



MINUTES OF THE MARCH 4-6, 2019
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, March 4, 2019

10:06 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Fred M. Weaver, RPh, Presiding; Shawn C. Wilt, RPh, Megan E. Marchal, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh, Joshua M. Cox, RPh; and Donald R. Miller, RPh.

Jennifer M. Rudell, RPh and Kilee S. Yarosh, RPh, **Absent**

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Teresa Horning, Liberty Township, Ohio.**

11:30 a.m. The case was closed.

R-2019-166 Mr. Wilt moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Wilt-Yes; Marchal-yes; Newlon-yes; Passafume-yes; Cox-yes; Miller-yes.

11:54a.m. The recess ended and the hearing was opened to the public.

R-2019-167 After votes were taken in public session, the Board adopted the following order in the matter of **Teresa Horning, Liberty Township, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number A-2018-0100 and I-2018-2440)

In The Matter Of:

Teresa Horning, R.Ph.
6971 Darcie Drive
Liberty Township, OH 45011
(License No. 03-1-32207)

INTRODUCTION

The Matter of Teresa Horning came for hearing on March 4, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; and Shawn C. Wilt, RPh.

Teresa Horning was represented by Kenneth Streder. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Teresa Horning

Respondent's Witnesses:

1. Teresa Horning
2. Sarah Kear

State's Exhibits:

- | | |
|-----------------------------|------------|
| 1. Notice Letter | 11.07.2018 |
| 2. Request for Hearing | 11.29.2018 |
| 3. Hearing Letter | 11.29.2019 |
| 4. Teresa Horning Statement | 11.05.2018 |
| 5. Photos | 11.02.2018 |
| 6. Todd Mueller Statement | 11.05.2018 |
| 7. Beth Faught Statement | 11.01.2018 |
| 8. Property Impounds Report | 11.07.2018 |
| 9. Drug Test Results | 02.11.2019 |

Respondent's Exhibits:

- | | |
|--|------------|
| A. Hearing Notice | 11.07.2018 |
| B. Statement to Board Investigator, Teresa Meyer | No Date |

C. Respondent's Curriculum Vitae	No Date
D. Completed CPE, December '18 to Present, 62 hours	Varied
E. Letter from Jarrod Grossman, Executive Director, PRO	02.16.2019
F. Certificate of Completion from the Northland Treatment Center	01.29.2019
G. Urine Drug Screen Results	01.01.2019-02.15.2019
H. Support Group Meeting Attendance Sheets	Varied
I. Employment Performance Reviews	Varied
J. Letter for Support, Sarah Kear, PharmD	No Date
K. Letter of Support, Joseph Horning	01.20.2019
L. Letter of Support, Julie Daily, PharmD	02.01.2019
M. Letter of Support, Michele Lapsins, RPh	01.29.2019

Joint Exhibits:

1. Stipulations of the Parties	No Date
2. Stipulations of the Parties, sealed	No Date

FINDINGS OF FACT

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

1. On or about October 31, 2018, Teresa Horning was observed at the controlled substance (CII) safe at Walgreens store number 2694, located at 385 Northland Blvd., Cincinnati, Ohio, yelling to staff that no one should come near the safe. At that time, bottles could be heard being moved around, after which Teresa Horning returned to the main area of the pharmacy and was observed removing something from her pocket, putting it in her mouth and taking a drink.
2. During this same time period, loss prevention received a high-risk report indicating this store was showing shortages of promethazine. Cameras were installed above the CII safe the evening of November 1, 2018. On November 2, 2018, the video surveillance showed Teresa Horning remove a bottle containing a Promethazine with codeine, remove the lid and take a drink from the bottle. After drinking directly from the bottle, she returned the bottle to a location where it could be used to fill prescriptions for patients. In addition, the video shows Teresa Horning take a second drink from the bottle and put the bottle in a purse. The bottle was recovered at her home upon a consent to search.
3. During an interview with Board Agents on or about November 5, 2018, Teresa Horning admitted to first stealing drugs from Walgreens pharmacy about 4-5 years ago as an intern. Ms. Horning admitted she began stealing mucinex, ibuprofen 800 mg, and Zyrtec 10 mg 4-5 years ago. Ms. Horning admitted she began stealing the Promethazine with codeine, Virtussin AC, Tussionex, Hydromet liquid, Adderall 30 mg,

Phentermine, Oxycodone liquid, Oxycodone 5/325 mg, Oxycodone 7.5/325, Oxycodone 10/325, Oxycodone 10 mg and Oxycodone 15 mg in approximately June of 2018.

4. Ms. Horning is addicted to and did abuse controlled substances.
5. Ms. Horning did divert various controlled substances from her employer for her own use.
6. Ms. Horning, at certain times, did consume controlled substances during work hours that she had diverted from her employer.
7. Ms. Horning had a communicable disease on November 2, 2018, when she drank from a stock bottle of Promethazine with codeine. The Department of Health has informed Walgreens, who informed Board staff, that there is a very low probability that the disease would be transmitted to a patient if that stock bottle had been used to fill a patient's prescription.
8. The Board consulted a licensed health professional, an expert in infectious disease, who confirmed transmission of the disease in this manner was, although possible, unlikely.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of Section 2913.02 of the Ohio Revised Code (ORC), theft of a controlled substance.
2. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of Section 2925.11(A) of the ORC, Possession of a Schedule II controlled substance.
3. Such conduct as set forth in the Findings of Fact Section, constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC as effective September 29, 2017:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and/or
 - b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC Section 4729.16(A)(2)(c); and/or
 - c. Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter 3715.75 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e); and/or
 - d. Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
4. Such conduct as set forth in the Findings of Fact section, constitutes a violation of each of the following divisions of Rule 4729: 1-4-01 of the OAC as effective May 1, 2018:
 - a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, OAC 4729:4-01(B)(2)(b); and/or

- b. Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, OAC 4729:4-01(B)(2)(c); and/or
- c. Violated...any of the provisions of Chapters 4729.....Chapter 2925...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729:1-4-01(B)(2)(e); and/or
- d. Committed an act involving moral turpitude that constitutes a misdemeanor or felony in this state, regardless of the jurisdiction in which the act was committed, OAC 4729:4-01(B)(2)(l); and/or
- e. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729:1-4-01(B)(2)(m).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Teresa Horning on November 7, 2018.

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. 03-1-32207, held by Teresa Horning and such suspension is effective as of the date of the mailing of this Order.

1. Teresa Horning, 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. Teresa Horning, 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 one year from the effective date of this Order, the Board will consider any petition filed by Teresa Horning 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. Teresa Horning must maintain a current address with the Board throughout the duration of the suspension.
2. Teresa Horning must obtain a mental health examination within 90 days from the date of this Order. The results of the examination as well as compliance with all treatment recommendations must be provided in the reinstatement petition.
3. Teresa Horning 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 Teresa Horning to potential sanctions up to and including revocation of license. The contract must provide that:

- a. Random, **observed** urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Teresa Horning in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - f. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - g. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - h. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
4. Teresa Horning 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 Teresa Horning reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Teresa Horning 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 Teresa Horning reappear before the Board for possible additional sanctions, including and up to revocation of license.
 6. Teresa Horning 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 Teresa Horning to possible additional sanctions, including and up to revocation of license.

7. Teresa Horning must demonstrate satisfactory proof to the Board that she 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. Teresa Horning must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
9. If reinstatement is not accomplished within **three years** of the effective date of this Order, Teresa Horning must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board.
10. 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 Teresa Horning's employment is related to the practice of pharmacy, Teresa Horning must notify employer of the terms of Teresa Horning'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 Teresa Horning's license.

Further, the Board hereby grants the State's Motion to Seal the Record in this matter including, but not limited to, all confidential patient health information contained in the record, specifically joint exhibit: 2.

Mr. Passafume moved for Findings of Fact; Ms. Marchal seconded the motion. Motion passed (Aye-6/Nay-0).

Mr. Wilt moved for Conclusions of Law; Mr. Passafume seconded the motion. Motion passed (Aye-6/Nay-0).

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

SO ORDERED.

11:56 a.m. The Board recessed for lunch.

1:03 p.m. Mr. Cox and Ms. Marchal provided the PAPC Report.

1:04 p.m. Mr. Garner Provided the OARRS Report.

1:16 p.m. Mr. Garner and Ms. Dehner presented the DHA Participation in OARRS resolution to the Board for consideration.

R-2019-168 Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

Resolution: DHA Participation in OARRS

March 4, 2019

The United States Department of Defense's Defense Health Agency (DHA) signed a memorandum of understanding (MOU) to participate in PMP InterConnect®, the nation-wide system utilized to share prescription drug monitoring information with other states. OARRS currently shares patient information with prescription drug monitoring programs in other states, as authorized by state law. The State of Ohio Board of Pharmacy hereby recognizes the need for military and community treatment providers to deliver appropriate health care based on best-available information, and authorizes DHA personnel employed in positions synonymous with division (A)(5) or (6) of Section 4729.80 of the Revised Code to access OARRS for the limited purposes set forth therein, so long as there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

1:20 p.m. Mr. Griffin presented the Compliance Report.

