



MINUTES OF THE FEBRUARY 6-8, 2017
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, February 6, 2017

10:00 a.m. The State of Ohio Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Michael A. Moné, RPh, *President*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Shawn C. Wilt, RPh.

Also present were Nicole Dehner, *Chief Legal Counsel*; Chad Garner, *Director of OARRS*; Eric Griffin, *Director of Compliance and Enforcement*; Steven Kochheiser, *Assistant Attorney General* and Cameron McNamee, *Director of Policy and Communications*.

Ms. Rudell gave the PAPC Committee update.

Ms. Marchal gave the CPG Committee update.

Mr. McNamee provided the legislative update.

R-2017-244 Mr. Passafume moved that the Board appoint the following individuals to the 2017 Rules Review Committee:

<u>Pharmacist</u>	<u>Job Title</u>	<u>Employer Name</u>
Darla J. Gaiser	Outpatient Pharmacy Services Manager	Firelands Regional Medical Center
Robert L. Yoho	Pharmacy Manager	Fruth Pharmacy
Jenni W.K. Wai	Director of Pharmacy	Mount Carmel East Hospital
Hope E. Hill	Patient Care Coordinator	Kroger
Chrisovalantis Paxos	Pharmacotherapy Specialist	Cleveland Clinic Akron General
Kelly J. Swensgard	Clinical Services Pharmacist	Humana Pharmacy
Cheryl L. Nolte	Pharmacy Manager	Kmart Pharmacy
Pamela S. Swarny	Director of Pharmacy	Union Hospital Association
Trisha A. Jordan	Associate Director of Pharmacy	The Ohio State University Medical Center
Aaron K. Clark	Director of Pharmacy Services	Equitas Health Pharmacy
Sangita K. Patel	Responsible Pharmacist/Owner	Clinic Pharmacy
Stephen P. Banyas	Staff Pharmacist	Giant Eagle



Teresa M. Zienka	Pharmacy Manager	Walgreens
Christy M. Barr	Regional VP of Operations	Genoa, a QoL Healthcare Company

The motion was seconded by Ms. Marchal and approved by the Board: Aye-6.

Mr. Garner provided the OARRS/IT report.

10:11 a.m. The Board was joined by Assistant Attorney General Steven Kochheiser to conduct and adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kevin Heimberger**, Ashland, Ohio.

11:10 a.m. The hearing ended and the record was closed.

Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matter 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. Passafume and a roll-call vote was conducted by President Moné as follows: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; and Wilt-yes.

11:50 a.m. The recess ended and the hearing was opened to the public.

R-2017-245 After votes were taken in public session, the Board adopted the following order in the matter of **Kevin Heimberger**, Ashland, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1903)

In The Matter Of:

Kevin Heimberger

309 W. 4th St.

Ashland, Ohio 44805

(Intern Registration No. 06-013222)

INTRODUCTION

The Matter of Kevin Heimberger came for hearing on February 6, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; and Shawn C. Wilt, R.Ph.

Kilee S. Yarosh, R.Ph; Absent.

Kevin Heimberger was represented by Sheldon Wittenberg. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Kevin Heimberger—Respondent
2. Homer Chapa—State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|-----|--|--------------------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 05-12-2016 |
| 2. | Request for Hearing | 06-08-2016 |
| 3. | Notice of Hearing and Additional Procedural Documents | 06-09-2016 |
| 4. | Credential View Screen | 11-21-2016 |
| 5. | Statement of Kevin Heimberger | 11-13-2015 |
| 6. | DEA Form 106 | 11-26-2015 |
| 7. | Statement of Michael Kitz, RPh—Kroger Pharmacy Coordinator | 11-03-2015 |
| 8. | Statement of Brad Sheroian, RPh—Kroger Pharmacy #895 Manager | 06-23-2016 |
| 9. | Accountability Statements | 06-20-2016 |
| 10. | Prescription Documents | Various |
| 11. | Waiting Bin "Will Call" Reports | 10-16-2015 to 10-18-2015 |
| 12. | Kevin Heimberger Work Schedule | 08-01-2015 to 11-30-2015 |
| 13. | Records from Lucas County Common Pleas Court | 08-25-2016 |

Respondent's Exhibits:

- | | | |
|----|---|------------|
| A. | Ashland County Council on Alcoholism and Drug Abuse Client Handbook | No Date |
| B. | Ashland County Council on Alcoholism and Drug Abuse Literature | No Date |
| C. | Ashland County Council on Alcoholism and Drug Abuse Prevention Literature | No Date |
| D. | Mental Health and Recovery Board of Ashland County Information | No Date |
| E. | Ashland County Council on Alcoholism and Drug Abuse
Laura Huvler Business Card | No Date |
| F. | Ashland County Council on Alcoholism and Drug Abuse
Dennis Dyer Business Card | No Date |
| G. | Information Transmittal from Laura Huvler to Jack Barone | 01-13-2017 |
| H. | Information Transmittal from Laura Huvler to Jack Barone | 01-27-2017 |

FINDINGS OF FACT

The State of Ohio Board of Pharmacy and Kevin Heimberger, by and through counsel, hereby stipulate to the following Findings of Fact:

1. Pursuant to Section 3719.121(B) of the ORC, the Board finds there is clear and convincing evidence that continuation of Kevin Heimberger's professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others.
2. During a Board investigation of potential drug losses at Kroger Pharmacy N-895, 7545 Sylvania Avenue, Sylvania, Ohio, where Kevin Heimberger was employed as a pharmacy intern, it was discovered that he was stealing prescription medication over the course of several months.

He admitted to stealing alprazolam from stock bottles around August of 2015. He also admitted to stealing Adderall products from the "will call" area. He admitted to stealing drugs in the months of August, September, October, and November of 2015 due to the stress presented by work and school. Heimberger also admitted that he may have ingested the drugs while working in the pharmacy.

a. During August of 2015, he knowingly obtained or exerted control over the property of Kroger Pharmacy N-895, dangerous drugs, without consent, to wit: 3 tablets of alprazolam 1 mg.

b. During the month of September of 2015, he knowingly obtained or exerted control over the property of Kroger Pharmacy N-895, dangerous drugs, without consent, to wit:

- I. 3 capsules of Adderall XR 30 mg, on or about September 4, 2015, from "will call" prescription for patient B.R., prescription number 2252257; and
- II. 6 tablets of hydrocodone 5/325, on or about September 4, 2015, from "will call" prescription for patient P.T., prescription number 2252083; and
- III. 7 Tablets of oxycodone IR 5 mg, on or about September 6, 2015, from "will call" prescription for patient D.F., prescription number 2252629.

c. During the month of October of 2015, he knowingly obtained or exerted control over the property of Kroger Pharmacy N-895, dangerous drugs without consent, to wit:

- I. 5 tablets of oxycodone 10 mg, on or around October 17, 2015, from "will call" prescription for patient K.P., prescription number 2253587; and
- II. 3 capsules of amphetamine salts 30 mg, on or around October 18, 2015, from "will call" prescription for patient K.G., prescription number 2253471; and
- III. 3 capsules of amphetamine salts, 30 mg, on or around October 20, 2015, from "will call" prescription for patient S.P., prescription number 2253643; and
- IV. 3 tablets of amphetamine salts, 20 mg, on or around October 20, 2015, from "will call" prescription for patient B.M., prescription number 2253571; and
- V. 6 capsules of amphetamine salts, 20 mg, on or around October 24, 2015, from "will call" prescription for patient M.K., prescription number 2253780; and
- VI. 9 capsules of amphetamine salts, 20 mg, on or around October 24, 2015, from "will call" prescription for patient B.M., prescription number 2253796.

