohio, any other state, or the federal government.
- e. Nnodum Iheme must abide by the rules of the State of Ohio Board of Pharmacy.
- f. Nnodum Iheme must comply with the terms of this Order.
- g. Nnodum Iheme 's license is deemed not in good standing until successful completion of the probationary period.
- h. Nnodum Iheme must immediately report any violation of the terms of this probation 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 Nnodum Iheme to possible additional sanctions, including and up to revocation of license.
- i. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Nnodum Iheme's license.

Further, pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$2,500.00. One fine of \$2,500.00 is

imposed on Nnodum Iheme for Case Nos. A-2018-0047 and A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359. This fine will be attached to your license record and must be paid no later than 90 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

The Board orders Nnodum Iheme to obtain, within 90 days from the effective date of this Agreement, 12 hours of approved continuing pharmacy education (1.2 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

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: 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, and 31.

Megan E. Marchal moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

R-2020-0357 After votes were taken in public session, the Board adopted the following order in the matter of **Nnodum Iheme (Case No. A-2018-0047), Dayton, Ohio**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2018-0047)

In The Matter Of:

Nnodum Iheme, RPh
1130 West Third St.
Dayton, OH 45402
Montgomery County
(License No. 03-219692)

INTRODUCTION

The Matter of Nnodum Iheme came for hearing on February 3, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, RPh, *Presiding*; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; Absent.

Nnodum Iheme was present, was not represented by counsel, and had not timely requested a hearing. The State of Ohio was represented by Henry Appel, Assistant Attorney General. As an initial matter, the Board declined to grant Nnodum Iheme's continuance request, as the Notice of Opportunity for Hearing had been properly served and no hearing had been requested. The State indicated it would call Nnodum Iheme as a witness to afford an opportunity for information to be presented to the Board regarding the allegations

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kelly Monce—State of Ohio Board of Pharmacy Agent
2. Nnodum Iheme—Owner, Ziks Family Pharmacy, Inc. #100

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|--|------------|
| 1a. Notice Letter (Iheme, Cases No. A-2018-0047) | 09.04.2019 |
| 1b. Notice Letter (Iheme, Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 1c. Notice Letter (Ziks Case No. A-2018-0047) | 09.04.2019 |
| 1d. Notice letter (Ziks Case Nos. A-2018-0048, 0049, 0050, and 0359) | 09.04.2019 |
| 2. Inspection Report 2016-08-16 | 08.16.2016 |
| 3. Response to Inspection Report 2016-08-16 | 08.16.2016 |
| 4. Inspection Report 2017-02-23 | 02.23.2017 |
| 5. Response to Inspection Report 2017-02-23 | 02.23.2017 |
| 6. Inspection Report 2017-11-14 | 11.14.2017 |
| 7. Response to Inspection Report 2017-11-14 | 11.14.2017 |
| 8. Inspection Report 2018-01-29 | 01.29.2018 |

9. Response to Inspection Report 2018-01-29	01.29.2018
10. Inspection Report 2018-06-28	06.28.2018
11. Response to Inspection Report 2018-06-28	06.28.2018
12. Inspection Report 2019-12-11	12.11.2019
13. Response to Inspection Report 2019-12-11	12.11.2019
14. Violation 2a – CII Rx Fill Log	01.20.2017
15. Violation 2a – DUR Screen	Various
16. Violation 2a – RX for Methadone	12.02.2016
17. Violation 2a – Patient Profile	02.23.2017
18. Violation 2a – Perpetual Inventory, Methadone 10 mg	Various
19. Violation 2a – Statement for Respondent	02.23.2017
20. Violation 4a – Prescription	11.02.2017
21. Violation 4a – Prescription Label	11.30.2017
22. Violation 4a – Prescription Log	11.30.2017
23. Violation 4a – Patient Profile	01.29.2018
24. Violation 4a – Statement of Respondent	01.29.2018
25. Violation 4a – Photos of Pharmacy	No Date
26. Audit of Ziks Pharmacy	No Date
27. Perpetual Inventory – Oxycodone 30 mg	Various
28. Perpetual Inventory – Amphetamine Salt 20 mg	Various
29. Perpetual Inventory – Amphetamine Sault 30 mg	Various
30. Perpetual Inventory – Dexmethylphenidate ER 30 mg	Various
31. Perpetual Inventory – Oxycodone 5 mg	Various
32. DEA Annual Survey Inventory Provided on 2017-11-14	11.14.2017
33. DEA Annual Survey Inventory Provided on 2018-01-28	01.28.2018

Respondent's Exhibits:

A. None

FINDINGS OF FACT

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

1. Between on or about March 2016 through December 2017, Ziks Pharmacy located at 1130 West Third Street, Dayton, Ohio, dispensed patient specific dangerous drugs to Clearing Paths Therapeutic Services on 39 occasions, as set forth in Attachment A, attached hereto and incorporated as though fully referenced herein. Clearing Paths Therapeutic, which offers its services as a “pick-up station” for the purposes of having prescriptions delivered, was not licensed with the Ohio Board of Pharmacy at the time of the deliveries.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of section 4729.51(G) of the ORC, selling, purchasing, distributing, or delivering dangerous or investigational drugs.
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3).
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-10(B) of the OAC, No pharmacist shall dispense dangerous drugs to a place which offers its services as a “pick-up station” or intermediary for the purpose of having prescriptions filled or delivered unless such place is a pharmacy...or, if not a pharmacy, all of the following apply: The site is licensed as a terminal distributor of dangerous drugs pursuant to Chapter 4729. of the Revised Code.
4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, as effective April 4, 2015, September 1, 2016, and February 17, 2017:
 - c. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and

- d. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729-5-11(A)(3).
5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.08(B) of the ORC, not of good habits.
6. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective July 16, 2015, each violation constituting a minor misdemeanor:
 - c. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - d. Guilty of willfully violating...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 Section 4729.16(A)(5); and
7. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017, each violation constituting a minor misdemeanor:
 - d. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and
 - e. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - f. 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).
8. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:
 - c. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
 - d. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby places the pharmacist license No. 03-219692, held by Nnodum Iheme, on a period of probation for a minimum of two years beginning on the effective date of this Order to run concurrent with the probationary period ordered on Case Nos. A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359. During the probationary period, the following terms and conditions apply:

- j. The State of Ohio Board of Pharmacy hereby declares that Nnodum Iheme's pharmacist license is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
- k. Nnodum Iheme may not serve as a responsible pharmacist at Ziks Family Pharmacy, Inc. #100 during the term of his probation.
- l. Nnodum Iheme may not serve as a responsible pharmacist or designated representative at any other Board licensed facility including medical marijuana dispensaries or home medical equipment providers during the term of his probation.
- m. Nnodum Iheme must not violate the drug laws of Ohio, any other state, or the federal government.
- n. Nnodum Iheme must abide by the rules of the State of Ohio Board of Pharmacy.
- o. Nnodum Iheme must comply with the terms of this Order.
- p. Nnodum Iheme 's license is deemed not in good standing until successful completion of the probationary period.
- q. Nnodum Iheme must immediately report any violation of the terms of this probation 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 Nnodum Iheme to possible additional sanctions, including and up to revocation of license.
- r. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Nnodum Iheme's license.

Further, pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$2,500.00. One fine of \$2,500.00 is

imposed on Nnodum Iheme for Case Nos. A-2018-0047 and A-2018-0048, A-2018-0049, A-2018-0050, and A-2019-0359. This fine will be attached to your license record and must be paid no later than 90 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

The Board orders Nnodum Iheme to obtain, within 90 days from the effective date of this Agreement, 12 hours of approved continuing pharmacy education (1.2 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

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: 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, and 31.

Megan E. Marchal moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Kilee S. Yarosh seconded the motion. Motion passed (Aye-6/Nay-0).

Kilee S. Yarosh moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

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- 3:24 p.m.** The Board Recessed for an Intermission.
- 3:34 p.m.** Mr. Cathcart provided the OARRS Report.
- 3:38 p.m.** Ms. Southard provided the Licensing Report.
- 3:45 p.m.** Ms. Ghitman presented the CE Provider Application of Akron Area Society of Health System Pharmacists.
- R-2020-0358** Mr. Weaver moved to approve the CE Provider Application of Akron Area Society of Health System Pharmacists. The Motion was seconded by Mr. Newlon and approved by the Board: Aye-7, Nay-0.
- 3:46 p.m.** Mr. Schierholt provided the Executive Director Report.
- R-2020-0359** Ms. Rudell moved that the January 6, 2020 Probation Committee Meeting Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.

- R-2020-0360** Ms. Rudell moved that the January 6-8 Board Meeting Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- R-2020-0361** Ms. Rudell moved that the January 14, 2020 Conference Call Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- R-2020-0362** Ms. Rudell moved that the January 17, 2020 Conference Call Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- R-2020-0363** Ms. Rudell moved that the January 24, 2020 Conference Call Minutes be approved as written. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- 3:48 p.m.** Mr. Griffin provided the Compliance and Enforcement Report.
- 3:52 p.m.** Ms. Reed provided the Medical Marijuana Program Update.
- 4:30 p.m.** Ms. Reed provided the Medical Marijuana Rules Review update.

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- R-2020-364** Mr. Wilt announced the following Settlement Agreement has been signed by all parties and is now effective:
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**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
Case No. A-2019-0268
I-2019-0320-A**

IN THE MATTER OF:

Kierstyn Wenzel
2 Griffin Ln
Fairfield, OH 45014
Registration No. 09-107740

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Kierstyn Wenzel for the purpose of resolving all issues between the parties relating to the Board investigation of working at Lifeline Pharmacy, located at 3699 Symmes Road, Hamilton, Ohio, without a valid registration as a pharmacy technician. Together, the Board and Kierstyn Wenzel 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. Kierstyn Wenzel is an Ohio-registered pharmacy technician trainee under registration number 09-107740.

FACTS

1. On or about March 12, 2019, the Board initiated an investigation of Kierstyn Wenzel, technician trainee registration number 09-107740, related to Kierstyn Wenzel's working as a pharmacy technician at Lifeline Pharmacy without a valid registration as a pharmacy technician.
2. On or about December 2, 2019 the Board sent a Notice of Opportunity for Hearing to Kierstyn Wenzel which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Kierstyn Wenzel neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 2, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Kierstyn Wenzel agrees to pay to the OSBP the amount of amount of \$25.00. This fine will be attached to your registration record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Kierstyn Wenzel agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

5. Kierstyn Wenzel understands that she has the right to be represented by counsel for review and execution of this agreement.
 6. Kierstyn Wenzel 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. Kierstyn Wenzel 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.
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R-2020-365

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

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY**Case No. A-2019-0347****I-2019-0320-J**

IN THE MATTER OF:

Pamela Koch

406 Deerfield Rd

Lebanon, OH 45036

Registration No. 09-211042

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Pamela Koch for the purpose of resolving all issues between the parties relating to the Board investigation of working at Lifeline Pharmacy, located at 3699 Symmes Road, Hamilton, Ohio, without a valid registration as a pharmacy technician. Together, the Board and Pamela Koch 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. Pamela Koch is an Ohio-registered pharmacy technician under registration number 09-211042.

FACTS

1. On or about March 12, 2019, the Board initiated an investigation of Pamela Koch, registered pharmacy technician registration number 09-211042, related to Pamela Koch’s working as a pharmacy technician at Lifeline Pharmacy without a valid registration as a pharmacy technician.
2. On or about December 2, 2019 the Board sent a Notice of Opportunity for Hearing to Pamela Koch which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Pamela Koch neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 2, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Pamela Koch agrees to pay to the OSBP the amount of amount of \$25.00. This fine will be attached to your registration record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Pamela Koch agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Pamela Koch understands that she has the right to be represented by counsel for review and execution of this agreement.
6. Pamela Koch 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. Pamela Koch waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-366

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

**IN THE MATTER OF:
Case No. I-2020-0064**

KAREN LOWE
1 Wyoming St.