1:23 p.m. Ms. Dehner presented the Legal Report.

1:27 p.m. Ms. Southard presented the Licensing Update.

1:31 p.m. Ms. Ghitman presented a request from Amy Garland-Rusnak to serve as the Program Coordinator of an Ohio Public High School Pharmacy Technician Training Program.

- R-2019-169** Mr. Passafume moved that the Board deny Amy Garland-Rusnak's request for an exception. The motion was seconded by Mr. Newlon and denied by the Board: Aye-6, Nay-0.
- 1:37 p.m.** Ms. Ghitman presented a request for a pharmacy technician training program from Washington High School.
- R-2019-170** Mr. Passafume moved that the Board approve Washington High School's request. The motion was seconded by Mr. Cox and approved by the Board: Aye-6, Nay-0.
- 1:40 p.m.** Mr. McNamee and Ms. Wai presented a resolution titled *Candidate Status - American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education* to the Board for consideration.
- R-2019-171** Mr. Passafume moved that the Board approve the resolution. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

Resolution: Candidate Status - American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education

The State of Ohio Board of Pharmacy hereby recognizes and approves all pharmacy technician training programs that have candidate or accreditation status with American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education as meeting the requirements of paragraph (A)(1) of rule 4729:3-3-02 of the Administrative Code and division (C) of section 4729.94 of the Revised Code.

All programs in candidate status must be notified of accreditation status no later than eighteen months from the time the program receives its initial notification of candidate status.

Failure to comply with the requirements of this resolution will result in the rescission of the program's status as an approved pharmacy technician training program.

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- 1:48 p.m.** Mr. McNamee and Ms. Wai presented a resolution titled *Appointment of the 2019 Rules Review Committee* to the Board for consideration.
- R-2019-172** Mr. Passafume moved that the Board approve the Resolution. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:
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Resolution: Appointment of the 2019 Rules Review Committee

The Board hereby appoints the following members to the 2019 Rules Review Committee:

Member	Job Title	Employer Name
Brandilyn Davis	Clinical/Staff Pharmacist	Southern Ohio Medical Center
Brian Latham	Director of Pharmacy Services	Mercy Health – St. Rita’s Medical Center
Darla Gaiser	Director, Firelands Center for Coordinated Care	Firelands Regional Medical Center
Jill Goshe	Staff Pharmacist	CVS Health
John Bruner	Manager, Clinical Programs	CareSource
Justin Bramel	Clinical and Specialty Pharmacy Programs Manager	Equitas Health
Justin Gamble	Director of Pharmacy	The Christ Hospital Health Network
Karen Hagemeyer	Consultant Pharmacist	PCA Pharmacy
Michael Jakubecz	Pharmacy Director	Cleveland Clinic Hillcrest
Nicole Harger	Clinical Pharmacy Specialist	University of Cincinnati Medical Center
Paulette Rhoden	Staff Pharmacist	Walgreens
Rachael Lerman	Director, Pharmacy Services	University Hospitals of Cleveland – Community Hospitals East
Robert Milnes	National Operations Director	Cardinal Health
Ryan Hemmert	Senior Director of Pharmacy	Select Specialty Hospital – Columbus
Tyler Keith	Pharmacy Supervisor	Kroger
Zachary Keene	Primary Care Pharmacist	Kettering Physician Network

1:53 p.m. Mr. McNamee and Ms. Wai led a discussion on whether the Board would recognize a General Services certification issued by the Ohio Department of Mental Health and Addiction Services.

R-2019-173 Mr. Passafume moved that the Board approve the Certificate. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6, Nay-0. The following Resolution was adopted by the Board:

1:55 p.m. Mr. McNamee and Ms. Wai began a discussion on changes to 4729:5-9—Institutional Facilities.

2:58 p.m. The Board recessed for a break.

- 3:12 p.m.** The Board reconvened in the hearing room and a discussion, led by Mr. McNamee and Ms. Wai, continued on 4729:5-9—Institutional Facilities. The Board agreed next steps would be for the rules as drafted to go through the normal process of input by the Rules Review Committee and then sent to CSI.
- 3:30 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729-2—Internal Management—Administration.
- R-2019-174** Mr. Passafume moved that the revisions to 4729-2 be approved for filing with JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-5, Nay-0.
- 3:51 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:8—Drug Database.
- R-2019-175** Mr. Passafume moved that the revisions to 4729:8 be approved for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5, Nay-0.
- 3:56 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:6-1-01—Definitions—drug distributors.
- R-2019-176** Mr. Passafume moved that the revisions to 4729:6-1-01 be approved for filing with CSI and JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:00 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:1-1-01—Definitions—pharmacists.
- R-2019-177** Mr. Passafume moved that rule 4729:1-1-01 be approved for filing with CSI and JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:03 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:2-1-01 – Definitions – pharmacy interns.
- R-2019-178** Mr. Passafume moved that the revisions to 4729:2-1-01 be approved for filing with CSI and JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:05 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:3-1-01—Definitions—pharmacy technicians.
- R-2019-179** Mr. Passafume moved that the revisions to 4729:3-1-01 be approved for filing with CSI and JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.
- 4:16 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-1-01—Definitions—terminal distributors.
- R-2019-180** Mr. Passafume moved that the revisions to 4729:5-1-01 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.

4:18 p.m. Mr. McNamee and Ms. Wai lead a discussion on public comments for 4729:1-4-02—Duty to Report.

4:21 p.m. Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-3-12—Protocols and pre-printed orders.

R-2019-181 Mr. Passafume moved that the revisions to 4729:5-3-12 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-5, Nay-0.

R-2019-182 Mr. Wilt 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. Marchal and a roll-call vote was conducted by President Weaver as follows: Marchal-yes; Passafume-yes; Newlon-yes; Miller-yes; and Cox-yes.

5:07 p.m. Executive Session concluded and the Board recessed for the day.

Tuesday, March 5, 2019

8:58 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

Megan E. Marchal, RPh, **Absent**.

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; and Kathryn Lewis, *Administrative Assistant*.

The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Katherine Schaefer, R.Ph, Dayton, Ohio**.

10:01 a.m. The case was closed.

R-2019-183 Mr. Wilt moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; Yarosh-yes.

10:11 a.m. The recess ended and the hearing was opened to the public.

R-2019-184 After votes were taken in public session, the Board adopted the following order in the matter of **Katherine Schaefer, RPh, Dayton, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number I-2016-2210 and A-2019-0071)

In The Matter Of:

Katherine Schaefer, R.Ph.
4503 Penhurst Place
Dayton, Ohio 45424
License No. 03-3-34380

INTRODUCTION

The Matter of Katherine Schaefer came for hearing on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Katherine Schaefer was represented by Zachary M. Swisher. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. None

Respondent's Witnesses:

1. Katherine Schaefer
2. Bethany Jones

State's Exhibits:

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| 1. Summary Suspension | 10.28.2016 |
| 2. Board Order | 06.21.2017 |

Respondent's Exhibits:

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| A. PRO Contract | 07.12.2017 |
| B. Termination Entry, Montgomery County Common Pleas | 05.31.2018 |
| C. Meeting Attendance Records | Varied |
| D. Drug Screen Results | 01.01.2016-01.30.2019 |

E. Certificate of Achievement Short Term Recovery	03.03.2017
F. Certificate of Achievement Short Term Recovery	07.07.2017
G. Letter of Support of Risa Gethers, R.Ph	01.05.2019
H. Letter of Support from Kimberly Scott	No Date
I. Letter of Support from Babs Darlington	01.16.2019
J. CPE Monitor Activity Transcript	02.28.2014-02.28.2019
K. Letter of Support from Jarrod Grossman	02.16.2019
L. Letter of Support from Bethany Jones, PRO Advocate	March 2, 2019
M. Letter (Email) Of Support from Dola Landis, Sponsor	March 3, 2019

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 that Katherine Schaefer has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2016-2210, dated June 21, 2017.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-3-34380, held by Katherine Schaefer to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

15. Katherine Schaefer must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an approved treatment provider or an approved monitoring program 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 Katherine Schaefer 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.
 - j. 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.
 - k. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - l. 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.

- m. In the event of a negative diluted screen, a hair sample test must be completed at the cost of Katherine Schaefer 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.
16. 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.
- a. 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.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
17. Katherine Schaefer 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 Katherine Schaefer reappear before the Board for possible additional sanctions, including and up to revocation of license.
18. Katherine Schaefer shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Katherine Schaefer reappear before the Board for possible additional sanctions, including and up to revocation of license.
19. Katherine Schaefer must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
- a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Katherine Schaefer's progress towards recovery and what Katherine Schaefer has been doing during the previous three months.
20. Other terms of probation are as follows:
- a. Katherine Schaefer must meet semi-annually with the Board's Probation Committee, the first meeting to be held Monday, September 9, 2019. The appearances before the Probation Committee may be reduced at the Committee's discretion.
 - b. The State of Ohio Board of Pharmacy hereby declares that Katherine Schaefer's pharmacist identification card is not in good standing and thereby denies the privilege of being a

preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.