d. During the month of November of 2015, he knowingly obtained or exerted control over the property of Kroger Pharmacy N-895 without consent, to wit: 3 tablets of amphetamine salts, 20 mg, on or around November 9, 2015, from "will call" prescription for patient M.D., prescription number 2254084.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Allegations section 2(a), 2(b), 2(c) and 2(d), and each subsection contained therein, each constitutes a violation of Section 2913.02(A)(2) of the ORC, theft, a felony of the fourth degree.
2. Such conduct as set forth in the Allegations Section constitutes a violation of Section 4729.16 of the ORC, each violation being a minor misdemeanor, each punishable by a fine of \$150:
 - a. Guilty of acts constituting a felony, ORC 4729.16(A)(1); and
 - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16(A)(2); and
 - c. Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacy intern unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - d. Guilty of willfully violating any of the provisions of this chapter...Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(5).
3. Such conduct as set forth in the Allegations Section also constitutes a violation of Chapter 4729-5 of the OAC, which allows the Board to consider as evidence of a person not meeting the requirements provided for licensure in the Revised Code:
 - a. Not being of good moral character and habits, OAC Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04(D).

DECISION OF THE BOARD

1. Pursuant to Section 3719.121 of the Ohio Revised Code, the State of Ohio Board of Pharmacy hereby removes the Summary Suspension Order issued to Kevin Heimberger on May 12, 2016.
2. 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 suspends indefinitely, for a term of no less than 18 months, Intern Registration No. 06-013222, held by Kevin Heimberger and such suspension is effective as of the date of the mailing of this Order.
 - a. Kevin Heimberger, 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 of Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
 - b. Kevin Heimberger, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to the office of the State of Ohio Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

3. Further, no earlier than June of 2018 the Board may consider any petition filed by Kevin Heimberger for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board shall only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

a. Kevin Heimberger must maintain a current address with the Board throughout the duration of the suspension.

b. Kevin Heimberger must enter into and adhere to the terms of a **new** contract, signed within **7 days from February 6, 2017**, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Kevin Heimberger to potential sanctions up to and including revocation of license. The contract must provide that:

- i. Random, observed urine drug screens shall be conducted at least once each month.
- ii. 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.
- iii. Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.
- iv. 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.
- v. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Kevin Heimberger 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.
- vi. 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.
- vii. 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.
- viii. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

c. Kevin Heimberger 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 Kevin Heimberger reappear before the Board for possible additional sanctions, including and up to revocation of license.

d. Kevin Heimberger 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 Kevin Heimberger reappear before the Board for possible additional sanctions, including and up to revocation of license.

e. Kevin Heimberger 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 Kevin Heimberger to possible additional sanctions, including and up to revocation of license.

f. Kevin Heimberger 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.

g. Kevin Heimberger must provide, in the reinstatement petition, documentation of the following:

- i. 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.);
- ii. 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;
- iii. Compliance with the terms of this Order.

h. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

i. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.

4. Kevin Heimberger must obtain a mental and physical health assessment that includes an evaluation of his fitness to practice pharmacy. He must sign a waiver and authorize the immediate release of the results of the assessment to the State of Ohio Board of Pharmacy. Kevin Heimberger shall comply with any and all recommendations from the assessment.

5. As soon as possible, but no later than immediately following the issuance of the results of the mental and physical evaluation, Kevin Heimberger must attend 90 meetings in 90 days, meeting the following requirements:

- a. Kevin Heimberger must attend 90 Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group in 90 consecutive days;
 - b. Kevin Heimberger must notify the Board on the date he begins his attendance at 90 meetings in 90 consecutive days.
 - c. Attendance at the meetings described in 5(a) must begin as soon as possible, but no later than immediately upon issuance of the results of the mental and physical assessment.
 - d. A minimum of one in-person, face-to-face meeting must be attended each day for 90 consecutive days;
 - e. Kevin Heimberger must submit evidence of meeting attendance to legal@pharmacy.ohio.gov no later than the 92nd day from the date the results of the mental and physical assessment were issued.
6. 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 and/or penalties or discipline.
 7. If Kevin Heimberger's employment is related to the practice of pharmacy, Kevin Heimberger must notify employer of the terms of Kevin Heimberger's suspension and this Board's Order.
 8. Failure to complete any term as set forth in this Board's Order will result in the revocation of Kevin Heimberger's Intern Registration.

Mr. Passafume moved for Conclusions of Law; Mr. Wilt seconded the motion. Motion passed (Aye-5/Nay-1).

Mr. Wilt moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

SO ORDERED.

Ms. Yarosh joined the meeting.

11:53 a.m. The Board recessed for lunch

1:02 p.m. The meeting reconvened in Room South B&C.

Mr. Griffin provided the Compliance and Enforcement report.

R-2017-246 Ms. Marchal moved that the Board adopt the following Resolution:

A Resolution for Lynn E. Mudra

WHEREAS, the administrative and investigative efforts of Lynn E. Mudra, as a Compliance Agent 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 Lynn E. Mudra for more than 21 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of his position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundred thirty-third year, so express our profound appreciation to Lynn E. Mudra for his 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.

The motion was seconded by Mr. Weaver and approved by the Board: Aye-7.

R-2017-247 The Board received an extension request for storage of records of **ProMedica Pharmacy Counter** pursuant to Rule 4729-9-11. Mr. Wilt moved that the specific requests be approved. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.

R-2017-248 Ms. Marchal moved that the Board adopt the Inspection Blueprint Program. The motion was seconded by Mr. Cox and approved by the Board: Aye-7.

R-2017-249 The Board received an application for the Continuing Education Provider Status of **Colleen Harrell, RPh** (03-3-19926) Waterville, Ohio. Mr. Passafume moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.

1:17 p.m. Vince DiMaggio and Kate Turkaly, *Humana Pharmacy*, gave a presentation to the Board regarding the Linear Dispensing Unit V6.

2:01 p.m. The presentation ended.

Ms. Dehner provided the Legal report.

2:04 p.m. Ms. Marchal 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. Weaver and a roll-call vote was conducted by President Moné as follows: Marchal-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

2:46 p.m. The meeting reconvened in Room South B&C and the Board recessed for the day.

Tuesday, February 7, 2017

- 9:00 a.m.** The State of Ohio Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:
- Michael A. Moné, RPh, *President*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.
- 9:01 a.m.** The Board was joined by Assistant Attorney General Steven Kochheiser to conduct and adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Becky Bornino**, Medina, Ohio.
- 10:21 a.m.** The hearing ended and the record was closed.
- Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Moné as follows: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.
- 10:35 a.m.** The recess ended and the hearing was opened to the public.
- R-2017-250** After votes were taken in public session, the Board adopted the following order in the matter of **Becky Bornino**, Medina, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1793)

In The Matter Of:

Becky Bornino, R.Ph.

5544 Windfall Road

Medina, Ohio 44256

(License No. 03-3-25408)

INTRODUCTION

The Matter of Becky Bornino came for hearing on February 7, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; Shawn C. Wilt, R.Ph. and Kilee S. Yarosh, R.Ph.