Dayton, OH 45409
Registration No. 09-210389

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 Karen Lowe, for the purpose of resolving all issues between the parties relating to the positive drug screen and apparent impairment of Karen Lowe while employed at Fidelity Healthcare. Together, the Board and Karen Lowe 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 registration 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. Karen Lowe is an Ohio-registered certified pharmacy technician under registration number 09-210389.

FACTS

1. The Board initiated an investigation of Karen Lowe, registered pharmacy technician registration number 09-210389, related to Karen Lowe’s positive drug screen and apparent impairment while employed at Fidelity Healthcare.
2. During an interview with agents of the Board on or about January 17, 2020, Karen Lowe expressed a desire to permanently relinquish her registration as a pharmacy technician.

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

TERMS

NOW WHEREFORE, in consideration of the mutual promises wherein 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. **KAREN LOWE PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HER REGISTRATION AS A REGISTERED PHARMACY TECHNICIAN, REGISTRATION NO. 09-210389, WITH DISCIPLINE PENDING.**
3. **Karen Lowe acknowledges, understands, and agrees that she may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.**
4. Karen Lowe agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Karen Lowe understands that she has the right to be represented by counsel for review and execution of this agreement.
6. Karen Lowe 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 or registration, including to the Board on renewal applications or applications for a new license or registration.
7. Karen Lowe waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
11. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-367

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

**IN THE MATTER OF:
CASE NO. A-2019-0158**

Bond Pharmacy dba Advanced Infusion Solutions

c/o Cynthia Dumas, RPh

623 Highland Colony Pkwy, Ste. 100

Ridgeland, MS 39157

License No. 02-2033100**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 Bond Pharmacy dba Advanced Infusion Solutions (AIS), for the purpose of resolving all issues between the parties relating to the Board investigation of issues involving the application for a Terminal Distributor of Dangerous Drugs license. Together, the Board and AIS are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Bond Pharmacy dba Advanced Infusion Solutions (AIS) is licensed by the Board as a Non-Resident Terminal Distributor of Dangerous Drugs under license number 02-2033100.

FACTS

1. On or about November 28, 2018, agents from the Board initiated an investigation of AIS due to a patient complaint.
2. On or about October 11, 2019 the Board sent a Notice of Opportunity for Hearing to AIS, 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 October 25, 2019, AIS timely requested an administrative hearing, which was scheduled for November 9, 2019. The matter was continued and the hearing was subsequently scheduled for March 2, 2020.

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. AIS neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 11, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. AIS agrees to pay to the Board a monetary penalty the amount of \$1,500. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. AIS 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. AIS 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 AIS 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 AIS by the Board and will NOT discharge AIS from any obligation under the terms of this Agreement.
6. AIS agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. AIS 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 AIS will operate.
9. AIS waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraws its request for a hearing in this matter, and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

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

R-2020-368

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

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
Case No. A-2019-0093**

IN THE MATTER OF:

Nicole Escher, R.Ph.
1380 Show Ct.
Dayton, OH 45434
License No. 03-328916

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Nicole Escher, for the purpose of resolving all issues between the parties relating to the Board investigation of Nicole Escher directing pharmacists of the Kindred Hospital to assign a beyond use date past the 48-hour period as instructed a Board Agent; forging a Sterile Compounding Log in order to pass inspection; and failing to report to the Board knowledge of an employee stealing prednisone and tizanidine. Together, the Board and Nicole Escher 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 any license issued pursuant to Sections 4729.11 of the Ohio Revised Code to practice pharmacy as a pharmacist in the State of Ohio.
2. Nicole Escher, R.Ph., is a licensed pharmacist in the State of Ohio under license number 03-328916.

FACTS

1. On or about November 7, 2018, Board Agents conducted an inspection of the Kindred Hospital, located at 707 South Edwin C. Moses Boulevard, Dayton, OH 45417 (“Kindred Hospital”).
2. During the inspection, Board Agents obtained an email Nicole Escher sent to hospital staff, dated September 10, 2018, related to the use of beyond use date compounded drugs. The email provides, “Due to our recent Ohio Board of Pharmacy visit, low risk compounded drugs (including those from a MDV) which are stored at room temp are required to have a beyond use date of no more than 48 hours. That is what I expect to see on the compounding log. However, most of us have discussed and agreed that we will actually assign a 9 day expiration to the product. Specifically, I am referring to diazepam and diphenhydramine MDV. So, the beyond use date of the hard copy compounding log will say 2 days. But the date physically placed on the UD syringe will be 9 days.”
3. During the inspection, Board Agents obtained an “EnviroTest” Log used to document tests in the area where drugs are compounded at the Kindred Hospital (the “Sterile Compounding Log”). Board Agents interviewed several hospital staff members about the log, and learned several entries were not created by the hospital staff members identified on the log as completing certain activities. Board Agents obtained written statements from the hospital staff members.
4. On November 7, 2018, Nicole Escher was interviewed by Board Agents where she admitted the following:
 - a. Nicole Escher admitted to knowing another employee at the Kindred Hospital had stolen prednisone and tizanidine.
 - b. Nicole Escher admitted to sending the email to hospital staff members on September 10, 2018 and accepted responsibility for her poor judgment.
 - c. Nicole Escher admitted to forging the Sterile Compounding Log. Escher explained she forged the log on July 24, 2018, during an inspection by a Board Agent, because she knew the area was not compliant and she wanted to pass the inspection. Escher admitted several activities identified in the Sterile Compounding Log between the dates of October 30, 2017 to June 28, 2018 were forged, including testing of hood samples, surface samples, ante room samples, IV cart samples, hand samples, and media samples.
5. On November 7, 2018, Nicole Escher completed a typed-written statement where she provided additional details related to her knowledge of another employee stealing

prednisone and tizanidine; the use of beyond use date drugs; and forging the Sterile Compounding Log.

6. On or about September 23, 2019, the Board sent a Notice of Opportunity for Hearing (Notice) to Nicole Escher, 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.
7. On or about September 25, 2019, Nicole Escher timely requested an administrative hearing, which was subsequently scheduled for February 3, 2020.

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 Agreement as though fully set forth herein.
2. Nicole Escher neither admits nor denies the allegations stated in the Notice dated September 23, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Nicole Escher agrees to pay to the Board a monetary penalty in the of amount of \$2,500.00. This fine will be attached to your license record and must be paid no later than six months from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Nicole Escher must obtain, within six months from the effective date of this Agreement, 15 hours of ACPE-approved continuing pharmacy education (1.5 CEUs) in the area of pharmacy law and ethics, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Nicole Escher agrees she may not serve as a Responsible Person for a period of two years from the effective date of this Agreement.
6. Nicole Escher agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

7. Nicole Escher understands that she has the right to be represented by counsel for review and execution of this Agreement.
 8. Nicole Escher 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. Nicole Escher waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws her request for a hearing in this matter and waives any right to an appeal.
 10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 13. This Agreement shall become effective upon the date of the Board President's signature below.
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R-2020-369

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

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
CASE NO. 2017-1426A 2017-1958**

IN THE MATTER OF:

Woodman Pharmacy, Inc.
c/o Paschal Okafor
1010 Woodman Drive
Dayton, OH 45432
License No. 02-0949800

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Woodman Pharmacy (Woodman), for the purpose of resolving all issues between the parties relating to the Board investigation of issues involving for compounding violations and other Pharmacy Practice Act violations. Together, the Board and Woodman Pharmacy are referred to hereinafter as “the parties.”

JURISDICTION

3. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
4. Woodman Pharmacy, Inc. is licensed by the Board as a Terminal Distributor of Dangerous Drugs under license number 02-0949800.

FACTS

4. On or about August 1, 2017, the Board initiated an investigation of Woodman as a result of sterile compounding issues discovered during an inspection by Board personnel.
5. On or about April 30, 2018 the Board sent a Notice of Opportunity for Hearing to Woodman, 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.
6. On or about May 9, 2018, Woodman timely requested an administrative hearing, which was scheduled for December 10, 2018. The matter was subsequently continued for hearing to February 4, 2020.

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:

14. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
15. Woodman neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 30, 2018; 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.

16. Woodman agree to pay the Board a monetary penalty in the amount of \$5,000.00. This fine will be attached to their license record and must be paid no later than 90 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 the cart.
17. Woodman's terminal license number 02-0949800 is placed on probation for a period of two (2) years from the effective date of this Agreement.
18. Woodman agrees their Responsible Person with complete 12 hours of ACPE-approved CEU (1.2 CEUs) within six months of the effective date of this Agreement. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov within 30 days of completion.
19. Woodman agrees they will not conduct any sterile compounding.
20. Woodman 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.
21. Woodman 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 Woodman 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 Woodman by the Board and will NOT discharge Woodman from any obligation under the terms of this Agreement.
22. Woodman agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
23. Woodman understands that it has the right to be represented by counsel for review and execution of this agreement.
24. 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 Woodman will operate.
25. Woodman waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraws its request for a hearing in this matter, and waives any right to an appeal.

26. 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.
 27. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 28. 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.
 29. This Agreement shall become effective upon the date of the Board President's signature below.
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R-2020-370

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

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
CASE NO. 2017-1958 & 2017-1426B**

IN THE MATTER OF:

Paschal Okafor
140 Kitty Hawk Drive
Springboro, Ohio 45066
License No. 03-3-25795

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Paschal Okafor, for the purpose of resolving all issues between the parties relating to the Board investigation of Paschal Okafor for compounding violations and other Pharmacy Practice Act violations at Woodman Pharmacy. Together, the Board and Paschal Okafor 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 any license issued pursuant to Sections 4729.11 of the Ohio Revised Code to practice pharmacy as a pharmacist in the State of Ohio.

2. Paschal Okafor, R.Ph., is a licensed pharmacist in the State of Ohio under license number 03-3-25795.

FACTS

1. On or about August 1, 2017, the Board initiated an investigation related to compounding violations and other Pharmacy Practice Act violations at Woodman Pharmacy where Paschal Okafor was listed as the Responsible Person.
2. On or about April 30, 2018, the Board sent a Notice of Opportunity for Hearing (Notice) to Paschal Okafor, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.
3. On or about May 9, 2018, Paschal Okafor timely requested an administrative hearing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Agreement as though fully set forth herein.
2. Paschal Okafor neither admits nor denies the allegations stated in the Notice dated April 30, 2018; 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. Paschal Okafor agrees to pay to the Board the amount of amount of \$1,000.00. This fine will be attached to your license record and must be paid no later than six months from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
4. Paschal Okafor agrees, within six months from the effective date of this Agreement, to complete continuing pharmacy education (CEU) in the following amounts, which shall not also be used for license renewal:
 - a. 12 hours of ACPE-approved CEU (1.2 CEUs) in the above-captioned matter; and
 - b. 12 hours of ACPE-approved CEU (1.2 CEUs) in the matter of Woodman Pharmacy, case number 2017-1426A

- c. The total amount due will be 24 (2.4 CEU) not to count for renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov within 30 days of completion.
5. Paschal Okafor's license number 03-3-25795 is placed on probation for a period of six-months, during which his license is not in good standing.
6. Paschal Okafor agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Paschal Okafor understands that he has the right to be represented by counsel for review and execution of this Agreement.
8. Paschal Okafor 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.
9. Paschal Okafor 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.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2020-371

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

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
Case No. A-2019-0128**

IN THE MATTER OF:

Matthew Newton, R.Ph.
38963 State Route 558
Leetonia, OH 44431
License No. 03-335064

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Matthew Newton, for the purpose of resolving all issues between the parties relating to the Board investigation Matthew Newton obstructing official business and making statements with purpose to mislead a public official in performing the public official's duties on or about February 1, 2019. Together, the Board and Matthew Newton 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 any license issued pursuant to Sections 4729.11 of the Ohio Revised Code to practice pharmacy as a pharmacist in the State of Ohio.
2. Matthew Newton, R.Ph., is a licensed pharmacist in the State of Ohio under license number 03-335064.