- c. Katherine Schaefer may not serve as a responsible pharmacist.
 - d. Katherine Schaefer may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Katherine Schaefer may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.
 - f. Katherine Schaefer must not violate the drug laws of Ohio, any other state, or the federal government.
 - g. Katherine Schaefer must abide by the rules of the State of Ohio Board of Pharmacy.
 - h. Katherine Schaefer must comply with the terms of this Order.
 - i. Katherine Schaefer's license is deemed not in good standing until successful completion of the probationary period.
21. Katherine Schaefer must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Katherine Schaefer to possible additional sanctions, including and up to revocation of license.
22. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Katherine Schaefer's license.

At the conclusion of the probationary period, the Board will issue a notice of opportunity for hearing to Katherine Schaefer regarding the status of Katherine Schaefer's probation and whether Katherine Schaefer has successfully met all terms of probation and may be considered in good standing.

Jennifer M. Rudell moved for Findings of Fact; Curtis L. Passafume seconded the motion. Motion passed (Aye-7/Nay-0).

Jennifer M. Rudell moved for Action of the Board; Curtis L. Passafume seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

10:12 a.m. The Board recessed for a break.

- 10:30 a.m.** The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kristina R. Dalrymple, R.Ph, Ashtabula, Ohio.**
- 3:16 p.m.** The case was closed.
- R-2019-185** Mr. Wilt moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; Yarosh-yes.
- 3:56 p.m.** The recess ended and the hearing was opened to the public.
- R-2019-186** After votes were taken in public session, the Board adopted the following order in the matter of **Kristina R. Dalrymple, R.Ph, Ashtabula, Ohio.**
-

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2017-1648)

In The Matter Of:

Kristina R. Dalrymple
1689 Green Hill Road
Ashtabula, OH 44004
(License No. 03-1-27532)

INTRODUCTION

The Matter of Kristina R. Dalrymple came for hearing on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Kristina R. Dalrymple was represented by Levi J. Tkach. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Kristina R. Dalrymple
2. Trey Edwards
3. Lori Zaccaro

Respondent's Witnesses:

1. Kristina Dalrymple

State's Exhibits:

- | | |
|--|------------|
| 1. Notice Letter | 01.25.2019 |
| 2. Request for Hearing | 02.21.2019 |
| 3. DEA-106 Form for d-amphetamine salt combo 30 mg | 06.06.2017 |
| 4. Accountability statement for d-amphetamine salt combo 30 mg | 08.18.2017 |
| 5. Prescription | 04.26.2019 |
| 6. Document Movement Report | 05.16.2017 |
| 7. Document Movement Report #2 | 05.16.2017 |
| 8. E-mail from Linda Lack | 05.22.2017 |
| 9. Closing Inventory Form | 05.16.2017 |
| 10. 52 Week Movement Report | Varied |

Respondent's Exhibits:

- | | |
|---|------------|
| A. Resume of Kristina R. Dalrymple | No Date |
| B. Rx Adjustment Log | Varied |
| C. Rx Adjustment Communications | 04.26.2017 |
| D. Time Sheets of Kristina R. Dalrymple | Varied |

Joint Exhibits:

- | | |
|--|------------|
| 1. Exhibit 1 under seal | No Date |
| 2. Exhibit 2 Patient Profile Created on April 26, 2017 (4 pages) | 04.26.2017 |

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. Kristina R. Dalrymple admitted to creating false prescription #801579 for d-amphetamine salt combo #30 in Walgreens' dispensing software on or about April 26, 2017, while employed at Walgreens Pharmacy #9833, located at 318 W. Prospect Road, Ashtabula, Ohio. Prescription #801579 was entered into the

dispensing system, but no hard copy prescription existed. Kristina R. Dalrymple then deleted the false prescription after being questioned by Walgreens' management.

2. Kristina R. Dalrymple, as the Responsible Person at Walgreens Pharmacy #9833, admitted to not reporting a significant loss of d-amphetamine salt combo 30mg from Walgreens Pharmacy #9833. According to an audit conducted by Board agents, there was a loss of approximately 1,084 d-amphetamine salt combo 30 mg tablets from June 9, 2016 (the last time inventory was conducted) through May 16, 2017.
3. The Board further finds the Respondent-witness, Kristina Dalrymple not to be credible.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph one (1) of the Findings of Fact Section, constitutes a violation of Section 2925.23 of the Ohio Revised Code (ORC), illegal processing of drug documents.
2. Such conduct as set forth in paragraph one (1) of the Findings of Fact Section constitutes a violation of 2913.42(A)(1) of the ORC, tampering with records.
3. Such conduct as set forth in paragraphs one (1) and two (2) of the Findings of Fact Section constitutes a violation of the following sections of 4729-5-11 of the Ohio Administrative Code (OAC), Responsible Person:
 - a. The responsible person shall be responsible for the practice of the profession of pharmacy, including, but not limited to, the supervision and control of dangerous drugs as required in division (B) of section 4729.55 of the Revised Code, adequate safeguards as required in division (C) of section 4729.55 of the Revised Code, security and control of dangerous drugs as required in rule 4729-9-11 of the Administrative Code and maintain all drug records otherwise required, OAC Rule 4729-5-11(A)(2); and/or
 - b. The person to whom the terminal distributor of dangerous drugs (TDDD) license has been issued and all pharmacists on duty are responsible for compliance with all state and federal laws, regulations, and rules governing the distribution of drugs and the practice of pharmacy, OAC Rule 4729-5-11(A)(3).
4. Such conduct as set forth in paragraph two (2) of the Findings of Fact Section constitutes a violation of Section 4729-9-11(C) of the OAC, a pharmacist...or responsible person for a TDDD license pursuant to rule 4729-5-11 of the Administrative Code who has signed as being responsible for a TDDD license is responsible to monitor for suspicious orders, unusual usual, or questionable disposition of dangerous drugs.
5. Such conduct as set forth in paragraph two (2) of the Findings of Fact Section constitutes a violation of the following Sections of 4729-9-15 of the OAC, Report of theft or loss:
 - a. Each...TDDD...shall notify the following upon discovery of the theft or significant loss of any dangerous drug or controlled substance...

- a. The state board of pharmacy, by telephone immediately upon discovery of the theft or significant loss;
 - b. If a controlled substance, the drug enforcement administration (DEA) pursuant to 21 C.F.R. 1301.76(b);
 - c. Law enforcement authorities pursuant to section 2921.22 of the revised code, 4729-9-15(A); and/or
 - b. Controlled substance thefts must also be reported by using the federal DEA report form whether or not the controlled substances are subsequently recovered and/or the responsible parties are identified and action taken against them. A copy of the federal form regarding such theft or loss shall be filed with the state board of pharmacy within thirty days following the discovery of such theft or loss, OAC Rule 4729-9-15(B).
6. Such conduct as set forth in paragraph one (1) and two (2) of the Findings of Fact Section each constitutes a violation of the following divisions of (A) of section 4729.16 of the ORC effective as of April 6, 2017:
- a. Engaged in dishonesty or unprofessional conduct in the practice of pharmacy, ORC 4729.16 Section (A)(2)(b); and/or
 - b. Violated...any of the provisions of chapter 4729...of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(2)(e).
 - c. Engaged in any conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code, ORC Section 4729.16(A)(2)(l).
7. Such conduct as set forth in paragraphs one (1) and two (2) of the Findings of Fact Section, each constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:
- a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and/or
 - b. Violated...any of the provisions of Chapters 4729., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B).

DECISION OF THE BOARD

The Board hereby grants the Motion to Seal the Record in this matter including, but not limited to, Joint Exhibit 1 as stipulated to, and any and all confidential patient health information contained in the record.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes the following sanctions:

1. The license of Kristina R. Dalrymple, license number 03-1-27532, is suspended for a minimum of six months from the date of the Order; and

2. Kristina Dalrymple must pay a monetary penalty of \$5,000.00; this fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must log-in to www.elicense.ohio.gov and process the items in your cart.
3. The \$5,000.00 fine must be paid prior to Kristina Dalrymple's license being reactivated. If the fine is not paid within three years from the date of the Order, Kristina Dalrymple must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Exam (MPJE), or an equivalent examination(s) approved by the Board;
4. Kristina R. Dalrymple may never serve as a Responsible Person in any capacity at a location licensed by the State of Ohio Board of Pharmacy.

Mr. Passafume moved for Findings of Fact; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

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

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

SO ORDERED.

4:01 p.m. The Board conducted an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Better Living Clinic Akron, LLC, Akron, Ohio.**

4:09 p.m. The case was closed.

R-2019-187 Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; Yarosh-yes.

4:17 p.m. The recess ended and the hearing was opened to the public.