Becky Bornino was represented by William Mann. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Becky Bornino—Respondent
2. John Bonish—State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|-----|--|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 03-04-2016 |
| 2. | Request for Hearing | 03-30-2016 |
| 3. | Notice of Hearing Date and Additional Procedural Documents | 03-31-2016 |
| 4. | Credential View Screen | 01-19-2017 |
| 5. | Stark County Common Pleas Court Records | 06-20-2016 |
| 6. | Statement of Becky Bornino | 03-01-2016 |
| 7. | Property Receipt | 03-01-2016 |
| 8. | DEA Form 106 | 03-02-2016 |
| 9. | Accountability Statements | 05-08-2016 |
| 10. | Work Schedule of Becky Bornino | Various |

Respondent's Exhibits:

- | | | |
|----|---------------------------------|------------|
| A. | Letter of Megan Blaszak, LPC | 02-02-2017 |
| B. | Letter of Megan Liber, MSW, LSW | 02-01-2017 |
| C. | Urine Screens | Various |

FINDINGS OF FACT

The State of Ohio Board of Pharmacy and Becky Bornino, by and through counsel, hereby stipulate to the following Findings of Fact:

Becky Bornino is addicted to the use of controlled substances in violation of Section 3719.121(A) of the O.R.C. and there is clear and convincing evidence that continuation of her professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others as set forth in Section 3719.121(B) of the O.R.C., to wit:

1. Becky Bornino admitted to agents of the Board that during her employment as a pharmacist at Walgreens Pharmacy #4101 she stole various amounts and strengths of controlled substances.
2. Video footage obtained by Board agents documented the theft of the following controlled substances:
 - a. 115 tablets of Vicodin 10/300mg on or about January 19, 2016, which was confirmed had not had any sales on this date of loss;
 - b. 115 tablets of Vicodin 10/300mg on or about January 23, 2016, which was confirmed had not had any sales on this date of loss;
 - c. 115 tablets of Vicodin HP 10/300 on or about January 24, 2016, which was confirmed had not had any sales on this date of loss;

- d. 13 tablets of Hydrocodone 5/325 on or about January 25, 2016.
3. During a consensual search of her vehicle parked on the Walgreens Pharmacy #4101 premises, Agents recovered a prescription bottle in Becky Bornino's name with prescription number 0592601 on the label for Hydrocodone/APAP 7.5/325 containing a quantity of 75 tablets. She also provided the Board agent with a second bottle in her car that was empty and had the name of "C.R." partially crossed out with a marker. The prescription number on the bottle is 2214513, and the bottle label indicated Hydrocodone/APAP 10/325, quantity 84. Becky Bornino told Board agents she had stolen the bottle the previous evening and poured the contents from the original bottle, prescription number 2214513, into her personal prescription bottle 0592601. The contents of prescription bottle 0592601 contained 51 tablets of 10/325mg Hydrocodone/APAP. She admitted to ingesting 10 of those tablets.
 4. Becky Bornino admitted to agents of the Board that between June of 2015 and March 1, 2016, she stole the following controlled substances from Walgreens Pharmacy #4101:
 - a. Approximately 1000 tablets of Hydrocodone/APAP 10/325;
 - b. Approximately 1000 tablets of Hydrocodone/APAP 7.5/325;
 - c. Approximately 200 tablets of Hydrocodone/APAP 7.5/200;
 - d. Approximately 200 tablets of Hydrocodone/APAP 5/325;
 - e. Approximately 200 tablets of Vicodin 5 mg;
 - f. Approximately 500 tablets of Vicodin 7.5mg;
 - g. Approximately 500 tablets of Vicodin HP 10mg;
 - h. Approximately 500 tablets of Oxycodone 10/325;
 - i. Approximately 100 tablets of Oxycodone 5/325.
 5. Becky Bornino indicated to agents of the board in a written statement that she plans to seek treatment for her addiction as soon as possible.
 6. On or about June 30, 2016, Becky Bornino was indicted in Stark County Court of Common Pleas on three counts of aggravated possession of drugs, a third-degree felony and three counts of theft of drugs, a fourth-degree felony. On or about July 24, 2016, she entered a plea of guilty to all the charges listed in the indictment. As a result of the guilty plea and agreement of all parties to the case, the court granted intervention in lieu of conviction. 2016CR1188.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 2(a) through (d), 3, 4(a) through 4(i) each constitutes a violation of 2925.11(A)(C)(1)(B), aggravated possession of controlled substances.
2. Such conduct as set forth in paragraphs and subparagraphs 2(a) through (d), 3, 4(a) through 4(i) each constitutes a violation of 2913.02, theft of dangerous drugs.
3. Such conduct as set forth in paragraphs 1 through 5, and each subparagraph contained therein, of the Allegations section each constitutes a violation of Section 4729.16 of the O.R.C.:
 - a. Guilty of a felony or gross immorality, O.R.C. Section 4729.16(A)(1); and

- b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, O.R.C. Section 4729.16(A)(2); and
 - c. Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, O.R.C. Section 4729.16(A)(3); and
 - d. Guilty of willfully violating any of the provisions of this chapter...Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, O.R.C. Section 4729.16(A)(5).
4. Such conduct as set forth in each paragraph 1 through 5, and each subparagraphs contained therein, of the Allegations section also constitute a violation of Chapter 4729-5 of the Ohio Administrative Code (O.A.C.), which allows the Board to consider as evidence of a person not meeting the requirements provided for licensure in the Revised Code:
- a. Not being of good moral habits, O.A.C. Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, O.A.C. Rule 4729-5-04(D).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy, as of the effective date of this Order, removes the Summary Suspension Order issued to Becky Bornino on March 4, 2016 and December 16, 2016.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-3-25408, held by Becky Bornino and such suspension is effective as of the date of the mailing of this Order.

1. Becky Bornino, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
2. Becky Bornino, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her identification card and license (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

Further, after 12 months from the effective date of this Order, the Board will consider any petition filed by Becky Bornino 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. Becky Bornino must successfully complete treatment in lieu of conviction.
2. Becky Bornino must maintain a current address with the Board throughout the duration of the suspension.

3. Becky Bornino must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Becky Bornino to potential sanctions up to and including revocation of license. The contract must provide that:

- ix. Random, observed urine drug screens shall be conducted at least once each month.
- x. 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.
- xi. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
- xii. 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.
- xiii. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Becky Bornino 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.
- xiv. 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.
- xv. 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.
- xvi. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

4. Becky Bornino 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 Becky Bornino reappear before the Board for possible additional sanctions, including and up to revocation of license.

5. Becky Bornino 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 Becky Bornino reappear before the Board for possible additional sanctions, including and up to revocation of license.

6. Becky Bornino 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 Becky Bornino to possible additional sanctions, including and up to revocation of license.
7. Becky Bornino must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
8. Becky Bornino must provide, in the reinstatement petition, documentation of the following:
 - i. 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.);
 - ii. 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;
 - iii. Compliance with the terms of this Order.
9. If reinstatement is not accomplished within **three years** of the effective date of this Order, Becky Bornino must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.
10. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
11. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.
12. 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.
13. If Becky Bornino's employment is related to the practice of pharmacy, Becky Bornino must notify employer of the terms of Becky Bornino's suspension and this Board's Order.
14. 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 Becky Bornino's license.

Mr. Weaver moved for Conclusions of Law; Ms. Yarosh seconded the motion. Motion passed (Aye-7/Nay-0).