FACTS

1. On or about December 17, 2018, the Board received a controlled substance loss notification of 63 Alprazolam 1mg tablets from Ride Aid Pharmacy, located at 147 West Liberty Street, Hubbard, OH 44425 ("Rite Aid Pharmacy").
2. On or about January 18, 2019, the Board was notified of additional potential losses from the Rite Aid Pharmacy, including the following controlled substances:
 - a. Alprazolam 1mg: 6 tablets
 - b. Alprazolam 2mg: 85 tablets
3. On January 29, 2019, the Board was notified that 58 Alprazolam 1mg tablets were located at the Rite Aid Pharmacy. The missing tablets were located in a bottle of Prazosin.

4. On February 1, 2019, a Board Agent interviewed Matthew Newton, a pharmacist employed at the Rite Aid Pharmacy. Matthew Newton initially told a Board Agent he located 58 Alprazolam 1mg tablets after he was passed a bottle of Prazosin during a dispensation. During the same interview, Matthew Newton later stated he lied about locating the Alprazolam tablets to protect a colleague.
5. On February 1, 2019, a Board Agent interviewed Matthew Newton a second time. During the interview Matthew Newton told the Board Agent he conducted a count of Alprazolam 1mg tablets on January 28, 2019. During the same interview, Matthew Newton later admitted he lied and did not perform a count of Alprazolam 1mg tablets.
6. On or about September 23, 2019, the Board sent a Notice of Opportunity for Hearing (Notice) to Matthew Newton, 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.
7. On or about October 3, 2019, Matthew Newton timely requested an administrative hearing, which was subsequently scheduled for February 5, 2020.

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 Agreement as though fully set forth herein.
 2. Matthew Newton neither admits nor denies the allegations stated in the Notice dated September 23, 2019; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
 3. Matthew Newton agrees to pay to the Board the amount of amount of \$1,000.00. This fine will be attached to your license record and must be paid no later than six months from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
 4. Matthew Newton must obtain, within six months from the effective date of this Agreement, 10 hours of ACPE-approved continuing pharmacy education (1.0 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

5. Matthew Newton must attend, within six months from the effective date of this Agreement, a Board-sponsored "RP Round Table" event.
6. Matthew Newton agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Matthew Newton understands that he has the right to be represented by counsel for review and execution of this Agreement.
8. Matthew Newton 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.
9. Matthew Newton 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.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

4:37 p.m. Mr. McNamee and Ms. Wai led a discussion on the timeframe for Rule Implementation.

4:42 p.m. Mr. McNamee and Ms. Wai presented a resolution titled, *Request to Temporarily Store Drugs Off-Site for Backup EMS Squad-Appleseed Joint Ambulance District* to the Board for approval.

R-2020-0372 Mr. Newlon moved that the Board approve the resolution. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0. The following resolution was adopted by the Board:

Request to Temporarily Store Drugs Off-Site for Backup EMS Squad - Appleseed Joint Ambulance District

Pursuant to section 4729.25 of the Ohio Revised Code, the State of Ohio Board of Pharmacy hereby approves the request by the Appleseed Joint Ambulance District (AJAD).

As stated in the request, the licensee shall conduct documented daily inspections to safeguard all controlled substances temporarily stored at a location owned and operated by the Village of Arlington (11804 Fellowship Drive, Arlington, OH 45814).

The AJAD shall notify the Board's Compliance and Enforcement Department, in writing, on the date the drugs are moved to the temporary location. This resolution is valid for thirty days from the date the drugs are moved to the location listed in this resolution.

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

4:43 p.m.

Mr. McNamee and Ms. Wai presented revisions to the following rules to the Board for approval: Laboratory Rules, OA 4729:5-16-01 - Definitions – Laboratories, Animal Shelter Rules, OAC 4729:5-16-01-Animal Shelters-Definitions, OAC 4729:5-16-02-Animal Shelters-Definitions, OBOT Rules, OAC 4729:5-18-01-Definitions-Office-Based Opioid Treatment Facilities, 4927:5-3-16-Returend Drugs, Opioid Treatment Facilities, OAC 4927:5-21-02-Personally Furnishing Dangerous Drugs from an Opioid Treatment Program, 4729: 1-2-10-Emeritus Pharmacies, 4729:1-2-09-Expedited Pharmacist Licensure for Members of the Military and Spouses Who are Licensed in Another Jurisdiction, 4729:2-2-11-Expedited Pharmacy Intern Licensure for members of the Military and Spouses Who are Licensed in Another Jurisdiction, and 4729:3-2-06-Expedited Pharmacy Technician Registration for Members of the Military and Spouses who are Licensed in Another Jurisdiction.

R-2020-0373

Mr. Weaver moved that the Board approve revisions to the following rules for filing with CSI and JCARR: Laboratory Rules, OA 4729:5-16-01 - Definitions – Laboratories, Animal Shelter Rules, OAC 4729:5-16-01-Animal Shelters-Definitions, OAC 4729:5-16-02-Animal Shelters-Definitions, OBOT Rules, OAC 4729:5-18-01-Definitions-Office-Based Opioid Treatment Facilities, 4927:5-3-16-Returend Drugs, Opioid Treatment Facilities, OAC 4927:5-21-02-Personally Furnishing Dangerous Drugs from an Opioid Treatment Program, 4729: 1-2-10-Emeritus Pharmacies, 4729:1-2-09-Expedited Pharmacist Licensure for Members of the Military and Spouses Who are Licensed in Another Jurisdiction, 4729:2-2-11-Expedited Pharmacy Intern Licensure for members of the Military and Spouses Who are Licensed in Another Jurisdiction, and 4729:3-2-06-Expedited Pharmacy Technician Registration for Members of the Military and Spouses who are Licensed in Another Jurisdiction. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7, Nay-0.

R-2020-0374 Mr. Wilt announced the Citation (Case No. A-2018-0130) issued to Specialty Pharmaceutical, Inc. dba Carequest Pharmacy on January 9, 2020 is dismissed.

4:59 p.m. Ms. Rudell presented the following resolution to Joann D. Predina, MBA, RPh:

**State of Ohio Board Of Pharmacy
A Resolution for Joann D. Predina, MBA, RPh**

WHEREAS, the administrative and investigative efforts of Joann D. Predina, as a Compliance Specialist with the State of Ohio Board of Pharmacy, have directly led to the successful and thoughtful enforcement of the Ohio Drug Laws; and

WHEREAS, these efforts have contributed to the ongoing protection and safety of the citizens of Ohio; therefore

BE IT RESOLVED, that the State of Ohio Board of Pharmacy hereby commends Joann D. Predina for more than 27 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of her position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundred thirty-sixth year, so express our profound appreciation to Joann D. Predina for her dedication and service to the Board and the citizens of Ohio, and

BE IT FURTHER RESOLVED, that this resolution be spread upon the permanent minutes of the State of Ohio Board of Pharmacy.

5:00 p.m. The Board recessed for the day.

Tuesday, February 4, 2020

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

Jennifer M. Rudell, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh; and Kilee S. Yarosh, RPh.

Shawn C. Wilt, RPh, and Megan E. Marchal, RPh; Absent.

Also present were Ashley Gilbert, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

9:01 a.m. The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. In the Matters of **Gifty Kusi, Hilliard, Ohio; Darrell Bryant, Westerville, Ohio; Health and Wellness Pharmacy, Dublin, Ohio; Health and Wellness Pharmacy, Columbus, Ohio; and Health and Wellness Wholesalers, Dublin, Ohio.**

R-2020-0375 Mr. Newlon moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by Vice-President Rudell as follows: Cox-yes; Miller-yes; Newlon-yes; Weaver-yes; Yarosh-yes.

9:58 a.m. The recess ended and the hearing was opened to the public.

R-2020-0376 After votes were taken in public session, the Board adopted the following order in the matter of **Gifty Kusi, Hilliard, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0009)

In The Matter Of:

Gifty Kusi

3217 Walkerview Dr.
Hilliard, OH 43026
(License no. 03-132085)

INTRODUCTION

The Matter of Gifty Kusi came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; and Shawn C. Wilt, RPh; Absent.

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

SUMMARY OF EVIDENCEState's Witnesses:

1. Kevin E. Flaharty—Central Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Summary Suspension—Darrell Bryant, RPh
- 1b. Summary Suspension—Gifty Kusi, RPh
- 1c. Summary Suspension—Health and Wellness Pharmacy (A-2019-0008)
- 1d. Summary Suspension—Health and Wellness Pharmacy (A-2019-0011)
- 1e. Summary Suspension—Health and Wellness Pharmacy (A-2019-0006)
2. Darrel L. Bryant's Judgment in a Criminal Case, Case #: 2:17-cr-00146(1)
3. Gifty Kusi's Judgement in a Criminal Case, Case #: 2:17-cr-00146(1)
4. United States of America v. Michael Alexander, Plea Agreement
5. United States of America vs. Jornel Rivera, Plea Agreement
6. United States of America vs. Darrell L. Bryant, Gifty Kusi, and Jornel Rivera, Case No. 2:17-cr-00146
7. Criminal Docket for Case #: 2:17-cr-00146-ALM All Defendants
8. Health and Wellness Pharmacy (License no. 022248000) Retail Pharmacy Inspection

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. Gifty Kusi compounded and dispensed non-sterile compounds without a prior patient-specific prescription having been issued by an individual prescriber in the usual course of the prescriber's professional practice.
2. Gifty Kusi conspired with a physician to create prescriptions, which had already been dispensed.
3. On or about July 7, 2017, indictments were filed with the United States District Court, Southern District of Ohio Eastern Division, against Gifty Kusi on one count of conspiracy to commit Health Care Fraud in violation of 18 U.S.C. §1349 and four counts of Health Care Fraud Scheme in violation of 18 U.S.C. §1347 and §2. On or about December 18, 2018, Gifty Kusi was found guilty by a jury of the following:
 - a. Count I – conspiring...to violate 18 U.S.C. § 1347, to execute a scheme to defraud a health care benefit program...that is, the Ohio Medicaid Program, in connection with the delivery or payment for health care benefits, items, or services, as charged in Count 1 of the Indictment; and
 - b. Count III – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for compound creams that were not medically necessary, because it was not requested to be filled by the patient, and/or it was not legitimately prescribed by a physician, from on or about January 11, 2013 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 3 of the Indictment; and
 - c. Count IV – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for individual counseling services that were not provided, or provided in a group setting, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio as charged in Count IV of the Indictment; and
 - d. Count V – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for counseling services by unqualified individuals, when there was no proper supervising physician, in connection with the delivery of, or payment for, health care benefits, items, or services, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 5 of the Indictment.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective April 6, 2017 through September 28, 2017:
 - a. Has been convicted of a felony, or a crime of moral turpitude, as defined in section 4776.10 of the Revised Code, ORC Section 4729.16(A)(2)(a); and
 - b. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2)(b); 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 Section 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 4729.16(A)(2)(l).
2. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of section 4729.16 of the ORC, February 12, 2001 through April 5, 2017:
 - a. Guilty of a felony or gross immorality, ORC Section 4729.16(A)(1); and
 - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - c. Guilty of willfully violating, conspiring to violate...or aiding and abetting 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 Section 4729.16(A)(5).
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the Ohio Administrative Code (OAC) as effective April 28, 2016 through May 1, 2018:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
 - b. Violated, conspired to violate...or aided and abetted in the violation of any of the provisions of Chapters 4729., 3715., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and
 - c. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729-5-04(C);

- d. Failed to conform to prevailing standards of care of similar pharmacists or pharmacy interns under same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729-5-04(L).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective January 1, 2011 through April 27, 2016:
 - a. Has been convicted of a felony, OAC Rule 4729-5-04(A); and
 - b. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-5-04(B); and
 - c. Is not of good moral character and habits, OAC Rule 4729-5-04(C).
5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-20(G) of the OAC, a prescription, to be valid, must be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. Based upon information obtained during a prospective drug utilization review, a pharmacist shall use professional judgment when making a determination about the legitimacy of a prescription. A pharmacist is not required to dispense a prescription of doubtful, questionable, or suspicious origin.
6. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-21(A), and/or OAC Rule 4729-5-30(A) of the OAC, a prescription, to be valid, must be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of bona fide treatment of a patient is not a prescription and the person knowingly dispensing such a purported prescription, as well as the person issuing it, shall be subject to the penalties of law.
7. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 2913.40 of the ORC, if the value of the property, services, or funds obtained in violation of this section is \$150,000.00 or more, Medicaid fraud is a felony of the third degree, each punishable by a maximum penalty of \$10,000.00, no person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the Medicaid program, ORC Section 2913.40(B).

8. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 2925.23(A) of the ORC, no person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Health and Wellness Pharmacy on January 9, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Gifty Kusi as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (7) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (8) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-132085, held by Gifty Kusi effective as of the date of the mailing of this Order.

Pursuant to Rule 4729-9-01(E) of the Ohio Administrative Code, Gifty Kusi may never apply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.

Donald R. Miller moved for Findings of Fact; Fred M. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

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

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

SO ORDERED.

R-2020-0377 After votes were taken in public session, the Board adopted the following order in the matter of **Darrell Bryant, Westerville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0010)

In The Matter Of:

Darrell Bryant

FCI Elkton

Federal Correctional Institution

P.O. Box 10

Lisbon, Ohio 44432

(License no. 03-325389)

INTRODUCTION

The Matter of Darrell Bryant, R.Ph. came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; and Shawn C. Wilt, RPh; Absent.

Darrell Bryant was not 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. Kevin E. Flaharty—Central Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Summary Suspension—Darrell Bryant, RPh
- 1b. Summary Suspension—Gifty Kusi, RPh
- 1c. Summary Suspension—Health and Wellness Pharmacy (A-2019-0008)
- 1d. Summary Suspension—Health and Wellness Pharmacy (A-2019-0011)
- 1e. Summary Suspension—Health and Wellness Pharmacy (A-2019-0006)
2. Darrel L. Bryant's Judgment in a Criminal Case, Case #: 2:17-cr-00146(1)
3. Gifty Kusi's Judgement in a Criminal Case, Case #: 2:17-cr-00146(2)
4. United States of America v. Michael Alexander, Plea Agreement
5. United States of America vs. Jornel Rivera, Plea Agreement
6. United States of America vs. Darrell L. Bryant, Gifty Kusi, and Jornel Rivera, Case No. 2:17-cr-00146
7. Criminal Docket for Case #: 2:17-cr-00146-ALM All Defendants
8. Health and Wellness Pharmacy (License no. 022248000) Retail Pharmacy Inspection

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. Darrell Bryant compounded and dispensed non-sterile compounds without a prior patient-specific prescription having been issued by an individual prescriber in the usual course of the prescriber's professional practice.
2. Darrell Bryant conspired with a physician to create prescriptions, which had already been dispensed.
3. On or about July 7, 2017, indictments were filed with the United States District Court, Southern District of Ohio Eastern Division, against Darrell Bryant on one count of conspiracy to commit Health Care Fraud in violation of 18 U.S.C. §1349 and four counts of Health Care Fraud Scheme in violation of 18 U.S.C. §1347 and §2. On or about December 18, 2018, Darrell Bryant was found guilty by a jury of the following:
 - a. Count I – conspiring...to violate 18 U.S.C. § 1347, to execute a scheme to defraud a health care benefit program...that is, the Ohio Medicaid Program, in connection with the delivery or payment for health care benefits, items, or services, as charged in Count 1 of the Indictment; and
 - b. Count III – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for compound creams that were not medically necessary, because it was not requested to be filled by the patient, and/or it was not legitimately prescribed by a physician, from on or about January 11, 2013 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 3 of the Indictment; and
 - c. Count IV – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for individual counseling services that were not provided, or provided in a group setting, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio as charged in Count IV of the Indictment; and
 - d. Count V – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for counseling services by unqualified individuals, when there

was no proper supervising physician, in connection with the delivery of, or payment for, health care benefits, items, or services, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 5 of the Indictment.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective April 6, 2017 through September 28, 2017:
 - a. Has been convicted of a felony, or a crime of moral turpitude, as defined in section 4776.10 of the Revised Code, ORC Section 4729.16(A)(2)(a); and
 - b. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2)(b); 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 Section 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 4729.16(A)(2)(l).
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following divisions of section 4729.16 of the ORC, February 12, 2001 through April 5, 2017:
 - d. Guilty of a felony or gross immorality, ORC Section 4729.16(A)(1); and
 - e. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - f. Guilty of willfully violating, conspiring to violate...or aiding and abetting 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 Section 4729.16(A)(5).
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the Ohio Administrative Code (OAC) as effective April 28, 2016 through May 1, 2018:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and

- b. Violated, conspired to violate...or aided and abetted in the violation of any of the provisions of Chapters 4729., 3715., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and
 - c. Committed acts that constitute moral turpitude as defined in section 4776.10 of the Revised Code or gross immorality, OAC Rule 4729-5-04(C);
 - d. Failed to conform to prevailing standards of care of similar pharmacists or pharmacy interns under same or similar circumstances, whether or not actual injury to a patient is established, OAC Rule 4729-5-04(L).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective January 1, 2011 through April 27, 2016:
 - a. Has been convicted of a felony, OAC Rule 4729-5-04(A); and
 - b. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-5-04(B); and
 - c. Is not of good moral character and habits, OAC Rule 4729-5-04(C).
5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-20(G) of the OAC, a prescription, to be valid, must be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. Based upon information obtained during a prospective drug utilization review, a pharmacist shall use professional judgment when making a determination about the legitimacy of a prescription. A pharmacist is not required to dispense a prescription of doubtful, questionable, or suspicious origin.
6. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Rule 4729-5-21(A), and/or OAC Rule 4729-5-30(A) of the OAC, a prescription, to be valid, must be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of his/her professional practice. The responsibility for the proper prescribing is upon the prescriber, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription issued not in the usual course of bona fide treatment of a patient is not a prescription and the person knowingly dispensing such a purported prescription, as well as the person issuing it, shall be subject to the penalties of law.

7. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 2913.40 of the ORC, if the value of the property, services, or funds obtained in violation of this section is \$150,000.00 or more, no person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the Medicaid program, ORC Section 2913.40(B).
8. Such conduct as set forth in the Findings of Fact Section constitutes a violation of each of the following divisions of Section 2925.23(A) of the ORC, no person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code.

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Health and Wellness Pharmacy on January 9, 2019.

Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Darrell Bryant as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the

Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (7) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (8) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Pharmacist license, No. 03-325389, held by Darrell Bryant effective as of the date of the mailing of this Order.

Pursuant to Rule 4729-9-01(E) of the Ohio Administrative Code, Darrell Bryant may never apply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.

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

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

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

SO ORDERED.

R-2020-0378 After votes were taken in public session, the Board adopted the following order in the matter of **Health and Wellness Pharmacy, Dublin, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0008)

In The Matter Of:

Health and Wellness Pharmacy

c/o Darrell Bryant

FCI Elkton

Federal Correctional Institution

P.O. Box 10

Lisbon, Ohio 44432

(License no. 02-2126300)

INTRODUCTION

The Matter of Health and Wellness Pharmacy came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, Presiding; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, Public Member; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; and Shawn C. Wilt, RPh; Absent.

Health and Wellness Pharmacy was not 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. Kevin E. Flaharty—Central Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Summary Suspension—Darrell Bryant, RPh
- 1b. Summary Suspension—Gifty Kusi, RPh
- 1c. Summary Suspension—Health and Wellness Pharmacy (A-2019-0008)
- 1d. Summary Suspension—Health and Wellness Pharmacy (A-2019-0011)
- 1e. Summary Suspension—Health and Wellness Pharmacy (A-2019-0006)

2. Darrel L. Bryant's Judgment in a Criminal Case, Case #: 2:17-cr-00146(1)
3. Gifty Kusi's Judgement in a Criminal Case, Case #: 2:17-cr-00146(2)
4. United States of America v. Michael Alexander, Plea Agreement
5. United States of America vs. Jornel Rivera, Plea Agreement
6. United States of America vs. Darrell L. Bryant, Gifty Kusi, and Jornel Rivera, Indictment, Case No. 2:17-cr-00146
7. Criminal Docket for Case #: 2:17-cr-00146-ALM All Defendants
8. Health and Wellness Pharmacy (License no. 022248000) Retail Pharmacy Inspection

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. Health and Wellness Pharmacy compounded and dispensed non-sterile compounds without a prior patient-specific prescription having been issued by an individual prescriber in the usual course of the prescriber's professional practice.
2. Health and Wellness Pharmacy conspired with a physician to create prescriptions, which had already been dispensed.
3. On or about July 7, 2017, indictments were filed with the United States District Court, Southern District of Ohio Eastern Division, against Darrell Bryant and Gifty Kusi on one count of conspiracy to commit Health Care Fraud in violation of 18 U.S.C. § 1349 and four counts of Health Care Fraud Scheme in violation of 18 U.S.C. § 1347 and § 2. On or about December 18, 2018, Darrell Bryant and Gifty Kusi were each found guilty by a jury of the following:
 - a. Count I – conspiring...to violate 18 U.S.C. § 1347, to execute a scheme to defraud a health care benefit program...that is, the Ohio Medicaid Program, in connection with the delivery or payment for health care benefits, items, or services, as charged in Count 1 of the Indictment; and
 - b. Count III – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to

Medicaid for compound creams that were not medically necessary, because it was not requested to be filled by the patient, and/or it was not legitimately prescribed by a physician, from on or about January 11, 2013 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 3 of the Indictment; and

- c. Count IV – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for individual counseling services that were not provided, or provided in a group setting, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio as charged in Count IV of the Indictment; and
 - d. Count V – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for counseling services by unqualified individuals, when there was no proper supervising physician, in connection with the delivery of, or payment for, health care benefits, items, or services, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 5 of the Indictment.
4. On or about January 8, 2019, the Board summarily suspended the pharmacist licenses of Darrell Bryant and Gifty Kusi.
 5. Darrell Bryant, R.Ph. and Gifty Kusi, R.Ph., are the owners of Health and Wellness Pharmacy, located at 5050 Blazer Parkway, Dublin Ohio 43017. This is the location where the fraud for which they were found guilty by a jury occurred.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, TDDD license requirements:
 - a. The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board, ORC 4729.55(A); and
 - b. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC 4729.55(B); and

- c. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC 4729.55(C); and
 - d. Adequate safeguards are assured that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC 4729.55(D).
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-02(B) of the Ohio Administrative Code (OAC), the pharmacy shall carry and utilize the equipment necessary to conduct a pharmacy in a manner that is in the best interest of the patients served and to comply with all state and federal laws.
3. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, Responsible person:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and
 - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729-5-11(A)(3).
4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).

DECISION OF THE BOARD

Pursuant to Section 4729.571 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Health and Wellness Pharmacy on January 9, 2019.

Pursuant to Section 4729.57 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Health and Wellness Pharmacy as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2126300, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2126300, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2126300, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2126300, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

Pursuant to Rule 4729-9-01(E) of the Ohio Administrative Code, Health and Wellness Pharmacy may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.

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

Donald R. Miller moved for Conclusions of Law; Joshua M. Cox seconded the motion. Motion passed (Aye-5/Nay-0).

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

SO ORDERED.

R-2020-0379 After votes were taken in public session, the Board adopted the following order in the matter of **Health and Wellness Pharmacy, Columbus, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0011)

In The Matter Of:

Health and Wellness Pharmacy

c/o Darrell Bryant

FCI Elkton

Federal Correctional Institution

P.O. Box 10

Lisbon, Ohio 44432

(License No. 02-2248000)

INTRODUCTION

The Matter of Health and Wellness Pharmacy came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; and Shawn C. Wilt, RPh; Absent.

Health and Wellness Pharmacy was not present and was not represented by counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Kevin E. Flaharty—Central Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Summary Suspension—Darrell Bryant, RPh
- 1b. Summary Suspension—Gifty Kusi, RPh
- 1c. Summary Suspension—Health and Wellness Pharmacy (A-2019-0008)
- 1d. Summary Suspension—Health and Wellness Pharmacy (A-2019-0011)
- 1e. Summary Suspension—Health and Wellness Pharmacy (A-2019-0006)
2. Darrel L. Bryant's Judgment in a Criminal Case, Case #: 2:17-cr-00146(1)
3. Gifty Kusi's Judgement in a Criminal Case, Case #: 2:17-cr-00146(2)
4. United States of America v. Michael Alexander, Plea Agreement
5. United States of America vs. Jornel Rivera, Plea Agreement
6. United States of America vs. Darrell L. Bryant, Gifty Kusi, and Jornel Rivera, Indictment, Case No. 2:17-cr-00146
7. Criminal Docket for Case #: 2:17-cr-00146-ALM All Defendants
8. Health and Wellness Pharmacy (License no. 022248000) Retail Pharmacy Inspection

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. Health and Wellness Pharmacy compounded and dispensed non-sterile compounds without a prior patient-specific prescription having been issued by an individual prescriber in the usual course of the prescriber's professional practice.