R-2019-188 After votes were taken in public session, the Board adopted the following order in the matter of **Better Living Clinic Akron, LLC, Akron, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number I-2018-1169 and A-2019-0125)

In The Matter Of:

Better Living Clinic Akron, LLC
c/o Michael P. Tricaso
1660 Akron-Peninsula Road, Suite 101E
Akron, OH 44313
(License No. 02-2771100)

and

Better Living Clinic Akron, LLC
c/o Michael P. Tricaso
1236 Weathervane Lane, Suite 300
Akron, OH 44313
(License No. 02-2771100)

INTRODUCTION

The Matter of Better Living Clinic Akron, LLC came for hearing on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Better Living Clinic Akron, LLC was not present and was not represented by Counsel. The State of Ohio was represented by Henry Appel, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Trey Edwards

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|---|------------|
| 1. Notice Letter | 08.23.2018 |
| 2. Credential View Screen for Respondent | 02.01.2018 |
| 3. Credential View Screen for Dr. Triasco | 02.01.2018 |
| 4. Application | 06.02.2017 |
| 5. Surrender of Medical License | 08.23.2018 |
| 6. Affidavit | 08.15.2018 |

- | | |
|--|------------|
| 7. Complaint in Federal Court | 08.15.2018 |
| 8. Order Issued in Federal Court | 10.26.2018 |
| 9. Temporary Restraining Order Issued in Federal Court | 08.17.2018 |

Respondent's Exhibits:

- A. None

FINDINGS OF FACT

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

1. On or about July 2, 2018, Responsible Person, Dr. Michael P. Tricaso, sold 50 Percocet and wrote a prescription for 20 Percocet for \$500.00 to a Drug Enforcement Administration (DEA) Confidential Informant.
2. On or about July 18, 2018, Responsible Person, Dr. Michael P. Tricaso, sold 100 Percocet for \$1,000.00 to a Drug Enforcement Administration Confidential Informant.
3. On or about August 21, 2018, a search warrant was executed on Better Living Clinic Akron, LLC, 1236 Weathervane Lane, Suite 300, Akron, Ohio 44313.
4. On or about August 21, 2018, Responsible Person, Dr. Michael P. Tricaso, was served with a civil injunction issued by the United States Department of Justice. The injunction removed Responsible Person, Dr. Michael P. Tricaso's, ability to write prescriptions for controlled substances.
5. On or about August 21, 2018, Responsible Person, Dr. Michael P. Tricaso, voluntarily surrendered with discipline pending the following licenses/registrations: Medical license 34.007428 with the State of Ohio Medical Board, and/or Drug Enforcement Administration Registration Number.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1) of the Findings of Fact section, constitutes a violation of section 2925.23 of the Ohio Revised Code, Illegal Processing of Drug Documents.
2. Such conduct as set forth in paragraph (1) of the Findings of Fact section, constitutes a violation of section 2925.03 of the Ohio Revised Code, Trafficking in Drugs.
3. Such conduct as set forth in paragraph (2) of the Findings of Fact section, each constitutes a violation of section 2925.03 of the Ohio Revised Code, Trafficking in Drugs.
4. Such conduct as set forth in the Findings of Fact section, constitutes a violation of the following Divisions of Section 4729.57 of the Ohio Revised Code:
 - a. Violating any rule of the board, ORC 4729.57(B)(2); and/or

- b. Violating any provision of chapter 4729., ORC 4729.57(B)(3); and/or
 - c. Violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code, ORC 4729.57(B)(4); and/or
 - d. Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code, ORC 4729.57(B)(5); and/or
 - e. Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code, ORC 4729.57(B)(7); and/or
 - f. Any other cause for which the board may impose discipline as set forth in rules adopted under 4729.26 of the Revised Code, ORC 4729.57(B)(10).
5. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact section, each constitutes the following violations of Rule 4729-37-02 of the Ohio Administrative Code, OAC Rule 4729-37-02(A).
 6. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact section, constitutes a violation of Rule 4729-37-03(E) of the Ohio Administrative Code, entities required to submit information to the drug database.
 7. Such conduct as set forth in the Findings of Fact sections, constitutes the following violations of Rule 4729-9-19 of the Ohio Administrative Code:
 - a. Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(A)(2); and/or
 - b. Not of good moral character and habits, OAC Rule 4729-9-19(A)(4); and/or
 - c. Has been disciplined by any professional licensing board, OAC Rule 4729-9-19(A)(7).

DECISION OF THE BOARD

1. Pursuant to Section 4729.16 of the Ohio Revised Code, and pursuant to Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy adjudicates the matter of Better Living Clinic Akron, LLC as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (2) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of

Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (3) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (4)(a) through (4)(f) inclusive of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (5) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (6) of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

On the basis of the Findings of Fact and section (7)(a) through (7)(c) inclusive of the Conclusions of Law, the State of Ohio Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs license, No. 02-2771100, held by Better Living Clinic Akron, LLC effective as of the date of the mailing of this Order.

2. Better Living Clinic Akron, LLC, pursuant to Section 4729.57(D) of the Ohio Revised Code, must return its license 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.
3. Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$23,500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.

Curtis L. Passafume moved for Findings of Fact; Kilee S. Yarosh seconded the motion. Motion passed (Aye-8/Nay-0).

Megan E. Marchal moved for Conclusions of Law; Curtis L. Passafume seconded the motion. Motion passed (Aye-8/Nay-0).

Joshua M. Cox moved for Action of the Board; Richard J. Newlon seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

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- 4:19 p.m.** Ms. Reed and Mr. Passafume provided the Medical Marijuana Program Update.
- 4:21 p.m.** Ms. Reed presented an overview of the Ohio Medical Marijuana Control Program.
- 4:52 p.m.** Ms. Reed presented *Executive Summary: March 2019 Response to Proposed Expansion of Nasal Spray as an Authorized Method for Administering Medical Marijuana*.
- R-2019-189** Mr. Passafume moved that the Board deny Nasal Spray as an Authorized Method. The motion was seconded by Mr. Newlon and denied by the Board: Aye-8, Nay-0.
- 4:57 p.m.** Ms. Reed presented the following resolution to the Board to adopt: Participation in the Ohio Medical Marijuana Control Program.
- R-2019-190** Mr. Passafume moved that the Board Adopt the Resolution. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8, Nay-0. The following Resolution was adopted by the Board:
-

Resolution: Participation in the Ohio Medical Marijuana Control Program

UPDATED March 5, 2019

The State of Ohio Board of Pharmacy has received inquiries regarding pharmacist participation in the Ohio Medical Marijuana Control Program authorized under Chapter 3796. of the Ohio Revised Code.

It is the policy of the State of Ohio Board of Pharmacy that a person licensed or registered by the Board will not be subject to professional discipline solely based on participation in any lawful activity authorized under Chapter 3796. of the Revised Code.

The Board recognizes that a licensed pharmacist may engage in the practice of pharmacy outside of a traditional pharmacy setting, such as in a medical marijuana dispensary. The Board reminds all licensed pharmacists that should the practice of pharmacy occur in a setting other than a pharmacy, the licensee remains subject to all relevant regulations in Chapter 4729. of the Ohio Revised Code and agency 4729 of the Ohio Administrative Code.

The Ohio Automated Rx Reporting System (OARRS) may be used by a pharmacist at a dispensary to counsel medical marijuana patients regarding their drug therapy (i.e. possible drug interactions between prescription controlled substances and medical marijuana). A pharmacist using OARRS at a dispensary to review a patient's drug therapy for the purpose of patient counseling, however, is not permitted to use a dispensary employee as a delegate. Dissemination of information contained within OARRS to unauthorized individuals is a violation of Ohio law. Accordingly, the Board cautions against printing patient OARRS reports in a dispensary.

The Board would further like to remind any licensee or registrant that violating any provision of Chapter 3796. or 4729. of the Revised Code or any rule adopted thereunder, may subject the individual to discipline by the Board.

This resolution replaces R-2018-039.

R-2019-191 Mr. Wilt 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. Marchal and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; Yarosh-yes

5:03 p.m. The Board returned to public session.

R-2019-192 After votes were taken in public session, the Board adopted the following order in the matter of **Sarah Schneider, Struthers, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number 2018-1415)

In The Matter Of Sarah M. Schneider:

Sarah M. Schneider
Application for Registered Pharmacy Technician
44 Park Ave.
Struthers, OH 44471
(Registration No. 09-201573)

INTRODUCTION

A Notice of Opportunity for Hearing was issued by the Board to Sarah M. Schneider on September 26, 2018 proposing to deny Ms. Schneider's application for registration as a registered pharmacy technician. The Matter of Sarah M. Schneider came for hearing before Hearing Examiner Robert Angell on December 20, 2018. Respondent appeared *pro se*, on her own behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about January 25, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Jennifer M. Rudell, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire record in this matter, including the following items prior to making its decision: State's exhibits numbered one through seven, Respondent's Exhibit lettered A through E, the hearing transcript,

and Hearing Examiner Angell's Report and Recommendation. After thorough review of all the evidence, the Board hereby confirms and approves Hearing Examiner Angell's report in its entirety including the Summary of Evidence, Findings of Fact, Conclusions of Law, and Discussion.

DECISION OF THE BOARD

Pursuant to Section 4729.96 of the Ohio Revised Code and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby confirms, approves, and adopts the recommendation of the Hearing Examiner and permanently denies the registration as a registered pharmacy technician of Sarah M. Schneider, 09-302959. Sarah M. Schneider may not be employed by any facility in the capacity of a registered pharmacy technician.