Mr. Cox moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

10:40 a.m. Ms. Galante provided the Licensing report.

R-2017-251 Mr. Cox moved to adopt the following Multiple RP Request decisions presented by the Responsible Person Committee:

- **Jon Keeley, RPh (03-1-14983)-Approved**
 - HB Magruder Memorial Hospital: Port Clinton, Ohio (02-0033650)
 - Magruder Hospital OP Pharmacy: Port Clinton, Ohio (02-2576750)
- **Jennifer Provost, RPh (03-3-34659)-Approved**
 - Plain City Druggist: Plain City, Ohio (02-1145600)
 - Midwestern Compounding: Plain City, Ohio (02-1670150)
- **Amy Lynn Schwan, RPh (03-2-23448)-Approved**
 - The Medicine Shoppe: Bellevue, Ohio (02-0676450)
 - Bellevue Home Medical Pharmacy: Bellevue, Ohio (02-0721200)
- **Carolann Novisly, RPh (03-1-29834)-Approved**
 - Adena Pike Medical Center: Waverly, Ohio (02-0398300)
 - Adena Pike Pharmacy: Waverly, Ohio (02-2492650)
- **Patrick Gute, RPh (Out of state)-Approved**
 - Sanofi-Aventi US, LLC: Forest Park, Georgia (01-1471750)
 - Sanofi Pasteur, Inc.: Forest Park, Georgia (01-2050450)
 - VasServe, Inc.: Forest Park, Georgia (01-1395200)
- **Ronald Lovelace, RPh (Out of state)-Approved**
 - General Injectable & Vaccines, Inc.: Bastain, Virginia (01-0688700)
 - InSource, Inc.: Bastain, Virginia (01-0688650)
- **Henry Tillman, RPh (Out of state)-Approved**
 - Lifescience Logistics, LLC: Brownsburg, Indiana (01-2161600)
 - Lifescience Logistics, LLC: Brownsburg, Indiana (01-2630850)
- **Tammy Butler, RPh (Out of state)-Approved**
 - Eclat Pharmaceutical: Chesterfield, Missouri (01-2137200)
 - Talec Pharma, LLC: Chesterfield, Missouri (01-2152100)
- **Ralph Rinesmith, RPh (Out of state)-Approved**
 - Prasco, LLC: Mason, Ohio (01-1688600)
 - Prasco, LLC: Mason, Ohio (01-1695450)

- **Barry Moze, RPh (Out of state)-Approved**
 - Horizon Pharma USA, Inc.: Lake Forest, Illinois (01-2157350)
 - Horizon Pharma Rheumatology, LLC: Lake Forest, Illinois (01-2628600)
 - HZNP USA, Inc.: Lake Forest, Illinois (01-2628550)

- **Douglas Yelton, RPh (Out of state)-Approved**
 - Forest Pharmaceuticals: Cincinnati, Ohio (01-1459850)
 - Forest Pharmaceuticals: Cincinnati, Ohio (01-1762500)

- **Jorge Monteagudo, RPh (Out of state)-Approved**
 - Abraxis Bio Science, LLC: Summit, New Jersey (01-2440700)
 - Celgene Corporation: Summit, New Jersey (01-2212350)

- **Linda Sax, RPh (Out of state)-Approved**
 - Owens & Minor Distribution, Inc.: Ontario, Canada (01-2109700)
 - Owens & Minor Distribution, Inc.: Ontario, Canada (01-2631350)

- **Christian Kelly, RPh (Out of state)-Approved**
 - Owens & Minor Distribution, Inc.: Carol Stream, Illinois (01-2422150)
 - Owens & Minor Distribution, Inc.: Carol Stream, Illinois (01-2631300)

- **David Parker, RPh (Out of state)-Approved**
 - Keuhne + Nagel, Inc.: Lewisville, Texas (01-2252050)
 - Allergan USA, Inc.: Lewisville, Texas (01-1915100)

- **Jason Smith, RPh (Out of state)-Approved**
 - MHC Medical Products, LLC: Fairfield, Ohio (01-2120800)
 - MHC Pharma, LLC: Fairfield, Ohio (01-2462100)

- **Alan Roberts, RPh (Out of state)-Approved**
 - CHIESI USA, Inc.: Cary, North Carolina (01-2084150)
 - Aristos Pharmaceuticals: Cary, North Carolina (01-2079850)

- **Naeem Ali, RPh (Out of state)-Approved**
 - Kuehne + Nagel, Inc.: Cranbury, New Jersey (01-2362450)
 - Allergan USA, Inc.: Cranbury, New Jersey (01-1475250)

- **Keith Rotenberg, RPh (Out of state)-Approved**
 - Mist Pharmaceuticals, LLC: Cranford, New Jersey (01-2390200)
 - Akrimax Pharmaceuticals, LLC: Cranford, New Jersey (01-1809900)

- **Gregory Mingo, RPh (Out of state)-Approved**
 - Cagene BioPharma, LLC: Baltimore, Maryland (01-2615450)
 - Cagene BioPharma, LLC: Baltimore, Maryland (01-2608400)

- **Steven Keller, RPh (Out of state)-Approved**
 - Lincare, Inc. dba America's Best Medical: Zanesville, Ohio (01-2212900)

- Lincare, Inc. dba America's Best Medical: Hilliard, Ohio (01-2212850)
- Lincare, Inc. dba America's Best Medical: Franklin, Ohio (01-2212800)
- Lincare, Inc. dba America's Best Medical: Toledo, Ohio (01-2212300)
- Lincare, Inc. dba America's Best Medical: Akron, Ohio (01-2212950)

The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.

10:50 a.m. Mr. Schierholt gave the Executive Director report and led a discussion regarding college definitions.

11:26 a.m. Ms. Marchal 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. Rudell and a roll-call vote was conducted by President Moné as follows: Marchal-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

11:53 a.m. The meeting reconvened in Room South B&C.

The Board recessed for lunch.

1:30 p.m. The following candidates for licensure by reciprocity participated in a discussion of pharmacy laws and rules with Ms. Terri Ghittman, *OARRS Pharmacist*, in Room South A, 31st Floor of the Vern Riffe Center for the Government and the Arts:

ADINARAYANA ANDY	MICHIGAN
NICHOLAS ASANTE	MARYLAND
ERIC NONG ASSAH	MARYLAND
AUGUSTINA YIRENKIWAH AYEH	INDIANA
NISREEN IBRAHIM AYOUB	NEW JERSEY
LINDSAY ERIN BAJEK	PENNSYLVANIA
JOSH BANGERT	MISSOURI
MARIA LOURDES LIBRE BARTON	CALIFORNIA
ALEXANDER JOSEPH BESSLER	KENTUCKY
RACHEL AUDREY BONASSO	WEST VIRGINIA
RYAN MICHAEL BURG	PENNSYLVANIA
ERIN L. CANDELLA	VIRGINIA
LOUIS ANTHONY DELLAPINA	MICHIGAN
MALLORY ERIN GREENWOOD	COLORADO
ROBERT JON HERBERGER	TEXAS
CARLOS HUFFORD	ILLINOIS
JASON WILLIAM KAALBERG	WISCONSIN
SCOTT ALLEN KINCAID	INDIANA
FEI-SUE ELIZABETH LAM	TEXAS
EMILY TERESA LIN	ILLINOIS
PAUL GERARD LUKAS	MICHIGAN