2. Health and Wellness Pharmacy conspired with a physician to create prescriptions, which had already been dispensed.
3. On or about July 7, 2017, indictments were filed with the United States District Court, Southern District of Ohio Eastern Division, against Darrell Bryant and Gifty Kusi on one count of conspiracy to commit Health Care Fraud in violation of 18 U.S.C. § 1349 and four counts of Health Care Fraud Scheme in violation of 18 U.S.C. § 1347 and § 2. On or about December 18, 2018, Darrell Bryant and Gifty Kusi were each found guilty by a jury of the following:
 - a. Count I – conspiring...to violate 18 U.S.C. § 1347, to execute a scheme to defraud a health care benefit program...that is, the Ohio Medicaid Program, in connection with the delivery or payment for health care benefits, items, or services, as charged in Count 1 of the Indictment; and
 - b. Count III – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for compound creams that were not medically necessary, because it was not requested to be filled by the patient, and/or it was not legitimately prescribed by a physician, from on or about January 11, 2013 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 3 of the Indictment; and
 - c. Count IV – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for individual counseling services that were not provided, or provided in a group setting, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio as charged in Count IV of the Indictment; and
 - d. Count V – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for counseling services by unqualified individuals, when there was no proper supervising physician, in connection with the delivery of, or payment for, health care benefits, items, or services, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 5 of the Indictment.
4. On or about January 8, 2019, the Board summarily suspended the pharmacist licenses of Darrell Bryant and Gifty Kusi.

5. Darrell Bryant and Gifty Kusi are the owners of Health and Wellness Pharmacy located at 5825 Westbourne Avenue, Columbus, Ohio 43213. This retail location is located within the same office building as an unlicensed Office Based Opioid Treatment (OBOT) Facility, Alexander Recovery Center, for which Darrell Bryant and Gifty Kusi have been named by the owner as administrators. The unlicensed OBOT has admitted to treating approximately 550 patients and being beyond the 30-patient per day limit without proper licensure from either the Board or the Ohio Department of Mental Health and Addiction Services.
6. At an inspection conducted on January 2, 2019, the following violations were documented:
 - a. The posted DEA registration expired October 31, 2018.
 - b. The pharmacy lacked positive ID for Drug Utilization Review, data entry, and for the act of dispensing.
 - c. The pharmacy lacked adequate locks for the pharmacy barricade. Due to the inadequate lock on the door, the pharmacy can be entered without making obvious damage to the barricade.
 - d. All drugs are stored in a box within the pharmacy. Expired drugs are stored with non-expired drugs and drugs have been stored longer than one year from the expiration date.
 - e. The pharmacy lacks proper equipment to conduct compounding. No training logs were observed. The unguator and ointment mill are transported to this location and returned to the previous location to be cleaned.
 - f. The most recent controlled substance inventory was completed on January 2, 2017 at opening of business by Darrell Bryant when the pharmacy was located at 2200 Mock Road, Columbus, Ohio. The pharmacy has not conducted a controlled substance inventory since that time.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, TDDD license requirements:
 - a. The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board, ORC 4729.55(A); and
 - b. A pharmacist, licensed health professional authorized to prescribe drugs, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code,

- or a laboratory as defined in section 3719.01 of the Revised Code will maintain supervision and control over the possession and custody of dangerous drugs that may be acquired by or on behalf of the applicant, ORC 4729.55(B); and
- c. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC 4729.55(C); and
 - d. Adequate safeguards are assured that the applicant will carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC 4729.55(D).
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-9-02(B) of the Ohio Administrative Code (OAC), the pharmacy shall carry and utilize the equipment necessary to conduct a pharmacy in a manner that is in the best interest of the patients served and to comply with all state and federal laws.
 3. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following sections of Rule 4729-5-11 of the OAC, Responsible person:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintaining all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and
 - b. The person to whom the terminal distributor of dangerous drugs license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729-5-11(A)(3).
 4. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and
 - c. Ceasing to satisfy the qualifications of a TDDD set forth in section 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).

5. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729-9-14 of the OAC, a terminal distributor of dangerous drugs shall take a new inventory of all stocks of controlled substances on hand every year following the date on which the initial inventory was taken.
6. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Rule 4729-9-17 of the OAC, adulterated drugs shall be stored no longer than one year from the date of adulteration or expiration by those holding a terminal distributor of dangerous drugs license.
7. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of Section 3715.52(A)(1) of the ORC, the holding or offering for sale any drug that is adulterated or misbranded.

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Health and Wellness Pharmacy on January 9, 2019.

Pursuant to Section 4729.57 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Health and Wellness Pharmacy as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (7) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs (TDDD), License No. 02-2248000, held by Health and Wellness Pharmacy effective as of the date of the mailing of this Order.

Pursuant to Rule 4729-9-01(E) of the Ohio Administrative Code, Health and Wellness Pharmacy may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.

Fred M. Weaver moved for Findings of Fact; Donald R. Miller seconded the motion. Motion passed (Aye-5/Nay-0).

Kilee S. Yarosh moved for Conclusions of Law; Richard J. Newlon seconded the motion. Motion passed (Aye-5/Nay-0).

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

SO ORDERED.

R-2020-0380 After votes were taken in public session, the Board adopted the following order in the matter of **Health and Wellness Wholesalers, Dublin, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0006)

In The Matter Of:

Health and Wellness Wholesalers

c/o CPM Statutory Agent Corp

366 East Broad Street

Columbus, OH 43215

(License No. 01-2310700)

INTRODUCTION

The Matter of Health and Wellness Wholesalers came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, Presiding; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, Public Member; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Megan E. Marchal, RPh; and Shawn C. Wilt, RPh; Absent.

Health and Wellness Wholesalers was not 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. Kevin E. Flaharty—Central Agent in Charge

Respondent's Witnesses:

1. None

State's Exhibits:

- 1a. Summary Suspension—Darrell Bryant, RPh
- 1b. Summary Suspension—Gifty Kusi, RPh
- 1c. Summary Suspension—Health and Wellness Pharmacy (A-2019-0008)
- 1d. Summary Suspension—Health and Wellness Pharmacy (A-2019-0011)

- 1e. Summary Suspension—Health and Wellness Pharmacy (A-2019-0006)
2. Darrel L. Bryant's Judgment in a Criminal Case, Case #: 2:17-cr-00146(1)
3. Gifty Kusi's Judgment in a Criminal Case, Case #: 2:17-cr-00146(2)
4. United States of America v. Michael Alexander, Plea Agreement
5. United States of America vs. Jornel Rivera, Plea Agreement
6. United States of America vs. Darrell L. Bryant, Gifty Kusi, and Jornel Rivera, Indictment, Case No. 2:17-cr-00146
7. Criminal Docket for Case #: 2:17-cr-00146-ALM All Defendants
8. Health and Wellness Pharmacy (License no. 022248000) Retail Pharmacy Inspection

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. Darrell Bryant and Gifty Kusi are the owners of Health and Wellness Wholesaler.
2. On or about July 7, 2017, indictments were filed with the United States District Court, Southern District of Ohio Eastern Division, against Darrell Bryant and Gifty Kusi on one count of conspiracy to commit Health Care Fraud in violation of 18 U.S.C. §1349 and four counts of Health Care Fraud Scheme in violation of 18 U.S.C. § 1347 and § 2. On or about December 18, 2018, Darrell Bryant and Gifty Kusi were each found guilty by a jury of the following:
 - a. Count I – conspiring...to violate 18 U.S.C. § 1347, to execute a scheme to defraud a health care benefit program...that is, the Ohio Medicaid Program, in connection with the delivery or payment for health care benefits, items, or services, as charged in Count 1 of the Indictment; and
 - b. Count III – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for compound creams that were not medically necessary, because it was not requested to be filled by the patient, and/or it was not legitimately prescribed by a physician, from on or about January 11, 2013 through

on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 3 of the Indictment; and

- c. Count IV – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for individual counseling services that were not provided, or provided in a group setting, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio as charged in Count IV of the Indictment; and
 - d. Count V – knowingly and willfully executing and attempting to execute a scheme or artifice to defraud a health care benefit program...in connection with the delivery of, or payment for, health care benefits, items, or services by submitting fraudulent claims to Medicaid for counseling services by unqualified individuals, when there was no proper supervising physician, in connection with the delivery of, or payment for, health care benefits, items, or services, from on or about December 18, 2015 through on or about April 21, 2017, in the Southern District of Ohio, as charged in Count 5 of the Indictment.
3. On or about January 8, 2019, the Board summarily suspended the pharmacist licenses of Darrell Bryant and Gifty Kusi.
 4. Board Agents identified on the Health and Wellness Wholesaler website, healthwellnesswholesalers.com, dangerous drugs that require a valid prescription or proper license to order available for sale to the general public. On or about January 8, 2019, Agents completed a purchase for sale of epinephrine and were charged \$20.44 for this product. At no time did the purchase require a valid prescription or license.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes the following violations of the section 4729.53 of the ORC, failure to meet the registration requirements for a WDDD:
 - a. If the applicant has been convicted of a violation of any federal, state, or local law relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances or of a felony, or if a federal, state, or local governmental entity has suspended or revoked any current or prior license or registration of the applicant for the manufacture or sale of any dangerous drugs, including controlled substances, the applicant, to the satisfaction of the board, assures that the applicant has in place adequate safeguards to prevent the recurrence of any such violations, ORC 4729.53(A)(1); and

- b. The applicant's past experience in the manufacture or distribution of dangerous drugs, including controlled substances, is acceptable to the board, ORC 4729.53(A)(2); and
 - c. The applicant is equipped as to land, buildings, equipment, and personnel to properly carry on the business of a wholesale distributor of dangerous drugs, including providing adequate security for and proper storage conditions and handling for dangerous drugs, and is complying with the requirements under this chapter and the rules adopted pursuant thereto for maintaining and making available records to properly identified board officials and federal, state, and local law enforcement agencies, ORC 4729.53(A)(3); and
 - d. Personnel employed by the applicant have the appropriate education or experience, as determined by the board, to assume responsibility for positions related to compliance with this chapter and the rules adopted pursuant thereto, ORC 4729.53(A)(4); and
 - e. Adequate safeguards are assured to prevent the sale of dangerous drugs to any person other than those named in division (B) of section 4729.51 of the Revised Code, ORC 4729.53(A)(6); and
 - f. Any other requirement or qualification the board, by rule adopted in accordance with Chapter 119. of the Revised Code, considers relevant to and consistent with the public safety and health, ORC 4729.53(A)(7); and
 - g. In addition to the causes described in section 4729.56 of the Revised Code for refusing to grant or renew a registration certificate, the board may refuse to register or renew the registration certificate of any person if the board determines that the granting of the registration certificate or its renewal is not in the public interest, ORC 4729.53(B).
2. Such conduct as set forth in the Findings of Fact Section constitutes the following violations of the section 4729.56 of the ORC, as effective July 1, 1992 through September 29, 2017:
- a. Violating any federal, state, or local drug law; any provision of chapter 4729. or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board, ORC Section 4729.56(A)(2) as effective 7/1/92 through 9/28/17; 4729.56(A)(2)(b) as effective 9/29/17; and
 - b. A conviction of a felony, ORC Section 4729.56(A)(3) as effective 7/1/92 through 9/28/17; 4729.56(A)(2)(c) as effective 9/29/17; and