Ms. Yarosh moved to confirm, approve, and adopt the Report and Recommendation of Hearing Examiner Angell. Mr. Newlon seconded the motion. Motion passed (Aye 8/Nay – 0).

SO ORDERED.

R-2019-193 After votes were taken in public session, the Board adopted the following order in the matter of **Aaron Lenhart, Westerville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number I-2018-1208 & A-2019-0031)

In The Matter Of Aaron Lenhart:

Aaron Lenhart, Registered Pharmacy Technician.
4328 Executive Parkway, Apt. 237
Westerville, OH 4081
(License No. 09-100441)

INTRODUCTION

A Proposal to Deny/Notice of Opportunity for Hearing (Notice) was issued on May 3, 2018 by the Board to Aaron Lenhart related to his application for registration as a registered pharmacy technician. The Matter of Aaron Lenhart came for hearing before Hearing Examiner David Hasselback on January 2, 2019, at which time Aaron Lenhart did not appear, nor did anyone appear on his behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about January 22, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr, RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1) through (10), the hearing transcript, and Hearing Examiner Hasselback's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Hasselback's Findings of Facts, including those that specifically relate to the Board's Notice letter dated May 3, 2018.

The Board confirms and approves the Conclusions of Law as set forth by Hearing Examiner Hasselback. The Board further confirms and approves Hearing Examiner Hasselback's Conclusions of Law, paragraph (22), Footnote 17, (B)(1), (B)(2), (B)(7), and (B)(8), as they relate to the Violations of Law in the Notice of Hearing issued by the Board on May 3, 2018. The Board further finds respondent violated Rule 4729:3-1-01(G) of the OAC, not of good moral character and habits. All five violations of law are supported based on the evidence in the record as set forth in the Hearing Examiner's Report and Recommendation.

Pursuant to Section 4729.96 of the Ohio Revised Code, and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby confirms, approves, and adopts the Hearing Examiner's Recommendation as follows:

On the basis of the Findings of Facts and Conclusions of Law, the State of Ohio Board of Pharmacy hereby denies, for a minimum of two years from the date of this order, the application to register as a registered pharmacy technician, No. 09-100441, of Aaron Lenhart. Further, Respondent, prior to applying for registration, must first show successful completion of terms and conditions of cases of this type as set forth in Exhibit A, attached hereto and incorporated as though fully set forth herein. The documentation may be provided by emailing the documents to legal@pharmacy.ohio.gov or mailing to State of Ohio Board of Pharmacy, Attn: Legal Department, 77 S. High Street, 17th Floor, Columbus, Ohio 43215.

Ms. Marchal moved to confirm and approve, with the modifications set forth herein, the Report and Recommendation of Hearing Examiner Hasselback, with the modifications as set forth herein. Mr. Newlon seconded the motion. Motion passed (Aye – 8/Nay – 0).

SO ORDERED.

R-2019-194 After votes were taken in public session, the Board adopted the following order in the matter of **Emily Willis, Wellsville, Ohio.**

ORDER OF THE STATE BOARD OF PHARMACY
CONFIRMING AND APPROVING IN PART & MODIFYING IN PART
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number I-2018-1624 & A-2018-0072)

In The Matter Of Emily Willis:

Emily Willis, Pharmacy Technician Trainee.

403 6th Street.
Wellsville, OH 43968
(License No. 09-102256)

INTRODUCTION

A Summary Suspension/Notice of Opportunity for Hearing (Notice) was issued by the Board on June 5, 2018. The Matter of Emily Willis came for hearing before Hearing Examiner Rhonda Shamansky on December 4, 2018 at which time Emily Willis did not appear, nor did anyone appear on her behalf. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General. The Hearing Examiner's Report and Recommendation was served upon the Respondent on or about January 4, 2019 and, without having received any written objections, the matter subsequently came for consideration by the Board on March 5, 2019, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; D. Rich Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr, RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

The Board reviewed the entire administrative record in this matter prior to making its decision, which included the following items: State's Exhibits numbered (1) through (5), the hearing transcript, and Hearing Examiner Shamansky's Report and Recommendation.

DECISION OF THE BOARD

After thorough review of the entire administrative record, the Board hereby confirms and approves Hearing Examiner Shamansky's Findings of Facts (1) through (3), including those that specifically relate to the Board's Notice letter dated June 5, 2018.

The Board confirms and approves Conclusions of Law (1) and (2) as set forth by Hearing Examiner Shamansky. The Board further confirms and approves Hearing Examiner Shamansky's Findings of Fact, paragraphs (5), (7), (9), (10), (12), and (13) as they relate to the Violations of Law in the Notice of Hearing issued by the Board on June 5, 2018.

The Board further modifies the Report and Recommendation to include a finding of the violations of law as set forth in the Notice of Hearing dated June 5, 2018, paragraphs:

- (1) Theft of a Controlled Substance, in violation of ORC 2913.02,
- (2) Possession of a Schedule IV controlled substance, in violation of ORC Section 2925.11(A),
- (3) Possession of a Schedule III controlled substance, in violation of ORC Section 2925.11(A),
- (4) Trafficking in Drugs, in violation of ORC Section 2925.03(A)(2), and
- (5) Not of good moral character and habits, in violation of ORC Section 4729.92(A)(1) and

OAC Rule 4729:3-1-01(G).

All five violations of law are supported based on the evidence in the record, particularly the admission statement of Emily Willis found in State's Exhibit 4 and the testimony of Agent William DiFrangia as found in the transcript (p. 8-12).

Pursuant to Section 4729.96 of the Ohio Revised Code, and Rule 4729:3-4-01 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby confirms, approves, and adopts the Hearing Examiner's Recommendation as follows:

On the basis of the Findings of Facts (1) through (3) and the Board's additional finding of Conclusion of Law paragraph (1) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Board's additional finding of Conclusion of Law paragraph (2) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Board's additional finding of Conclusion of Law paragraph (3) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Board's additional finding of Conclusion of Law paragraph (4) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Board's additional finding of Conclusion of Law paragraph (5) as set forth above in, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (5) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (7) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (9) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of

Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (10) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (12) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

On the basis of the Findings of Facts (1) through (3) and the Hearing Examiner's Finding of Fact/Conclusion of Law (13) as it relates to the Notice dated June 5, 2018, the State of Ohio Board of Pharmacy hereby revokes permanently the pharmacy technician trainee registration, No. 09-102256, held by Emily Willis, effective as of the date of the mailing of this order.

Mr. Cox moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky, with the modifications as set forth herein. Mr. Miller seconded the motion. Motion passed (Aye - 8/Nay - 0).

SO ORDERED.

5:07 p.m. The meeting recessed for the day.

Wednesday, March 6, 2019

9:02 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; Joe Koltak, *Senior Legal Counsel*; Justin Sheridan, *Senior Legal Counsel*; Erin Reed, *Senior Legal Counsel*; Jenni Wai, *Chief Pharmacist*; Chad Garner, *Director of OARRS*; Henry Appel, *Assistant Attorney General*; Karrie Southard, *Director of Licensing*; Cameron McNamee, *Director of Policy and Communications*; Alexandra Simon, *Public Information Officer*; Terri Ghitman, *OARRS Pharmacist*; and Kathryn Lewis, *Administrative Assistant*.

9:02 a.m. The Board heard an oral address by both parties in the Matters of Ohio Releaf, LLC. – Jeffrey Lipps on behalf of Ohio Releaf, LLC, Henry Appel on behalf of the State.

- 9:25 a.m.** The Board heard an oral address by both parties in the Matters of Green Leaf Medical, LLC – Brian Laliberte on behalf of Green Leaf Medical, LLC, Jared Erb on behalf of the State.
- 9:49 a.m.** The Board was joined by Assistant Attorney General Henry Appel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Lia Harb, Knoxville, TN.**
- 10:00 a.m.** The case concluded.
- R-2019-195** Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; Yarosh-yes.
- 10:39 a.m.** The recess ended and the hearing was opened to the public.
- R-2019-196** After votes were taken in public session, the Board adopted the following order in the matter of **Lia Harb, Knoxville, TN.**

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number I-2018-1065 and A-2019-0067)

In The Matter Of:

Lia Harb
280 Bedford Glen Lane
Cincinnati, OH 45246
(License No. 03-3-31619)

INTRODUCTION

The Matter of Lia Harb came for hearing on March 6, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Joshua M. Cox, RPh; Megan E. Marchal, RPh; Donald R. Miller, RPh; Richard J. Newlon, *Public Member*; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh and Kilee S. Yarosh, RPh.