HANNAH CATHERINE SARVICH	INDIANA
JENNIFER SIEFERT	IOWA
POOJA SINGH	ILLINOIS
SUMIN S. THOMAS	TEXAS
WILLIAM TORRES	MASSACHUSETTS
AMBER WILSON	IOWA
WEILIN ZOU	NORTH CAROLINA

- 1:48 p.m.** The meeting reconvened in Room South B&C.
- Ms. Dehner led a discussion regarding draft probation rules 4729-6-01; 02; 03; 04; 05; 06 and 10.
- R-2017-252** Mr. Passafume moved to approve Rules 4729-6-01; 02; 03; 04; 05; 06 and 10 for filing with CSI and JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7.
- Mr. McNamee led a discussion regarding Rules 4729-37-13, 4729-16-07 and 4729-16-10.
- R-2017-253** Mr. Wilt moved to approve Rule 4729-37-13 for filing with JCARR. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7.
- R-2017-254** Mr. Weaver moved that the Board rescind Rules 4729-16-07 and 4729-16-10. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7.
- 2:55 p.m.** Mr. McNamee discussed amendments to Rules 4729-18-01; 4729-18-02; 4729-18-03; and 4729-18-04.
- R-2017-255** Mr. Passafume moved to approve Rules 4729-18-01; 4729-18-02; 4729-18-03; and 4729-18-04 as amended for filing with JCARR. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.
- R-2017-256** Ms. Marchal moved to approve the Probation Committee Minutes of January 10, 2017, as written. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7.
- R-2017-257** Mr. Weaver moved to approve the Conference Call Minutes of January 20, 2017, as written. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.
- R-2017-258** Mr. Passafume moved to approve the Board Meeting Minutes of January 9-10, 2017, as amended. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7.
- R-2017-259** The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A)(1) requesting that **Jimmy Henry, MD** (35.096049) New Albany, Ohio, be the Responsible Person for the following pain management clinics:
- Midwest Spine & Pain Consultants: Westerville, Ohio (02-2632950)
Midwest Spine & Pain Consultants: Gahanna, Ohio (02-2633000)

After discussion, Mr. Passafume moved that the Board deny the request. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7.

3:07 p.m.

The Board discussed the Linear Dispensing Unit V6, *Humana Pharmacy* presentation.

R-2017-260

Mr. Wilt moved that the Board refer the presentation of the Linear Dispensing Unit V6 of Humana Pharmacy to the Rules Review Committee for consideration and recommendation. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7.

R-2017-261

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

**IN THE MATTER OF:
CASE NO. 2014-1955**

**Amazing Grace Center, Inc.
c/o Andrea Uradu
802 Clare Avenue
Portsmouth, Ohio 45662
License No. 02-2425100**

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 Amazing Grace Center, Inc. (Amazing Grace), for the purpose of resolving all issues between the parties relating to the Board investigation of prescribing controlled substances to more than 100 patients at a time under a single unique DEA number. Together, the Board and Amazing Grace Center, Inc. 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 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Amazing Grace Center, Inc. is a licensed Terminal Distributor of Dangerous Drugs (TDDD) under license number 02-2425100.

FACTS

1. On or about October 6, 2014, the Board initiated an investigation of Amazing Grace, TDDD license number 02-2425100, related to Amazing Grace’s former Responsible Person, Dr. Rose Uradu, prescribing controlled substances to more than 100 patients at a time under her separate unique DEA number.
2. On or about April 20, 2015, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Amazing Grace, and on or about September 21, 2015, an Amended Summary Suspension/Notice of Opportunity for Hearing, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.

3. Amazing Grace timely requested an administrative hearing, which was ultimately scheduled for May 4, 2016.
4. Alicia Hopkins DO was not the responsible person for Amazing Grace TDDD license during any of the relevant time set forth in the OSBP's Amended Notice and Opportunity for 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. **Amazing Grace neither admits nor denies the allegations set forth in the Amended Notice of Opportunity of Hearing dated September 21, 2015 in paragraphs 1, 1(a), 3, 3(a), 5, 5(a), and 7 limited to the fact that Amazing Grace's license was not effective until July 31, 2014 of the "Allegations and Potential Violations of Law" section; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same. The Board hereby dismisses the allegations set forth in the Amended Notice of Opportunity for hearing in paragraphs 2, 4, 6, the remainder of 7, and paragraphs 8 and 9.**
3. **As of the effective date of this Agreement, the Board hereby lifts the summary suspension of Amazing Grace's License number 02-2425100 with the following conditions as set forth in paragraphs four through nineteen.**
4. **Amazing Grace shall serve a two-year term of probation with the Board, with annual appearances before the Board's Probation Committee. Probation will terminate either at the end of two years from the effective date of this Agreement or upon surrender or termination of Amazing Grace's TDDD License number 02-2425100 should Amazing Grace apply for and receive an Office-based Opioid Treatment TDDD license from this Board, whichever occurs first. Any application by Amazing Grace for an Office-Based Opioid Treatment TDDD license from the Board shall require passing an inspection by agents of the Board prior to issuance.**
5. **Amazing Grace agrees not to employ Dr. Rose Uradu in any capacity during the period Amazing Grace's license is under probation by the state of Ohio Board of Pharmacy. Dr. Rose Uradu shall not be an Amazing Grace officer, employee, independent contractor during the period of Amazing Grace's probation with the state of Ohio Board of Pharmacy. Dr. Rose Uradu may refer her patients for services to Amazing Grace. Dr. Rose Uradu shall never be the Responsible Person for Amazing Grace.**
6. **Amazing Grace shall be accredited by the Substance Abuse and Mental Health Services Administrations (SAMHSA) and obtain certification as an Opioid Treatment Program (OTP) no later than one year from Amazing Grace's receipt of its Drug Enforcement Administration Registration allowing for possession of controlled substances.**

7. Any Amazing Grace Responsible Person will attend a Board-sponsored "Responsible Person Roundtable" within one year of being approved as the Responsible Person and shall provide proof of completion to the Board within 30 days of attendance.
8. Amazing Grace's Responsible Person will be on site any time Amazing Grace personally furnishes or dispenses a schedule three controlled substance during the period of Amazing Grace's probation with the state of Ohio Board of Pharmacy.
9. No later than thirty days from the effective date of this Agreement, Amazing Grace will hire a Board-approved Pharmacist Consultant during the period of probation. The Pharmacist Consultant will report weekly to the Board for the first month, then monthly for the next two months, and then quarterly thereafter, documenting at a minimum the following: Amazing Grace's number of patients and record keeping practices, and compliance with state of Ohio Medical Board and Pharmacy Board regulations. Reporting shall continue during Amazing Grace's probation with the state of Ohio Board of Pharmacy unless otherwise recommended by the Board's Probation Committee and approved by the Board.
10. Amazing Grace shall comply with State of Ohio Medical Board's Office based opioid treatment rule, 4731-11-12 of the Ohio Administrative Code.
11. Amazing Grace and its responsible person agree and acknowledge that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which Amazing Grace currently holds a license, including the Board on renewal applications or applications for a new license.
12. Amazing Grace 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 Amazing Grace 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 Amazing Grace by the Board and will not discharge Amazing Grace from any obligation under the terms of this Agreement.
13. Amazing Grace agrees to pay all reasonable costs associated with the prosecution of any violation of this Agreement.
14. Amazing Grace understands that it has the right to be represented by counsel for review and execution of this agreement.
15. 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 Amazing Grace will operate.