- c. Failing to satisfy the qualifications for registration under section 4729.53 of the Revised Code or the rules of the board or ceasing to satisfy the qualifications after the registration is granted or renewed, ORC Section 4729.56(A)(4) as effective 7/1/92 through 9/28/15;
 - d. Failing to satisfy the qualifications for registration under section 4729.53 of the Revised Code or the rules of the board or ceasing to satisfy the qualifications after the registration is granted or renewed, ORC Section 4729.56(A)(4) as effective 9/29/15, 4729.56(A)(2)(d) as effective 9/29/17.
3. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(A) of the OAC:
 - a. Has been convicted of a felony, ORC Rule 4729-9-19(A)(1); and
 - b. Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(A)(2); and
 - c. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-9-19(A)(3); and
 - d. Is not of good moral character and habits, OAC Rule 4729-9-19(A)(4).
4. Such conduct as set forth in the Findings of Fact Section constitutes a violation of the following sections of Rule 4729-9-19(B)(3) of the OAC, knowingly employing a person who:
 - a. Has been convicted of a felony, OAC Rule 4729-9-19(B)(3)(c); and
 - b. Has committed an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(B)(3)(d); and
 - c. Has been convicted of violating any state or federal pharmacy or drug law, OAC Rule 4729-9-19(B)(3)(e); and
 - d. Is not of good moral character and habits, OAC Rule 4729-9-19(B)(3)(f).
5. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.51(E)(a) of the ORC, no person shall...sell or distribute, at retail, dangerous drugs.
6. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.60(A)(1) of the ORC, before a licensee identified in division (B)(1)(a) of section 4729.52 of the Revised Code may sell or distribute dangerous drugs at wholesale to any person, except as provided in division (A)(2) of this section, the licensee shall query the

roster established pursuant to section 4729.59 of the Revised Code to determine whether the purchaser is a licensed terminal distributor of dangerous drugs. If no documented query is conducted before a sale is made, it shall be presumed that the sale of dangerous drugs by the licensee is in violation of division (B) of section 4729.51 of the Revised Code and the purchase of dangerous drugs by the purchaser is in violation of division (E) of section 4729.51 of the Revised Code, pursuant to 4729.56 as effective September 29, 2017.

7. Such conduct as set forth in the Findings of Fact Section constitutes a violation of OAC 4729-9-24, all dangerous drug distributors who sell or offer to sell dangerous drugs at retail or wholesale on the "internet" shall make such sales only in compliance with all state and federal laws governing the legal distribution of dangerous drugs.

DECISION OF THE BOARD

Pursuant to Section 4729.56 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Health and Wellness Wholesalers on January 9, 2019.

Pursuant to Section 4729.56 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Health and Wellness Wholesalers as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (7) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Wholesale Distributor of Dangerous Drugs (WDDD) license, No. 01-2310700 held by Health and Wellness Wholesalers effective as of the date of the mailing of this Order.

Pursuant to Rule 4729-9-01(E) of the Ohio Administrative Code, Health and Wellness Pharmacy may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.

Donald R. Miller moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-5/Nay-0).

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

Kilee S. Yarosh moved for Action of the Board; Donald R. Miller seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

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- 10:06 a.m.** The Board Recessed for an Intermission.
- 10:18 a.m.** Ms. Southard presented the OBOT Non-Physician Ownership Waiver Request of Eagle Health Works, LLC—Thornville, Ohio (APP-000311397) to the Board for consideration.
- R-2020-0381** Mr. Newlon moved to approve the request of Eagle Health Works, LLC. The Motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.
- 10:20 a.m.** Ms. Southard presented the OBOT Non-Physician Ownership Waiver Request of CleanSlate Medical Group of Ohio, LLC—Columbus, Ohio (APP-0265000013) to the Board for consideration.

R-2020-0382 Mr. Cox moved to approve the request of CleanSlate Medical Group of Ohio, LLC. The Motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.

10:24 a.m. Ms. Dehner presented information to the Board, consistent with Goldman v. State Med. Bd., 10th Dist. Franklin (Oct. 20, 1998), pertaining to Medical Marijuana Dispensary Applicants who were not viable for approval and had not requested a hearing in the timeframe set forth in chapter 119 of the Ohio Revised Code (ORC).

R-2020-0283 Mr. Cox moved to adopt the following Orders pertaining to the above referenced Goldman Medical Marijuana Applicants. The Motion was seconded by Ms. Yarosh and approved by the Board: Aye-5, Nay-0.

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

Case No. 2018-M470

In the Matter of Applicant:

CRESCO LABS OHIO LLC

C/O COGENCY GLOBAL INC.

3958-D BROWN PARK DR.

HILLIARD OH 43026

Account No./Application No.: 341-470

Application District: SOUTHEAST-3

Application Dispensary Address: 262 SOUTH 3RD STREET, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to

be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M478

In the Matter of Applicant:
CRESCO LABS OHIO LLC
C/O COGENCY GLOBAL INC.
3958-D BROWN PARK DR.
HILLIARD OH 43026

Account No./Application No.: 341-478

Application District: NORTHEAST-6

Application Dispensary Address: 1233 BRIDGE STREET ASHTABULA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State’s Exhibit A—Respondent’s Hearing Notice
- State’s Exhibit B—Proof of service
- State’s Exhibit C—Respondent Score Sheet
- State’s Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State’s Exhibit A because Respondent’s score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M617

In the Matter of Applicant:
CRESCO LABS OHIO LLC
C/O COGENCY GLOBAL INC.
3958-D BROWN PARK DR.
HILLIARD OH 43026

Account No./Application No.: 341-617

Application District: SOUTHEAST-3

Application Dispensary Address: 3280 EAST MAIN STREET, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice

- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M296

In the Matter of Applicant:
CURALEAF OHIO, INC.
C/O CORPORATION SERVICE COMPANY
50 WEST BROAD STREET, SUITE 1330
COLUMBUS OH 43215
Account No./Application No.: 304-296
Application District: NORTHEAST-3
Application Dispensary Address: 2481 MANCHESTER ROAD AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice

- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M297

In the Matter of Applicant:
CURALEAF OHIO, INC.
C/O CORPORATION SERVICE COMPANY
50 WEST BROAD STREET, SUITE 1330
COLUMBUS OH 43215
Account No./Application No.: 304-297
Application District: SOUTHWEST-1
Application Dispensary Address: 2953 COLERAIN AVENUE CINCINNATI, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because

Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M327

In the Matter of Applicant:

CURALEAF OHIO, INC.

C/O CORPORATION SERVICE COMPANY

50 WEST BROAD STREET, SUITE 1330

COLUMBUS OH 43215

Account No./Application No.: 304-327

Application District: SOUTHWEST-5

Application Dispensary Address: 7 WOODLANDS DRIVE AMELIA VILLAGE, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M509

In the Matter of Applicant:

CURALEAF OHIO, INC.

C/O CORPORATION SERVICE COMPANY

50 WEST BROAD STREET, SUITE 1330

COLUMBUS OH 43215

Account No./Application No.: 304-509

Application District: NORTHEAST-2

Application Dispensary Address: 2174 SOUTH TAYLOR ROAD, CLEVELAND HEIGHTS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J.

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

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M952

In the Matter of Applicant:

CURATED LEAF

CURATED LEAF

C/O ATCPC OF OHIO, LLC

1 THOMARIOS WAY

COPLEY OH 44321

Account No./Application No.: 445-952

Application District: NORTHEAST-2

Application Dispensary Address: 3644 STEELYARD DRIVE, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following

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

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M965

In the Matter of Applicant:

CURATED LEAF

CURATED LEAF

C/O ATCPC OF OHIO, LLC

1 THOMARIOS WAY

COPLEY OH 44321

Account No./Application No.: 447-965

Application District: NORTHEAST-2

Application Dispensary Address: 13415 MADISON AVENUE, LAKEWOOD, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M.

Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M859

In the Matter of Applicant:
DAYTON DISPENSARIES, LLC
C/O SAPNA GUPTA
1010 WOODMAN DRIVE, N/A
DAYTON OH 45342

Account No./Application No.: 421-859

Application District: SOUTHWEST-4

Application Dispensary Address: 4317 LINDEN AVENUE DAYTON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter

subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M957

In the Matter of Applicant:
DAYTON DISPENSARIES, LLC
C/O SAPNA GUPTA
1010 WOODMAN DRIVE, N/A
DAYTON OH 45342
Account No./Application No.: 421-957
Application District: SOUTHWEST-4

Application Dispensary Address: (NO REGISTERED ADDRESS), CORNER OF SALEM AVE. AND UNION RD., PARCEL

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M782

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 1, LLC
DEBBIE'S DISPENSARY
C/O DEBBIE'S DISPENSARY OHIO 1, LLC
1088 N HIGH ST
HILLSBORO OH 45133
Account No./Application No.: 284-782
Application District: NORTHEAST-2
Application Dispensary Address: 2338 CANAL ROAD, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

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

- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M792

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 2, LLC
DEBBIE'S DISPENSARY
C/O DEBBIE'S DISPENSARY OHIO 2, LLC
1088 N HIGH ST
HILLSBORO OH 45133
Account No./Application No.: 281-792
Application District: NORTHWEST-4
Application Dispensary Address: 106 E NAPOLEON ROAD BOWLING GREEN, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice

- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-M793

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 3, LLC
DEBBIE'S DISPENSARY
C/O ROCKET LAWYER CORPORATE SERVICES LLC
4568 MAYFIELD ROAD #204
CLEVELAND OH 44121
Account No./Application No.: 385-793
Application District: NORTHEAST-2
Application Dispensary Address: 4141 MAYFIELD RD. AND 4127 MAYFIELD RD., SOUTH EUCLID,
OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State’s Exhibit A—Respondent’s Hearing Notice
- State’s Exhibit B—Proof of service
- State’s Exhibit C—Respondent Score Sheet
- State’s Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State’s Exhibit A because

Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M915

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 4, LLC
DEBBIE'S DISPENSARY
C/O ROCKET LAWYER CORPORATE SERVICES LLC
4568 MAYFIELD ROAD #204
CLEVELAND OH 44121

Account No./Application No.: 169-915

Application District: NORTHEAST-1

Application Dispensary Address: 1990 COOPER FOSTER PARK ROAD, SUITE 1990, B1 LORAIN, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M801

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 5, LLC
DEBBIE'S DISPENSARY
C/O DEBBIE'S DISPENSARY OHIO 4, LLC
1088 N HIGH ST
HILLSBORO OH 45133
Account No./Application No.: 67-801
Application District: SOUTHWEST-2
Application Dispensary Address: 322-324 N. MAIN ST. MONROE, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J.