Lia Harb was not present and was not represented by Counsel. The State of Ohio was represented by Henry G. Appel, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Ryan Bolus

Respondent's Witnesses:

1. None

State's Exhibits:

- | | |
|----------------------------------|------------|
| 1. Notice Letter | 08.6.2018 |
| 2. Board Order | 05.08.2018 |
| 3. Letter with Board Order | 05.08.2019 |
| 4. Amended Board Order | 07.12.2018 |
| 5. Lia Harb Texts | Varied |
| 6. E-mail from Respondent | 01.24.2018 |
| 7. Second E-mail from Respondent | 08.09.2018 |

Respondent's Exhibits:

- A. None

FINDINGS OF FACT & CONCLUSIONS OF LAW

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. The Board has reasonable cause to believe that Lia Harb, an Ohio-licensed pharmacist, is physically or mentally impaired. On or about May 8, 2018, the Board issued an Order to Obtain a Mental and Physical Evaluation no later than ninety (90) days from the date of the Order, to include a hair sample test.
2. The evaluation was scheduled for May 18, 2018. Lia Harb requested the evaluation be rescheduled for a date in July. At Lia Harb's request, the Board rescheduled the evaluation to July 16, 2018. On or about July 16, 2018 Lia Harb indicated via email that she was unable to comply with the order for evaluation.
3. Lia Harb's failure to submit to the examination as ordered, constitutes an admission of the allegations and a Suspension Order pertaining to Lia Harb's pharmacist license number 03-331619 was entered on August 6, 2018 without the taking of testimony or presentation of evidence, consistent with section 4729.16 of the Ohio Revised Code.
4. The Board finds Lia Harb's failure to attend the Board Ordered examination was not beyond her control.

DECISION OF THE BOARD

Pursuant to Section 4729.16(E) of the Ohio Revised Code, the State Board of Pharmacy hereby maintains the License Suspension, License Number. 03-3-31619, issued to Lia Harb on August 6, 2018. Lia Harb may not petition for reinstatement until she complies with the mental and physical examination(s), including a hair sample test ordered by the Board on May 8, 2018.

Shawn C. Wilt moved for Action of the Board; Curtis L. Passafume seconded the motion. Motion passed (Aye-8/Nay-0).

SO ORDERED.

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- 10:40 a.m.** Mr. McNamee discussed revisions to 4729:7-3—Prescriber Compounding.
- 10:53 a.m.** Ms. Dehner presented Yamrote Lakew's request that formal action be removed from her license and the public website.
- R-2019-197** Ms. Marchal moved that the Board deny Ms. Lakew's request. The motion was seconded by Mr. Wilt and approved by the Board: Aye-8, Nay-0.
- 10:56 a.m.** Ms. Southard and Ms. Dehner presented a Change in Enrolment Form for Pharmacy Interns.
- R-2019-198** Mr. Wilt moved that the Board adopt the Change in Enrolment Form. The motion was seconded by Mr. Passafume and approved by the Board: Aye-8, Nay-0.
- 11:08 a.m.** Ms. Dehner presented a guide titled Monitoring Solution FAQ's and proposed the Board make this resource available for new Board Members.
- 11:10 a.m.** Mr. McNamee and Ms. Wai continued the discussion on proposed changes to 4729:7-3—Prescriber Compounding.
- R-2019-199** Mr. Passafume moved that the revisions to 4729:7-3 be approved for filing with JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-8, Nay-0.
- R-2019-200** Mr. Wilt moved that the Board go into Executive Session to consider the employment (dismissal, discipline, promotion, demotion, compensation, appointment) of a public employee and 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. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes; and Yarosh-yes.
- 12:59 p.m.** Mr. McNamee and Ms. Wai led a discussion on changing the classification of Kratom to a schedule 1 controlled substance.
- R-2019-201** Mr. Passafume moved that the Board classify Kratom as a schedule 1 controlled substance and approved the proposal for filing with CSI. The motion was seconded by Mr. Newlon and approved by the Board: Aye-7, Nay-0.
- 1:24 p.m.** Mr. McNamee and Ms. Wai proposed changes to 4729:5-5—Outpatient Pharmacies, 4729:5-3-14—General Security Requirements, 4729:5-3-13—Temporary Removal of Dangerous Drugs from a Licensed Location.

- R-2019-202** Ms. Yarosh moved that the revisions to 4729:5-5, 4729:5-3-14, and 4729:5-3-13 be approved for filing with CSI and JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7, Nay-0.
- 2:24 p.m.** Mr. McNamee and Ms. Wai proposed changes to 4729:5-5-16—Pharmacist Modifications to a Prescription.
- R-2019-203** Mr. Passafume moved that the revisions to 4729:5-5-16 be approved for filing with JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7, Nay-0.
- 2:25 p.m.** Mr. McNamee and Ms. Wai proposed changes to 4729:5-1-01—Definitions.
- R-2019-204** Mr. Passafume moved that the revisions to 4729:5-1-01 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- 2:30 p.m.** Mr. McNamee and Ms. Wai proposed changes to 4729:5-21 – Opioid Treatment Programs.
- R-2019-205** Mr. Passafume moved that the revisions to 4729:5-21 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- 2:35 p.m.** Mr. McNamee and Ms. Wai proposed changes to 4729:5-18—Office-Based Opioid Treatment.
- R-2019-206** Mr. Passafume moved that the revisions to 4729:5-18 be approved for filing with JCARR. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- 2:40 p.m.** The Board recessed for a break.
- 2:45 p.m.** Pursuant to Sections 4729.96(B), the State of Ohio Board of Pharmacy was joined by Thomas Pyles, *Chief of Investigations* for the purpose of considering summary suspension as authorized by Section 3719.121 of the Ohio Revised Code.
- R-2019-207** After hearing Mr. Pyles discuss the significant facts regarding the activities of Medical Marijuana Patient J.S. Mr. Passafume moved that the Board summarily suspend the Medical Marijuana License belonging to J.S. The motion was seconded by Mr. Newlon and approved by the Board: Aye—7, Nay—0.
- R-2019-208** Pursuant to section 4729.86 of the Revised Code, after hearing Mr. Pyles discuss the significant facts regarding the activities of Igor Skalsky, DDS, Mr. Passafume moved that the Board summarily restrict Igor Skalsky’s access to the drug database, the Ohio Automated Rx Reporting System (OARRS). The motion was seconded by Mr. Wilt and approved by the Board: Aye—7, Nay – 0.
- R-2019-209** Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

License No. 02-2855450
Hartley Medical Center Pharmacy, Inc.
c/o Amy Phan Trinh, R.Ph.
113 W. Victoria Street
Long Beach, CA 90808

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 Hartley Medical Center Pharmacy, Inc., (Hartley) for the purpose of resolving all issues between the parties relating to the Board investigation of the application for a Terminal Distributor of Dangerous Drugs license submitted on or around November 17, 2017. Together, the Board and Hartley are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. On or about November 17, 2017, Hartley Medical Center Pharmacy, Inc. applied for a Terminal Distributor of Dangerous Drugs license.

FACTS

1. On or about January 18, 2018, the Board initiated an investigation of Hartley, Terminal Distributor of Dangerous Drugs license number 02-2855450, related to Hartley’s derivative discipline stemming from issues with sterile compounding of patient specific prescription drug products.
2. On or about October 4, 2018, the Board sent a Notice of Opportunity for Hearing to Hartley, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Hartley neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 4, 2018, nor the findings of the Board; however, the Board has evidence sufficient to

sustain the allegations, finds them to violate Ohio's pharmacy laws as set forth in the Notice, and adjudicates the same.

3. The Board hereby issues a verbal reprimand to Hartley for its conduct in sterile compounding and derivative discipline; this verbal reprimand is non-disciplinary.
4. The Board issues the Terminal Distributor of Dangerous Drugs License 02-2855450, effective immediately.
5. Hartley 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 Hartley 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 Hartley by the Board.
6. Hartley agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Hartley 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 Hartley will operate.
9. Hartley waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-210

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

**IN THE MATTER OF:
CASE No. 2018-0084**

License No. 02-2672700
Hydrate Me, LLC,
c/o Brian Seifferth, MD
955 West 5th Avenue
Columbus, Ohio 43212

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 Hydrate Me, LLC, for the purpose of resolving all issues between the parties relating to the Board investigation of non-compliance with state and federal laws, regulations and rules governing the distribution of dangerous drugs. Together, the Board and Hydrate Me, LLC are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Hydrate Me, LLC is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2672700.

FACTS

1. On or about Jul 27, 2017, the Board initiated an investigation of Hydrate Me, LLC, Terminal Distributor of Dangerous Drugs license number 02-2672700, related to Hydrate Me, LLC’s compliance with state and federal laws, regulations and rules governing the distribution of dangerous drugs.
2. On or about April 3, 2018 the Board sent a Notice of Opportunity for Hearing to Hydrate Me, LLC, 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 April 27, 2018, Hydrate Me, LLC timely requested an administrative hearing, which was subsequently scheduled for February 4, 2018.

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. Hydrate Me, LLC neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 3, 2018, however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Hydrate Me, LLC agrees to pay to the OSBP a monetary penalty in the amount of \$1,500.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. Hydrate Me, LLC agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
5. Hydrate Me, LLC 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 Hydrate Me, LLC 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 Hydrate Me, LLC by the Board and will NOT discharge Hydrate Me, LLC from any obligation under the terms of this Agreement.
6. Hydrate Me, LLC agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Hydrate Me, LLC 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 Hydrate Me, LLC will operate.
9. Hydrate Me, LLC waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-211 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE No. 2018-1755
License No. 09-306303
Jamie Lee Hilty
2612 Pine Oak Ct.
Niles, OH 44446**

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 Jamie Lee Hilty, for the purpose of resolving all issues between the parties relating to the Board's investigation of matters contained within a Notice of Opportunity for Hearing/Proposal to Deny Application for Technician Registration dated October 10, 2018. Together, the Board and Jamie Lee Hilty are referred to hereinafter as "the parties."