16. 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.

17. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

18. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-262

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

**IN THE MATTER OF:
CASE NO. 2015-1692-A**

**CVS Pharmacy #4800
c/o Joyce Willis
590 E. Market St.
Akron, Ohio 44304
License No. 020450150**

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 (OSBP) and CVS Pharmacy #4800, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription number 1605520. Together, OSBP and CVS Pharmacy #4800 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. CVS Pharmacy #4800 is a licensed Terminal Distributor of Dangerous Drugs under license number 020450150.

FACTS

1. On or about August 20, 2015, the OSBP initiated an investigation of CVS Pharmacy #4800, Terminal Distributor of Dangerous Drugs license number 020450150, related to CVS Pharmacy #4800's error in dispensing of prescription number 1605520.
2. On or about August 4, 2016, the OSBP sent a Notice of Opportunity for Hearing to CVS Pharmacy #4800, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their 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. CVS Pharmacy #4800 neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 4, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. CVS Pharmacy #4800 agrees to pay to the OSBP the amount of \$1,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. CVS Pharmacy #4800 and Joyce Willis, RPh agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which CVS Pharmacy #4800 currently holds a professional license, including the OSBP on renewal applications or applications for a new license.
5. CVS Pharmacy #4800 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 CVS Pharmacy #4800 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 CVS Pharmacy #4800 by the OSBP and will NOT discharge CVS Pharmacy #4800 from any obligation under the terms of this Agreement.
6. CVS Pharmacy #4800 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. CVS Pharmacy #4800 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 CVS Pharmacy #4800 will operate.
9. CVS Pharmacy #4800 waives its right to a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-263

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

IN THE MATTER OF:

CASE NO. 2011-1494

Mark Mastramico

1804 Mallard Lane

North Lima, Ohio 44452

Registration No. 06-006158

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 (OSBP) and Mark Mastramico, for the purpose of resolving all issues between the parties relating to the pharmacy intern registration of Mark Mastramico. Together, OSBP and Mark Mastramico 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as an intern in the state of Ohio.
2. Mark Mastramico was originally registered as an intern in the state of Ohio on August 1, 2006.

FACTS

1. On or about May 24, 2012, OSBP summarily suspended the intern registration of Mark Mastramico.
2. On September 10, 2012, Mark Mastramico appeared before OSBP for an adjudication hearing. OSBP lifted the summary suspension and indefinitely suspended Mastramico's intern registration.
3. On or about September 30, 2015, Mark Mastramico requested a reinstatement hearing.
4. On February 3, 2016, Mark Mastramico appeared before OSBP for his reinstatement hearing. OSBP determined that Mark Mastramico is eligible to apply for an intern license upon admission to a Board approved school of pharmacy.

5. On or about January 9, 2017, Mark Mastramico contacted OSBP stating he was denied admission to a Board approved school of pharmacy and wished to surrender his intern registration.

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:

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

20. MARK MASTRAMICO VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY AS AN INTERN, LICENSE NO. 06-006158.

21. MARK MASTRAMICO IS ELIGIBLE TO APPLY FOR A PHARMACY INTERN LICENSE UPON ADMISSION TO A BOARD APPROVED SCHOOL OF PHARMACY.

22. Mark Mastramico agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

23. Mark Mastramico understands that he has the right to be represented by counsel for review and execution of this agreement.

24. 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.

25. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

26. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-264

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

**IN THE MATTER OF:
CASE NO. 2016-1497**

John Mytrysak, RPh
2250 Community College Ave., #401
Cleveland, Ohio 44115
License No. 03-1-16078

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 (OSBP) and John Mytrysak, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the affirmative answer to the legal question(s) on his pharmacist renewal application. Together, OSBP and John Mytrysak 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in intern in the state of Ohio.
2. John Mytrysak is a licensed pharmacist under license number 03-1-16078.

FACTS

1. On or about May 4, 2016, the OSBP initiated an investigation of John Mytrysak, pharmacist license number 03-1-16078, related to John Mytrysak’s affirmative answer to the legal question(s) on his pharmacist renewal application.
2. On or about November 23, 2016, the OSBP sent a Notice of Opportunity for Hearing to John Mytrysak, 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 December 11, 2016, John Mytrysak timely requested an administrative hearing, which was subsequently scheduled for March 7, 2017.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. John Mytrysak neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 23, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. **JOHN MYTRYSAK PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-1-16078, WITH DISCIPLINE PENDING.**

4. John Mytrysak agrees to immediately return his license and wall certificate to the OSBP, if OSBP is not already in possession of both.
 5. John Mytrysak may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., and 4729. of the Revised Code.
 6. John Mytrysak agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 7. John Mytrysak understands that it has the right to be represented by counsel for review and execution of this agreement.
 8. John Mytrysak agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
 9. John Mytrysak an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code and waives any right to an appeal.
 10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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R-2017-265

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

**IN THE MATTER OF:
CASE NO. 2015-1354-A**

**CVS Pharmacy #3083
c/o Valerie Bucceri
780 Brittain Rd.
Akron, Ohio 44305
License No. 02-2013850**

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 CVS Pharmacy #3083, for the purpose of resolving all issues between the parties relating to the Board investigation of the error in dispensing of prescription number 714180. Together, the Board and CVS Pharmacy #3083 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 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio. 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the ORC.
2. CVS Pharmacy #3083 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2013850.

FACTS

1. On or about April 16, 2015, the Board initiated an investigation of CVS Pharmacy #3083, Terminal Distributor of Dangerous Drugs license number 02-2013850, related to CVS Pharmacy #3083's error in dispensing of prescription number 714180.
2. On or about February 29, 2016, the Board sent a Notice of Opportunity for Hearing to CVS Pharmacy #3083, 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 March 21, 2016, CVS Pharmacy #3083 timely requested an administrative hearing, which was subsequently scheduled for September 12, 2016, and continued to March 7, 2017.
4. The Board finds that CVS Pharmacy #3083 has implemented, in direct relation to case no. 2015-1354-A, a restricted blue safety mat within its prescription production area in store #3083 as well as all other stores in Ohio. The restricted blue safety mat creates a safety zone in which prescriptions will be filled, with only one prescription and one drug being authorized in the blue safety mat zone at any given time.
5. The Board finds that CVS Pharmacy #3083 has implemented, in direct relation to case no. 2015-1354-A, a full-pour verification requirement in store #3083 as well as all other stores in Ohio. The full-pour verification system requires the pharmacist responsible for final verification of the prescription to empty each amber vial onto a blue tray and examine the contents of the prescription to ensure that the drug in the vial matches the label.
6. The Board acknowledges the additional nationwide patient-safety initiative developed by CVS Corporate which includes implementation of a near real-time prescription data review program that analyzes certain prescriptions processed in CVS pharmacies through an elaborate algorithm designed to identify potential discrepancies in drug, strength, quantity, directions, etc. If a potential problem is detected, the data is forwarded to a team of pharmacists at CVS's headquarters who contact the pharmacy so that the pharmacy staff can review the prescription again. This process operates 24 hours per day, 7 days per week.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced case 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. CVS Pharmacy #3083 does not admit the allegations stated in the Notice of Opportunity for hearing letter dated February 29, 2016; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. CVS Pharmacy #3083 agrees to pay to the Board the amount of \$20,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. CVS agrees to continue use of the restricted blue safety mat within its prescription production area at stores in Ohio and will modify or discontinue the practice only as is consistent with patient safety and to comply with state and federal law. The Board will be notified of changes in the blue safety mat policy, as represented to the Board at the time of this agreement, for a minimum of three years from the date of this agreement.
5. CVS agrees to continue use of the full-pour verification requirement at stores in Ohio and will modify or discontinue the practice only as is consistent with patient safety and to comply with state and federal law. The Board will be notified of changes in the full-pour verification requirement as represented to the Board at the time of this agreement, for a minimum of three years from the date of this agreement.
6. The Board acknowledges the CVS computer system modification that has occurred in all Ohio stores to correct the end-of-day report which now limits the items on the report to that which has been verified by a pharmacist. Previously, the report contained information about any prescription regardless of its position in the dispensing queue.
7. CVS Pharmacy #3083 and Valerie Bucceri, and any successor Responsible Person, agree and acknowledge that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which CVS Pharmacy #3083 currently holds a professional license, including the Board on renewal applications or applications for a new license for CVS Pharmacy #3083.
8. CVS Pharmacy #3083 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 CVS Pharmacy #3083 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 CVS Pharmacy #3083 by the Board and will NOT discharge CVS Pharmacy #3083 from any obligation under the terms of this Agreement.