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

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M998

In the Matter of Applicant:
DEBBIE'S DISPENSARY OHIO 5, LLC
DEBBIE'S DISPENSARY
C/O DEBBIE'S DISPENSARY OHIO 4, LLC
1088 N HIGH ST
HILLSBORO OH 45133
Account No./Application No.: 67-998
Application District: NORTHEAST-6
Application Dispensary Address: 1965 RIDGE AVE WARREN, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following

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

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1051

In the Matter of Applicant:
E&V HOLDING GROUP, LLC
C/O TRAVIS POLLOCK
222 W WESCOTT DR
PHOENIX, AZ 85027

Account No./Application No.: 510-1051
Application District: NORTHEAST-3

Application Dispensary Address: 575 E EXCHANGE ST AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M799

In the Matter of Applicant:
EAGLE DISPENSARIES 1, LLC
EAGLE DISPENSARIES
C/O JAMES KAUFMAN
6100 OAK TREE BOULEVARD, SUITE 200
INDEPENDENCE, OH 44131
Account No./Application No.: 216-799
Application District: SOUTHWEST-4
Application Dispensary Address: 7631 N. MAIN ST CLAYTON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1043

In the Matter of Applicant:
EAGLE DISPENSARIES 1, LLC
EAGLE DISPENSARIES
C/O JAMES KAUFMAN
6100 OAK TREE BOULEVARD, SUITE 200
INDEPENDENCE, OH 44131
Account No./Application No.: 216-1043
Application District: NORTHWEST-8
Application Dispensary Address: 1610 CLEVELAND RD SANDUSKY, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on June 15, 2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1041

In the Matter of Applicant:
EAGLE DISPENSARIES 5, LLC
EAGLE DISPENSARIES
C/O JAMES KAUFMAN
6100 OAK TREE BOULEVARD, SUITE 200
INDEPENDENCE, OH 44131
Account No./Application No.: 64-1041
Application District: NORTHWEST-6
Application Dispensary Address: 965 E. WYANDOT AVE. UPPER SANDUSKY, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M838

In the Matter of Applicant:
EAGLE DISPENSARIES 5, LLC
EAGLE DISPENSARIES
C/O JAMES KAUFMAN
6100 OAK TREE BOULEVARD, SUITE 200
INDEPENDENCE, OH 44131
Account No./Application No.: 186-838
Application District: NORTHEAST-3
Application Dispensary Address: 1620 EAST AVENUE AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M789

In the Matter of Applicant:

ELEVATE 1803 LLC

C/O SETH STOCKMEISTER

16064 BEAVER PIKE

JACKSON OH 45640

Account No./Application No.: 435-789

Application District: SOUTHEAST-2

Application Dispensary Address: 1 (+/-) ACRE TRACT OF PARCEL 140110046000 - HOSPITAL
RD./U.S. 23 CHILLICOTHE, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M954

In the Matter of Applicant:

ELEVATE 1803 LLC

C/O SETH STOCKMEISTER

16064 BEAVER PIKE

JACKSON OH 45640

Account No./Application No.: 435-954

Application District: SOUTHEAST-3

Application Dispensary Address: 3180 OLENTANGY RIVER RD, COLUMBUS, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M860

In the Matter of Applicant:

ELEVATE 1803 LLC

C/O SETH STOCKMEISTER

16064 BEAVER PIKE

JACKSON OH 45640

Account No./Application No.: 466-860

Application District: SOUTHEAST-6

Application Dispensary Address: 9 W STIMSON AVE ATHENS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M895

In the Matter of Applicant:

ELEVATE 1803 LLC

C/O SETH STOCKMEISTER

16064 BEAVER PIKE

JACKSON OH 45640

Account No./Application No.: 466-895

Application District: SOUTHEAST-1

Application Dispensary Address: 2828 GALLIA ST. PORTSMOUTH, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M947

In the Matter of Applicant:

ELEVATE 1803 LLC

C/O SETH STOCKMEISTER

16064 BEAVER PIKE

JACKSON OH 45640

Account No./Application No.: 466-947

Application District: SOUTHEAST-5

Application Dispensary Address: 1402-1404 ETY RD GREENFIELD TOWNSHIP, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/21/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M910

In the Matter of Applicant:
E-TOWN REVIVAL, INC.
C/O SSE, INC.
26600 DETROIT ROAD, SUITE 300
WESTLAKE OH 44145
Account No./Application No.: 481-910
Application District: NORTHEAST-1
Application Dispensary Address: 801 CLEVELAND STREET ELYRIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M635

In the Matter of Applicant:
FUTURE DREAMS OF OHIO, LLC
C/O ROBERT DEGABRIELLE
2364 WEST BROAD STREET
COLUMBUS OH 43204
Account No./Application No.: 65-635
Application District: SOUTHEAST-3
Application Dispensary Address: 2374 W. BROAD ST, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M648

In the Matter of Applicant:
FUTURE DREAMS OF OHIO, LLC
C/O ROBERT DEGABRIELLE
2364 WEST BROAD STREET
COLUMBUS OH 43204
Account No./Application No.: 65-648
Application District: SOUTHEAST-8
Application Dispensary Address: 823 PIKE STREET MARIETTA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M810

In the Matter of Applicant:

GALENAS WELLNESS LLC

C/O GEOFF KORFF

310 EAST EUCLID AVENUE

SALEM OH 44460

Account No./Application No.: 200-810

Application District: NORTHEAST-3

Application Dispensary Address: 1912 BUCHHOLZER BLVD. AKRON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M900

In the Matter of Applicant:

GALENAS WELLNESS LLC

C/O GEOFF KORFF

310 EAST EUCLID AVENUE

SALEM OH 44460

Account No./Application No.: 200-900

Application District: NORTHEAST-6

Application Dispensary Address: 6285 YOUNGSTOWN-WARREN ROAD NILES, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M917

In the Matter of Applicant:

GALENAS WELLNESS LLC

C/O GEOFF KORFF

310 EAST EUCLID AVENUE

SALEM OH 44460

Account No./Application No.: 200-917

Application District: NORTHEAST-2

Application Dispensary Address: 13415 MADISON AVENUE, LAKEWOOD, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M251

In the Matter of Applicant:
GLASS CITY ALTERNATIVES, LLC
C/O MARK I JACOBS
1122 ADAMS ST.
TOLEDO OH 43604

Account No./Application No.: 306-251

Application District: NORTHWEST-3

Application Dispensary Address: 3203 + 3209 W. SYLVANIA AVENUE TOLEDO, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M385

In the Matter of Applicant:
GLASS CITY ALTERNATIVES, LLC
C/O MARK I JACOBS
1122 ADAMS ST.
TOLEDO OH 43604

Account No./Application No.: 306-385

Application District: NORTHWEST-3

Application Dispensary Address: 7425 AIRPORT HIGHWAY HOLLAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M108

In the Matter of Applicant:
GLASSHOUSE RETAIL 1 LLC
C/O 1932 SERVICE CORP.
1301 E. 9TH STREET, SUITE 3500
CLEVELAND OH 44114
Account No./Application No.: 361-108
Application District: NORTHEAST-2
Application Dispensary Address: PARCEL #511-12-015; 511-12-16; 51112-2017, NEWBURG
HEIGHTS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M756

In the Matter of Applicant:
GLASSHOUSE RETAIL 2 LLC
C/O 1932 SERVICE CORP.
1301 E. 9TH STREET, SUITE 3500
CLEVELAND OH 44114
Account No./Application No.: 345-756
Application District: NORTHEAST-2
Application Dispensary Address: 2020 ST. CLAIR AVENUE, CLEVELAND, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M776

In the Matter of Applicant:
GLASSHOUSE RETAIL 3 LLC
C/O 1932 SERVICE CORP.
1301 E. 9TH STREET, SUITE 3500
CLEVELAND OH 44114
Account No./Application No.: 177-776
Application District: NORTHEAST-4
Application Dispensary Address: 3060 TUSCARAWAS ST. WEST CANTON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M780

In the Matter of Applicant:
GLASSHOUSE RETAIL 4 LLC
C/O 1932 SERVICE CORP.
1301 E. 9TH STREET, SUITE 3500
CLEVELAND OH 44114
Account No./Application No.: 407-780
Application District: NORTHEAST-1
Application Dispensary Address: 403 CLEVELAND STREET ELYRIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M291

In the Matter of Applicant:
GOODTREE HEALTHCARE LLC
GOODTREE HEALTHCARE
C/O SIMON SHTEYNGARTS
33800 SHERBROOK DRIVE
SOLON OH 44139

Account No./Application No.: 203-291

Application District: NORTHEAST-1

Application Dispensary Address: 2000 MIDWAY MALL ELYRIA, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M300

In the Matter of Applicant:
GOODTREE HEALTHCARE LLC
GOODTREE HEALTHCARE
C/O SIMON SHTEYNGARTS
33800 SHERBROOK DRIVE
SOLON OH 44139

Account No./Application No.: 203-300

Application District: NORTHWEST-3

Application Dispensary Address: 5302 AIRPORT HWY. TOLEDO, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

**ORDER OF THE STATE BOARD OF PHARMACY DENYING RESPONDENT'S APPLICATION FOR
MEDICAL MARIJUANA DISPENSARY LICENSE**
Case No. 2018-902

In the Matter of Applicant:
GOURMED DISPENSARY BR, LLC
C/O TAFT SERVICE SOLUTIONS CORP
425 WALNUT STREET, SUITE 1800
CINCINNATI OH 45202
Account No./Application No.: 419-902
Application District: SOUTHEAST-3
Application Dispensary Address: 17 EAST BRICKEL STREET, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of Goldman v. State Med. Bd. of Ohio, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M931

In the Matter of Applicant:
GOURMED DISPENSARY BR, LLC
C/O TAFT SERVICE SOLUTIONS CORP
425 WALNUT STREET, SUITE 1800
CINCINNATI OH 45202
Account No./Application No.: 419-931
Application District: SOUTHEAST-3
Application Dispensary Address: 6845 COMMERCE COURT DRIVE, COLUMBUS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M779

In the Matter of Applicant:
GREAT LAKES CANNA THERAPEUTICS LLC
C/O KATHLEEN BLOOR
21257 NOTTINGHAM DR
CLEVELAND OH 44126
Account No./Application No.: 96-779
Application District: NORTHEAST-1
Application Dispensary Address: 223 ABBE RD N. ELYRIA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M264

In the Matter of Applicant:
GREAT LAKES MEDICINAL, INC.
C/O SSE, INC.
26600 DETROIT ROAD, 3RD FLOOR
WESTLAKE OH 44145
Account No./Application No.: 167-264
Application District: NORTHEAST-2
Application Dispensary Address: 5341 PEARL RD, PARMA, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M267

In the Matter of Applicant:
GREAT LAKES MEDICINAL, INC.
C/O SSE, INC.
26600 DETROIT ROAD, 3RD FLOOR
WESTLAKE OH 44145
Account No./Application No.: 167-267
Application District: NORTHEAST-2
Application Dispensary Address: 13367 & 13369 MADISON AVE., LAKEWOOD, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M638

In the Matter of Applicant:
GREAT RIVER BOTANICALS, LLC
C/O ROGER HOSPELHORN
7753 COX LANE, SUITE 59
WEST CHESTER, OH 45069
Account No./Application No.: 229-638
Application District: SOUTHWEST-2
Application Dispensary Address: 324 MAIN STREET MONROE, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1026

In the Matter of Applicant:
GREAT RIVER BOTANICALS, LLC
C/O ROGER HOSPELHORN
7753 COX LANE, SUITE 59
WEST CHESTER, OH 45069

Account No./Application No.: 229-1026

Application District: SOUTHWEST-5

Application Dispensary Address: 576 COLUMBUS AVENUE LEBANON, OH

INTRODUCTION

*A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/29/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, Presiding; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, Public Member. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).*

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1050

In the Matter of Applicant:
GREAT RIVER BOTANICALS, LLC
C/O ROGER HOSPELHORN
7753 COX LANE, SUITE 59
WEST CHESTER, OH 45069

Account No./Application No.: 229-1050

Application District: NORTHEAST-2

Application Dispensary Address: 3950 MAYFIELD ROAD, CLEVELAND HEIGHTS, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/8/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

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

Case No. 2018-M1057

In the Matter of Applicant:
GREAT RIVER BOTANICALS, LLC
C/O ROGER HOSPELHORN
7753 COX LANE, SUITE 59
WEST CHESTER, OH 45069

Account No./Application No.: 229-1057

Application District: NORTHEAST-4

Application Dispensary Address: 2102 LINCOLN WAY E. MASSILLON, OH

INTRODUCTION

A Notice of Opportunity for Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License (Notice) was issued to (Respondent) by the State of Ohio Board of Pharmacy (Board) on 6/15/2018. Respondent did not request a hearing on the matter. The matter subsequently came for consideration by the Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy: Jennifer M. Rudell, RPh, *Presiding*; Fred M. Weaver, RPh; Joshua M. Cox, RPh; Kilee S. Yarosh, RPh.; Donald R. Miller, RPh; and Richard J. Newlon, *Public Member*. As no hearing has been requested, the Board proceeds under the authority of *Goldman v. State Med. Bd. of Ohio*, 110 Ohio App.3d 124, 129 (10th Dist.1996).

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items:

- State's Exhibit A—Respondent's Hearing Notice
- State's Exhibit B—Proof of service
- State's Exhibit C—Respondent Score Sheet
- State's Exhibit D—Listing of scores for each district
- The Affidavit of Nicole Dehner
- The Affidavit of Erin Reed

FINDINGS OF FACT

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

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

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

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

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

CONCLUSIONS OF LAW

The Board scored the applications consistent with the requirements of the Request for Applications, R.C. 3796.04 and Ohio Adm. Code 3796:6-2-04. Respondent is denied a medical marijuana provisional dispensary license at the address listed in State's Exhibit A because Respondent's score was not high enough as compared to other applicants in the same district to be awarded one of the medical marijuana provisional dispensary licenses for that district.