JURISDICTION

3. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
4. Jamie Lee Hilty applied for registration as a certified pharmacy technician under license number 09-306303.

FACTS

3. On or about May 30, 2018, the Board initiated an investigation of Jamie Lee Hilty, certified pharmacy technician license number 09-306303, related to Jamie Lee Hilty's failure to disclose records of arrest (not related to drug charges), charges, or whether Jamie Lee Hilty has a conviction of a felony, misdemeanor, or traffic violation (even if dismissed or sealed or the equivalent thereof in another jurisdiction).
4. On or about October 10, 2018, the Board sent a Notice of Opportunity for Hearing to Jamie Lee Hilty, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
5. On or about November 7, 2018, Jamie Lee Hilty timely requested an administrative hearing, which was subsequently scheduled for December 20, 2018.

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

TERMS

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

14. The recitals set forth above are incorporated into this Settlement Agreement as though fully set forth herein.

15. Jamie Lee Hilty neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated October 10, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
16. Jamie Lee Hilty agrees to pay to the OSBP a fine in the amount of \$250.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.license.ohio.gov and process the items in your cart.
17. Jamie Lee Hilty must obtain, within 90 days from the effective date of this Agreement, five hours of approved continuing education (0.5 CEUs) in pharmacy technician-specific subject matter, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
18. Jamie Lee Hilty agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
19. Jamie Lee Hilty understands that she has the right to be represented by counsel for review and execution of this agreement.
20. Jamie Lee Hilty agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the Board on renewal applications or applications for a new license.
21. Jamie Lee Hilty waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws her request for a hearing in this matter and waives any right to an appeal.
22. 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.
23. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
24. 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.
25. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-212

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

**IN THE MATTERS OF: Case Nos. 2017-2450
2017-2592**

Braking Point Recovery Center SUSPENDED License No. 02-2491700

45 N. Canfield-Niles Rd.
Youngstown, Ohio 44515

AND

Braking Point Recovery Center SUSPENDED License No. 02-2664050

4040 E. Broad Street
Columbus, Ohio 43213

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 Braking Point Recovery Center, for the purpose of resolving all issues between the parties relating to the Board's Summary Suspension/Notices of Opportunity for Hearing issued initially in November of 2017, with an amended Notice having been issued in December of 2017. Together, the Board and Braking Point Recovery Center are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Additionally, Section 4729.571 of the ORC grants the Board the authority to suspend a TDDD license without a hearing.
3. Braking Point Recovery Center is a licensed Terminal Distributor of Dangerous Drugs under license numbers 02-2491700 (Youngstown) and 02-2664050 (Columbus).

FACTS

1. The Board initiated an investigation of Braking Point Recovery Center, Terminal Distributor of Dangerous Drugs license numbers 02-2491700 (Youngstown) and 02-2664050 (Columbus), related to Braking Point Recovery Center's suspension of its Ohio Department of Medicaid Contract, failure to maintain a Responsible Person, and improper closure/failure to properly dispose of drug stock. Braking Point Recover Center(s) Case No. 2017-2450 & 2017-2592 2
2. On or about November 27, 2017, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Braking Point Recovery Center at both locations for license numbers 02-2491700 (Youngstown) and 02-2664050 (Columbus), 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. An amended notice was issued to both license numbers on or about December 29, 2017.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Braking Point Recovery Center neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 27, 2017 as amended December 29, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy laws as set forth in the Notice, and hereby adjudicates the same.
3. Braking Point Recovery Center permanently and voluntarily surrenders to the State of Ohio Board of Pharmacy its Terminal Distributor of Dangerous Drugs licenses, license numbers 02-2491700 (Youngstown) and 02-2664050 (Columbus), to the State of Ohio Board of Pharmacy, with discipline pending.
4. Braking Point Recovery Center agrees never to reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Revised Code.
5. Braking Point Recovery Center agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license.
6. Braking Point Recovery Center agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Braking Point Recovery Center 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 Braking Point Recovery Center will operate.
9. Braking Point Recovery Center withdraws its request for and waives its right to a hearing and an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, and further, waives any right to an appeal.
10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

13. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-213 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. 2017-1176
WDDD License No.01-0627150**

Cardinal Health
c/o Craig Baranski
71 Mil Acres Drive
Wheeling, WV 26003

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 Cardinal Health, for the purpose of resolving all issues between the parties relating to the Board investigation of Cardinal Health's alleged failure to provide adequate security for and proper storage conditions and handling for dangerous drugs. Together, the Board and Cardinal Health 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.52 of the Ohio Revised Code.
2. Cardinal Health is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-0627150.

FACTS

1. On or about October 12, 2017, the Board initiated an investigation of Cardinal Health, Wholesale Distributor of Dangerous Drugs license number 01-0627150, related to Cardinal Health's failure to provide adequate security for and proper storage conditions and handling for dangerous drugs.
2. On or about October 12, 2017, the Board sent a Notice of Opportunity for Hearing to Cardinal Health, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about October 23, 2017, Cardinal Health timely requested an administrative hearing, which was subsequently scheduled for January 9, 2019.

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. Cardinal Health neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 12, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Cardinal Health agrees to pay to the Board a monetary penalty the amount of \$5,000.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Agreement. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.
4. All controlled substances delivered into Ohio from Cardinal Health's Wheeling West Virginia distribution Center, License No. 01-0627150, will be contained inside a tamper evident bag inside a sealed tote. Cardinal Health will implement this new system no later than four (4) months of the effective date of this agreement.
5. Cardinal Health agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Cardinal Health 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. Any violation by Cardinal Health of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Cardinal Health by the Board and will NOT discharge Cardinal Health from any obligation under the terms of this Agreement.
7. Cardinal Health agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Cardinal Health 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 Cardinal Health will operate.
10. Cardinal Health waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws its request for a hearing in this matter and waives any right to appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

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

R-2019-214 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. 2018-1031-B
Suspended License No. 03-320050**

Jeffrey Potter
7892 Hartman Rd.
Wadsworth, OH 44281

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 Jeffrey Potter, for the purpose of resolving all issues between the parties relating to the suspension of Jeffrey Potter's license to practice pharmacy in the state of Ohio. Together, the Board and Jeffrey Potter are referred to hereinafter as "the parties." **This agreement supersedes the previous settlement agreement, which was effective October 2, 2018.**

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Jeffrey Potter is an Ohio-licensed pharmacist under suspended license number 03-320050.

FACTS

1. On or about January 5, 2018, the Board initiated an investigation of Jeffrey Potter, pharmacist license number 03-320050, related to Jeffrey Potter's pharmacy practice and failure to meet the minimum safety requirements for sterile compounding at Clinical Apothecaries, a Terminal Distributor of Dangerous Drugs license number 02-1146750.

2. On or about January 16, 2018, the Board sent a Summary Suspension/Notice of Opportunity for Hearing to Jeffrey Potter, 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 February 5, 2018, Jeffrey Potter, by and through counsel Steven Sindell, timely requested an administrative hearing.
4. On or about May 9, 2018, the Board sent an Amended Summary Suspension/Notice of Opportunity for Hearing to Jeffrey Potter and to Clinical Apothecaries, which outlined the allegations and provided notice of their right to a hearing, rights in such hearing, and right to submit contentions in writing.
5. On or about October 2, 2018, Jeffrey Potter entered into a settlement agreement with the Board, set forth as Attachment A incorporated as though fully set forth herein. Terms of the Settlement Agreement included the Board lifting the summary suspension of Jeffrey Potter's license and suspending the license indefinitely until such time as Jeffrey Potter participated in a Board-arranged mental and physical examination(s), consistent with Section 4729.16(E) of the Ohio Revised Code and retook and passed the Multistate Pharmacy Jurisprudence Examination (MPJE).
6. On February 25, 2019, by and through counsel Rachael Sindell, Jeffrey Potter requested the permanent and voluntary surrender of his pharmacist's license number 03-320050.

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 POTTER PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AS A PHARMACIST, LICENSE NO. 03-320050, WITH DISCIPLINE PENDING.**
3. **Jeffrey Potter may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., 4729., or 4752. of the Revised Code.**
4. **Jeffrey Potter agrees never to be employed by or otherwise work in any facility or establishment licensed by the State of Ohio Board of Pharmacy.**
5. Jeffrey Potter agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.
6. Jeffrey Potter agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Jeffrey Potter understands that he has the right to be represented by counsel for review and execution of this agreement.

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

R-2019-215 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. 2017-2506
2012-1849**

***PENDING License Nos. 020589200
022888050***

Medi-Mart Pharmacy
c/o Curtis Bradley
902 4th Street
Portsmouth, OH 45662

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 Medi-Mart Pharmacy and its Responsible Person, Curtis Bradley, for the purpose of resolving all issues between the parties relating to the Board investigation of Medi-Mart applying for a Category III Terminal Distributor of Dangerous Drugs (TDDD) license. Together, the Board and Medi-Mart are referred to hereinafter as "the parties."