9. CVS Pharmacy #3083 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 10. CVS Pharmacy #3083 understands that it has the right to be represented by counsel for review and execution of this agreement.
 11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom CVS Pharmacy #3083 will operate.
 12. CVS Pharmacy #3083 specifically withdraws its request for a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code and waives its right to an appeal.
 13. 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.
 14. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 15. 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.
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R-2017-266

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

**IN THE MATTER OF:
CASE NO. 2015-1692-B**

Lalitha Thungathurthi
965 Croghan Way
Copley, Ohio 44321
License No. 03230763

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 (OSBP) and Lalitha Thungathurthi, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of RX#1605520. Together, OSBP and Lalitha Thungathurthi 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued

pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.

2. Lalitha Thungathurthi is a licensed pharmacist under license number 03230763.

FACTS

1. On or about August 20, 2015, the OSBP initiated an investigation of Lalitha Thungathurthi, pharmacist license number 03230763, related to Lalitha Thungathurthi's error in dispensing of RX#1605520.
2. On or about August 18, 2016, the OSBP sent a Notice of Opportunity for Hearing to Lalitha Thungathurthi, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Lalitha Thungathurthi neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 18, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Lalitha Thungathurthi agrees to pay to the OSBP the amount of \$500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Lalitha Thungathurthi must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Lalitha Thungathurthi agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Lalitha Thungathurthi understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Lalitha Thungathurthi agrees and acknowledges that this OSBP 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 OSBP on renewal applications or applications for a new license.

8. Lalitha Thungathurthi waives his right to request a hearing in this matter pursuant to Chapter 119 of the Ohio Revised Code and waives any appeal rights.

9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-267

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

**IN THE MATTER OF:
CASE NO. 2015-1174**

Capital Wholesale Drug Company
c/o James Bergados
873 Williams Avenue
Columbus, Ohio 43212
License No. 01-0002150

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 (OSBP) and Capital Wholesale Drug Company, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the failure to report sales to OARRS. Together, OSBP and Capital Wholesale Drug Company are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.56 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Capital Wholesale Drug Company is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-0002150.

FACTS

1. On or about February 25, 2015, the OSBP initiated an investigation of Capital Wholesale Drug Company, Wholesale Distributor of Dangerous Drugs license number 01-0002150, related to Capital Wholesale Drug Company’s failure to report sales to OARRS.

2. On or about August 15, 2016, the OSBP sent a Notice of Opportunity for Hearing to Capital Wholesale Drug Company, 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 August 30, 2016, Capital Wholesale Drug Company timely requested an administrative hearing, which was subsequently scheduled for February 7, 2017.

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. Capital Wholesale Drug Company neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 15, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Capital Wholesale Drug Company agrees to pay to the OSBP the amount of \$5,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Capital Wholesale Drug Company agrees to conduct audits on an annual basis to ensure that its reporting obligations to OARRS are being conducted in accordance with the law.
5. The OSBP considers this to be disciplinary action under its rules and Capital Wholesale Drug Company and its Responsible Person agree that it must disclose this matter to the OSBP on renewal applications or applications for a new license. Capital Wholesale Drug Company agrees and acknowledges that this OSBP disciplinary action will be disclosed to the proper licensing authority of any state or jurisdiction in which Capital Wholesale Drug Company currently holds a professional license, if such licensing authority requires disclosure.
6. Capital Wholesale Drug Company agrees to comply with all federal and state requirements related to Wholesale 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 Capital Wholesale Drug Company 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 Capital Wholesale Drug Company by the OSBP and will NOT discharge Capital Wholesale Drug Company from any obligation under the terms of this Agreement.

7. Capital Wholesale Drug Company agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Capital Wholesale Drug Company understands that it has the right to be represented by counsel for review and execution of this agreement.
9. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Capital Wholesale Drug Company will operate.
10. Capital Wholesale Drug Company waives their right to an appeal and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code and specifically withdraws their request for a hearing in this matter.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-268

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

**IN THE MATTER OF:
CASE NO. 2015-1354-B**

Jeffrey Herbell, RPh
12325 Chippewa Rd.
Brecksville, OH 44141
License No. 03-2-15175

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 (OSBP) and Jeffrey Herbell, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription number 714180. Together, OSBP and Jeffrey Herbell 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.

2. Jeffrey Herbell is a licensed pharmacist under license number 03-2-15175.

FACTS

1. On or about April 16, 2016, the OSBP initiated an investigation of Jeffrey Herbell, pharmacist license number 03-2-15175, related to Jeffrey Herbell's error in dispensing of prescription number 714180.
2. On or about February 29, 2016, the OSBP sent a Notice of Opportunity for Hearing to Jeffrey Herbell, 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 March 24, 2016, Jeffrey Herbell timely requested an administrative hearing, which was subsequently scheduled for March 7, 2017.

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. Jeffrey Herbell neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated February 29, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Jeffrey Herbell agrees to pay to the OSBP the amount of \$3,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Jeffrey Herbell must obtain, within 90 days from the effective date of this Agreement, twenty (20) hours of approved continuing pharmacy education (2.0 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Jeffrey Herbell's license to practice pharmacy, license number 03-2-15175, is hereby suspended for 18 months effective April 15, 2015. The Board recognizes the time during which Jeffrey Herbell voluntarily removed himself from the practice of pharmacy between April 15, 2015 and the date of this agreement and credits the time toward Jeffrey Herbell's suspension. Mr. Herbell cannot return to the practice of pharmacy until the Board receives a mental health evaluation, with a release to the Board, indicating his fitness to return to the practice of pharmacy with reasonable skill, care, and competence.
6. Jeffrey Herbell's license will be on probation for two years from the effective date of the settlement agreement. Terms of probation include:

- a. Submission of quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation), with the first report due April 10, 2017;
 - b. Jeffrey Herbell must meet with the probation committee at least annually during each year of his probation, the first meeting will be held Wednesday, August 9, 2017, the Board will provide a scheduling notice;
 - c. Jeffrey Herbell may not serve as a responsible pharmacist;
 - d. Jeffrey Herbell may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.
 - e. Jeffrey Herbell must not violate the drug laws of Ohio, any other state, or the federal government.
 - f. Jeffrey Herbell must abide by the rules of the State of Ohio Board of Pharmacy.
 - g. Jeffrey Herbell must comply with the terms of this Settlement Agreement.
 - h. Jeffrey Herbell's license is deemed not in good standing until successful completion of the probationary period.
 - i. At the conclusion of the probationary period, the Board will issue a notice of opportunity for hearing to Jeffrey Herbell regarding the status of Jeffrey Herbell's probation and whether Jeffrey Herbell has successfully met all terms of probation and may be considered in good standing.
7. Jeffrey Herbell must attend a Board-sponsored "Responsible Person Roundtable, within one year of obtaining employment in the practice of pharmacy, and provide proof of completion to the Board within 30 days of attendance.
 8. Jeffrey Herbell must obtain Board approval prior to accepting a position as a responsible person and must obtain an additional ten (10) hours of 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.
 9. Jeffrey Herbell agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 10. Jeffrey Herbell understands that he has the right to be represented by counsel for review and execution of this agreement.
 11. Jeffrey Herbell agrees and acknowledges that this OSBP 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 OSBP on renewal applications or applications for a new license.

12. Jeffrey Herbell specifically withdraws his request for a hearing in this matter and any opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code and waives any right to an appeal.

13. 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.

14. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.

15. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-269 Mr. Moné announced that the citation issued to Rite Aid Pharmacy #2341 is hereby dismissed.

3:30 p.m. The Board recessed for the day.

Wednesday, February 8, 2017

9:00 a.m. The Ohio State Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Megan E. Marchal, RPh, *Presiding*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

The Board was joined by Assistant Attorney General Steven Kochheiser to conduct and adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Eric Goodwin**, Cincinnati, Ohio.

9:33 a.m. The hearing ended and the record was closed.

Ms. Yarosh moved that the Board recess in order to consider the quasi-judicial matter 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. Passafume and a roll-call vote was conducted by Vice President Marchal as follows: Cox-yes; Passafume-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

9:53 a.m. The recess ended and the hearing was opened to the public.

R-2017-270 After votes were taken in public session, the Board adopted the following order in the matter of **Eric Goodwin**, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-2017)

In The Matter Of:

Eric Goodwin

5646 Breezewood Drive

Cincinnati, Ohio 45248

(Intern Registration No. 06-013447)

INTRODUCTION

The Matter of Eric Goodwin came for hearing on February 8, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Megan E. Marchal, RPh, *Presiding*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Michael A. Moné, RPh; Absent.

Jennifer M. Rudell, RPh; Recused.

Eric Goodwin was represented by Harry Plotnick. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

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

1. Eric Goodwin—Respondent

Respondent's Witnesses:

1. Raye Ann Sifri, RPh—Preceptor

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Notice of Opportunity for Hearing | 11-21-2016 |
| 2. | Request for Hearing | 12-02-2016 |
| 3. | Notice of Hearing and Additional Procedural Documents | 12-02-2016 |
| 4. | Credential View Screen | 01-19-2017 |
| 5. | Intern Renewal Application | 07-18-2016 |
| 6. | Record(s) RE: Failure to Control and Leaving Scene of Accident | 02-17-2016 |
| 7. | Record(s) RE: Falsification | 02-20-2016 |
| 8. | Statement of Eric Goodwin | 08-31-2016 |

Respondent's Exhibits:

- | | | |
|----|--|------------|
| A. | Letter of Andrea Wall—UC College of Pharmacy | 01-27-2017 |
| B. | Letter of Raye Ann Sifri, PharmD, Ph.D—Preceptor | 01-26-2017 |
| C. | Grades, Spring Semester 2015-16—UC College of Pharmacy | 01-25-2017 |
| D. | Cumulative GPA through Spring Semester 2015-16 | 01-25-2017 |

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 Eric Goodwin's renewal application, he truthfully answered "YES" to the question that asked within the last 18 months did you have a record of arrest of criminal charges pending or have a conviction of a felony, misdemeanor, or traffic violation (even if sealed or expunged) or the equivalent in another jurisdiction.

a. On or about February 17, 2016, Eric Goodwin was charged with Failure to Control, a minor misdemeanor, and leaving the scene of an accident, a first degree misdemeanor. On or about February 20, 2016, he was also charged with falsification, a first degree misdemeanor. The charges were based out of the same incident where he consumed alcohol, struck another vehicle while driving, and made an untruthful statement to the Cincinnati police concerning the incident after he was arrested. On or about June 23, 2016, he plead guilty to an amended charge of disorderly conduct, a fourth degree misdemeanor. He was sentenced to complete the three-day driver intervention program (DIP), six months community control, and a pay a \$100 fine. Case No. 2016 CRB 5279.

CONCLUSIONS OF LAW

1. The State of Ohio Board of Pharmacy finds that such conduct as set forth in paragraphs (1) and (1)(a) of the Allegations section constitutes a violation of the following divisions of Section 4729.16 of the ORC: guilty of willfully violating, any of the provisions of this chapter...or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).

DECISION OF THE BOARD

After consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby publicly reprimands Eric Goodwin for his actions in this matter.

Ms. Yarosh moved for Findings of Fact; Mr. Weaver seconded the motion. Motion passed (Aye-5/Nay-0).

Mr. Passafume moved for Conclusions of Law; Mr. Wilt seconded the motion. Motion passed (Aye-5/Nay-0).

Ms. Yarosh moved for Action of the Board; Mr. Wilt seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

9:55 a.m. The Board recessed briefly.

10:00 a.m. The meeting reconvened in Room South B&C.

Ms. Reed presented the Medical Marijuana Dispensary Rules to the Board.

11:23 a.m. Ms. Reed's presentation ended.

Mr. McNamee presented a Resolution of Protocol for the Treatment of Sexual Assault Patients through the Administration of Post-Exposure Prophylaxis and Medication to Treat Sexually Transmitted Infections.

R-2017-271 Mr. Passafume moved that the Board adopt the following Resolution:

Resolution: Protocol for the Treatment of Sexual Assault Patients through the Administration of Post-Exposure Prophylaxis and Medications to Treat Sexually Transmitted Infections

Paragraph (L)(1) of rule 4729-5-01 defines a protocol to include:


A definitive set of written treatment guidelines that include definitive orders for drugs and their specified dosages which have been authorized by a prescriber and have been approved by the state board of pharmacy pursuant to section 4729.54 of the Revised Code. A protocol may be used only by licensed health care professionals when providing limited medical services to individuals in an emergency situation when the services of a prescriber are not immediately available.

The State of Ohio Board of Pharmacy hereby recognizes that the treatment of sexual assault patients through the administration of post-exposure prophylaxis and medications to treat sexually transmitted infections constitutes an emergency pursuant to paragraph (L)(1) of rule 4729-5-01 of the Ohio Administrative Code and is hereby approved.

The motion was seconded by Ms. Yarosh and approved by the Board: Aye-6.

R-2017-272 Mr. Weaver moved that the meeting be adjourned. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6.

11:31 a.m. The meeting was adjourned.



Michael A. Moné, RPh, President

7 March 2017

Date



Steven W. Schierholt, Esq., Executive Director

3/14/17

Date