DECISION OF THE BOARD

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

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

SO ORDERED.

R-2020-0384 Mr. Cox moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Yarosh and a roll-call vote was conducted by Vice-President Rudell as follows: Cox-yes; Miller-yes; Newlon-yes; Weaver-yes; Yarosh-yes.

11:01 a.m. The Board was joined by Nicole Dehner, *Chief Legal Counsel*.

11:01 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 **Marcus Carbon, Youngstown, Ohio**.

R-2020-0385 Mr. Newlon moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Miller-yes; Newlon-yes; Weaver-yes; and Yarosh-yes.

12:19 p.m. The recess ended and the hearing was opened to the public.

R-2020-0386 After votes were taken in public session, the Board adopted the following order in the matter of **Marcus Carbon, Youngstown, Ohio**.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number A-2019-0409)

In The Matter Of:

Marcus Carbon, RPh
8116 Cliffview Dr.
Youngstown, Ohio 44514
License No. 03-129839

INTRODUCTION

The Matter of Marcus Carbon came for hearing on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Jennifer M. Rudell, RPh, *Presiding*;

Joshua M. Cox, RPh Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Fred M. Weaver, RPh and Kilee S. Yarosh, RPh.

Shawn C. Wilt, RPh; and Megan E. Marchal, RPh; Absent.

Marcus Carbon was represented by Levi J. Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Marcus Carbon—Respondent
2. Shawn Kleinhenz—Agent of the Board of Pharmacy

Respondent's Witnesses:

1. Marcus Carbon—Respondent
2. Stephen Trehune—AA Sponsor

State's Exhibits:

1. Notice Letter
2. Request for Hearing
3. Initial Scheduling Order
4. Current Scheduling Order
5. Alcohol Urine Test
6. Drug Urine Test

Respondent's Exhibits:

- A. CV of Marcus Carbon, RPh
- B. Glenbeigh Enrolment Letter (Oct. 9, 2019)
- C. Pre-Discharge Progress Reports (Glenbeigh)
- D. Discharge Plan (Glenbeigh)
- E. Post-Discharge Progress Reports (Glenbeigh)
- F. PRO Contract (Oct. 31, 2019)
- G. Glenbeigh Urine Screens
- H. Glenbeigh Relapse Treatment
- I. Letter from Edward Hill, LISW-S (Jan. 30, 2020)

- J. AA Meeting Logs
- K. Letters of Support
- L. Glenbeigh Drug Urine Screen (Feb. 3, 2020)

FINDINGS OF FACT

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

1. On or about September 9, 2019, Marcus Carbon arrived to work at Giant Eagle located at 14650 Snow Road, Brook Park, Ohio. Marcus Carbon provided a urine sample for an alcohol screen. The result of the alcohol screen was positive for alcohol in the amount of 0.215 grams by weight of alcohol per one hundred milliliters of urine.
2. Marcus Carbon was interviewed by agents of the Board. Marcus Carbon stated the following:
 - a. Marcus Carbon had three or four drinks the previous night but stopped drinking between 10:00pm and 11:00pm.
 - b. Marcus Carbon did not believe he had an alcohol problem, but Marcus Carbon admitted to having criminal charges stemming from alcohol consumption, including two OVIs (that were later reduced).
 - c. It is possible that Marcus Carbon smoked marijuana in June 2019. Marcus Carbon did not think he used other illicit drugs or prescription drugs while intoxicated but he could not say with 100% certainty.
 - d. Marcus Carbon denied being addicted to drugs and he denied being an alcoholic.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section constitutes a violation of Section 4729.08(B) of the ORC, not of good habits.
2. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 8, 2019:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and

- b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and
 - d. Engaged in any conduct for which the board may imposed discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
3. Such conduct as set forth in the Findings of Fact Section each constitutes a violation of each of the following divisions of Rule 4729:1-4-01(B)(2) of the OAC as effective May 1, 2018:
- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC Rule 4729:1-4-01(B)(2)(b); and
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC Rule 4729:1-4-01(B)(2)(c); and
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of Chapter 4729. of the Revised Code, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925., 3796., 3719. or 4752. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and
 - d. Violated any state or federal law, regulation or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations..., OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Marcus Carbon on September 30, 2020.

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, for a minimum of one year from the date of this Order, the pharmacist license no. 03-129839, held by Marcus Carbon, and such suspension is effective as of the date of the mailing of this Order.

Marcus Carbon, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Marcus Carbon 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. Marcus Carbon must maintain a current address with the Board throughout the duration of the suspension.
2. Marcus Carbon must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an approved treatment monitor and an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board, for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject [Petitioner] to potential sanctions up to and including revocation of license. The contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Marcus Carbon in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

- f. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - g. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - h. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
3. Marcus Carbon 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 Marcus Carbon reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Marcus Carbon 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 Marcus Carbon reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Marcus Carbon 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 Marcus Carbon to possible additional sanctions, including and up to revocation of license.
6. Marcus Carbon 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. Marcus Carbon must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

- b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Marcus Carbon 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. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS and other approved treatment provider and treatment monitor may result in additional action before the Board up to and including revocation of your pharmacy license.
 10. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
 11. If Marcus Carbon's employment is related to the practice of pharmacy, Marcus Carbon must notify employer of the terms of Marcus Carbon's suspension and this Board's Order.
 12. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Marcus Carbon's license.

Kilee S. Yarosh moved for Findings of Fact; Richard J. Newlon seconded the motion. Motion passed (Aye-5/Nay-0).

Donald R. Miller moved for Conclusions of Law; Fred M. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Donald R. Miller moved for Action of the Board; Joshua M. Cox seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

12:20 p.m. The Board was joined by Shawn C. Wilt, *Presiding*. Ms. Yarosh, RPh, left for the day.

- R-2020-0387** Ms. Rudell moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Cox and a roll-call vote was conducted by Vice-President Rudell as follows: Cox-yes; Miller-yes; Newlon-yes; Rudell-yes; and Weaver-yes.
- 1:33p.m.** Ms. Marchal joined the meeting. Mr. McNamee presented amendments to the following rules, OAC 4729:1-4-01-Disciplinary Actions, OAC 4729:2-4-01-Disciplinary Actions, OAC 4729:3-4-01-Disciplinary Actions, OAC 4729:4-4-01-Disciplinary Actions, OAC 4729:5-4-01-Duty to Report, OAC 4729:1-4-02-Duty to Report, OAC 4729:2-4-02-Duty to Report, and OAC 4729:3-4-02-Duty to Report.
- R-2020-0388** Mr. Weaver moved that the Board approve revisions to the following rules for filing with JCARR: OAC 4729:1-4-01-Disciplinary Actions, OAC 4729:2-4-01-Disciplinary Actions, OAC 4729:3-4-01-Disciplinary Actions, OAC 4729:4-4-01-Disciplinary Actions, OAC 4729:5-4-01-Duty to Report, OAC 4729:1-4-02-Duty to Report, OAC 4729:2-4-02-Duty to Report, and OAC 4729:3-4-02-Duty to Report. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0.
- R-2020-0389** After votes were taken in public session, the Board Adopted the following order in the matter of **Christian Carr, Girard, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number 2019-0245)

In The Matter Of Christian Carr:

Christian Carr, Certified Pharmacy Technician.
400 Elruth Court, Apt. 133, Girard, Ohio 44420
(Registration No. 09-308048)

INTRODUCTION

A Notice of Opportunity for Hearing (Notice) was issued by the Board on August 29, 2019. The Matter of Christian Carr came for hearing before Hearing Examiner Ronda Shamansky on November 20, 2019 at which time Christian Carr represented herself. The State of Ohio was represented by Henry Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about December 31, 2019 and, without having received any written objections, the matter subsequently came for consideration by the

Board on February 4, 2020, before the following members of the State of Ohio Board of Pharmacy (Board): Shawn C. Wilt, *Presiding*; Fred M. Weaver, RPh; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; RPh; and Jennifer M. Rudell, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1) through (8), the hearing transcript, and Hearing Examiner Shamansky's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby adopts Hearing Examiner Shamansky's Findings of Facts (1) through (12), including those that specifically relate to the Board's Notice letter dated August 29, 2019.

The Board adopts Conclusions of Law (1), (2), and (3) as set forth by Hearing Examiner Shamansky.

The Board further modifies the Report and Recommendation to include the Board's violations of law as set forth in the Notice of Hearing dated August 29, 2019 paragraphs:

- (1) Theft, in violation of ORC 2913.02(A)(1).
- (2) Not of good moral character and habits, in violation of ORC 4729.90(B)(2)(a) and OAC Rule 4729:3-1-01(G).
- (3)(b) Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.94 of the Revised Code, in violation of ORC 4729.96 (A)(2)(g).
- (4)(a) Has engaged in any of the conduct specified in division (A)(2) of section 4729.96 of the Revised Code, in violation of OAC Rule 4729:3-4-01(B)(1), as effective November 20, 2017.
- (4)(b) Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, in violation of OAC Rule 4729:3-4-01(B)(2), as effective November 20, 2017.
- (4)(c) Has been granted entry into a diversion program, deferred prosecution program, or the equivalent thereof, in violation of OAC Rule 4729:3-4-01(B)(4), as effective November 20, 2017.
- (4)(e) Committed acts of moral turpitude, in violation of OAC Rule 4729:3-4-01(B)(6), as effective November 20, 2017.
- (4)(f) Has engaged in dishonesty, in violation of OAC Rule 4729:3-4-01(B)(7), as effective November 20, 2017.
- (4)(g) Has engaged in unprofessional conduct, in violation of OAC Rule 4729:3-4-01(B)(8), as effective November 20, 2017.

All violations of law are supported based on the evidence in the record. Specifically, Ms. Carr's admission that the thefts occurred "on and off" for about three months from January to March

2019, for a total of approximately \$300.00, and as time went on she stole more merchandise (Tr. At 14, 22-23, 29, 31; St. Ex. 5), and Ms. Carr's guilty plea to misdemeanor theft, resulting in diversion. (Tr. At 15; Ex 7).

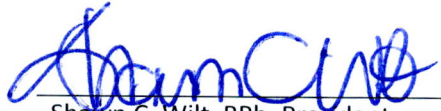
The Board adopts the Hearing Examiner's Recommendation with modification. Pursuant to Section 4729.96 of the Ohio Revised Code and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the Board hereby adopts, with modification to the fine amount, the recommendation of the Hearing Examiner to reprimand Ms. Carr and impose a \$250.00 fine. The fine will be attached to Ms. Carr's registration and must be paid no later than twelve months from effective date the date of this Order. The fine must be paid at www.elicense.ohio.gov.

Ms. Marchal moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky with the modifications outlined above. Mr. Weaver seconded the motion. Motion passed (Aye - 5/Nay - 0).

SO ORDERED.

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- 1:45 p.m.** Pursuant to Section 4729.571 of the Ohio Revised Code, the State of Ohio Board of Pharmacy was joined by Tom Pyles, Chief of Investigations, for the purpose of whether to consider a summary suspension related to a Terminal Distributors of Dangerous Drugs.
- R-2020-0390** After hearing Mr. Pyles discuss the significant facts regarding the activities of All God's Creatures Mobile Veterinary Practice, Inc., Terminal Distributor of Dangerous Drugs (TDDD), Mr. Weaver moved that the Board summarily suspend the TDDD license belonging to All God's Creatures Mobile Veterinary Practice, Inc., (License No. 02-271550), Lancaster, Ohio. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0.
- R-2020-0391** Ms. Rudell moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code and that the Board return to public session and promptly adjourn at the conclusion of executive session. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Wilt as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Rudell-yes; Weaver-yes.

2:19 p.m. Executive Session concluded and the Board returned to public session and adjourned.



Shawn C. Wilt, RPh, President

Date: 3/3/2020



Steven W. Schierholt, Executive Director

Date: 3/4/20