JURISDICTION

5. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
6. Medi-Mart is a licensed Category II TDDD under license number 02-0589200 and has a pending application for a Change of Ownership and a Category III TDDD under license number 02-2888050.

FACTS

1. On or about September 9, 2017, the Board initiated an investigation of Medi-Mart, TDDD license number 02-0589200 and pending application license number 02-2888050, related to Medi-Mart applying for a Change of Ownership and a Category III Terminal Distributor of Dangerous Drugs license.
2. On or about October 5, 2018, the Board sent a Notice of Opportunity for Hearing to Medi-Mart, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Curtis Bradley and Medi-Mart neither admit nor deny the allegations stated in the Notice of Opportunity for Hearing letter dated October 5, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Curtis Bradley and Medi-Mart agree that Raymond Fankell, Cathy Fankell, John Fankell, and/or any other Fankell family members will have no further ownership interest in Medi-Mart prior to, and after, Medi-Mart obtaining a Category III license; accordingly, Curtis Bradley will submit an amended Change of Ownership Application (No. 022888050) for a Category III TDDD license evidencing new ownership, which excludes all Fankell family members.
4. The Board agrees, upon receipt of amended application (No. 022888050) and proof of ownership change eliminating any and all Fankells from the ownership structure, to grant the change of ownership and the Category III TDDD license.
5. Curtis Bradley and Medi-Mart agree that Raymond Fankell, Cathy Fankell, John Fankell, and/or any other Fankell family members will have no involvement in the day-to-day, or any other, operations of Medi-Mart.
6. Curtis Bradley agrees and acknowledges that this Board Settlement Agreement must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
7. Curtis Bradley and Medi-Mart agree 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), 21U.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 Curtis Bradley or Medi-Mart 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 Curtis Bradley or Medi-Mart by the Board and will NOT discharge Curtis Bradley or Medi-Mart from any obligation under the terms of this Agreement.

8. Medi-Mart agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
9. Curtis Bradley and Medi-Mart understands that they have the right to be represented by counsel for review and execution of this agreement.
10. This Agreement is binding upon any, and all, successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Curtis Bradley or Medi-Mart will operate.
11. Curtis Bradley and Medi-Mart waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
15. This Agreement shall become effective upon the date of the Board President's signature below.

R-2019-216 Mr. Weaver announced the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
Case No. I-2017-1018B**

**A-2019-0123
License No. 03-111072
John L. Hunter**

408 Glyn Tawel Drive
Granville, OH 43023

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 John L. Hunter, for the purpose of resolving all issues between the parties relating to the failure to report the theft of controlled substances from the pharmacy where you were the Responsible Person. Together, the Board and Name are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. John L. Hunter is an Ohio-licensed pharmacist under license number 03-111072.

FACTS

1. On or about January 6, 2017, the Board initiated an investigation of John L. Hunter, pharmacist license number 03-111072, which revealed as the Responsible Person at Heritage Healthcare Services, Inc., John Hunter instructed a subordinate, on or about December 20, 2016, to use whiteout to alter the November 2016 Controlled Substances, Schedule II inventory to change the inventory of oxycodone/ acetaminophen 5mg/ 325mg tablets from four hundred and eighty- seven (487) to zero (0). John Hunter admitted in an interview with Board agents he did not report the theft of the controlled substances to the Board, the Drug Enforcement Administration and/ or law enforcement authorities so as to protect a family member who was employed as a pharmacy technician at Heritage Healthcare Services and had stolen the drugs.
2. On or about April 13, 2018, the Board sent a Proposal to Take Disciplinary Action/Notice of Opportunity for Hearing to John L. Hunter, 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 WHEREFORE, in consideration of the mutual promises wherein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
 2. John L. Hunter neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 13, 2018; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
 3. **JOHN L. HUNTER PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-111072, WITH DISCIPLINE PENDING.**
 4. **John L. Hunter agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
 5. **John L. Hunter may never reapply for any license or registration over which the State of Ohio Board of Pharmacy has jurisdiction, including those set forth in Chapters 3719., 3796., 4729. or 4752. of the Revised Code.**
 6. John L. Hunter 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 L. Hunter understands that he has the right to be represented by counsel for review and execution of this agreement.
 8. John L. Hunter agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
 9. John L. Hunter waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws his request for a hearing in this matter and waives any right to an appeal.
 10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
 13. This Agreement shall become effective upon the date of the Board President's signature below.
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- R-2019-217** Mr. Wilt moved that the Board Meeting Minutes of January 7-8, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-218** Mr. Wilt moved that the Probation Committee Minutes of January 7, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-6, Nay-0, Abstain - 1.
- R-2019-219** Mr. Wilt moved that the Conference Call Minutes of January 16, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-220** Mr. Wilt moved that the Conference Call Minutes of January 23, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-221** Mr. Wilt moved that the Conference Call Minutes of January 30, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-222** Mr. Wilt moved that the Conference Call Minutes of February 6, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-223** Mr. Wilt moved that the Conference Call Minutes of February 13, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-224** Mr. Wilt moved that the Conference Call Minutes of February 20, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- R-2019-225** Mr. Wilt moved that the Conference Call Minutes of February 27, 2019 be approved as written. The motion was seconded by Mr. Miller and approved by the Board: Aye-7, Nay-0.
- 3:01 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-19-01—Clinics and Prescriber Offices.
- R-2019-226** Mr. Passafume moved that the revisions to 4729:5-19-01 be approved for filing with JCARR. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.
- 3:10 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-16—Approved Laboratories.
- R-2019-227** Mr. Passafume moved that the revisions to 4729:5-16 be approved for filing with JCARR. The motion was seconded by Mr. Cox and approved by the Board: Aye-7, Nay-0.
- 3:19 p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-23—Limited Facilities.
- R-2019-228** Mr. Cox moved that the revisions to 4729:5-23 be approved for filing with JCARR. The motion was seconded by Mr. Passafume and approved by the Board: Aye-7, Nay-0.
- 3:21p.m.** Mr. McNamee and Ms. Wai led a discussion on revisions to 4729:5-22—Non-Limited Facilities.
- R-2019-229** Mr. Passafume moved that the revisions to 4729:5-22 be approved for filing with JCARR. The motion was seconded by Ms. Yarosh and approved by the Board: Aye-7, Nay-0.
- R-2019-230** Mr. Wilt 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 Weaver as follows: Marchal-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes, Wilt-yes, and Yarosh-yes.

R-2019-231 After votes were taken in public session, the Board adopted the following order in the matter of **Ohio Releaf II, LLC.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number 2018-M1141)

In Re Ohio Releaf II, LLC
88 East Broad Street, Suite 1740
Columbus, OH 43215
Account No./Application No.: 14-1141
Application District: Southwest-3
Application Dispensary Address: 868 West Lane Avenue, Columbus, OH 43221

INTRODUCTION

The Matter of Ohio Releaf II, LLC (Ohio Releaf II or Applicant) came for hearing before Hearing Examiner Rhonda Shamansky on September 26, 27, and 28, 2018; and also on October 9 and 10, 2018, and for consideration by the State of Ohio Board of Pharmacy (Board) on **March 6, 2019**, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Donald R. Miller, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; Richard J. Newlon, *public member*; Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.

Respondent was represented by Jeff Lipps and Joel Sechler. The State of Ohio was represented by Henry G. Appel and Lisa Haywood, Assistant Attorneys General.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 1) Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License for Case No. 2018-M1141;
- 2) Applicant's Scorecard for Application ID 1141;
- 3) Full List of Application Scores by District;
- 4) Transcript of September 26, 27, and 28, 2018; and October 9 and 10, 2018 proceedings;
- 5) Oral statements presented by Applicant and the State of Ohio on March 6, 2018;

6) The following additional filings in the administrative case record:

- Ohio Releaf Scorecard for Application No. 929;
- Ohio Releaf Scorecard for Application No. 960;
- Ohio Releaf Scorecard for Application No. 962;
- Ohio Releaf Scorecard for Application No. 1141;
- July 5, 2018, Request for Hearing – Application No. 1141;
- July 11, 2018, 2018-M1141 Notice of Appearance (Corrected);
- July 31, 2018, Acknowledgement of Hearing Request 2018-M1141;
- August 21, 2018, Journal Entry with Notice of Hearing and Consolidation;
- August 27, 2018, State of Ohio’s Motion to Quash;
- August 30, 2018, Ohio Releaf’s Opposition to Motion to Quash;
- September 10, 2018, Journal Entry Withholding Ruling on Motion to Quash;
- September 14, 2018, Ohio Releaf Notice of Filing Witness List and Exhibit List;
- September 14, 2018, State of Ohio’s Witness List and Exhibit List;
- September 19, 2018, Journal Entry Continuing Hearing Date;
- September 24, 2018, State of Ohio’s Pre-hearing Brief;
- September 24, 2018, Ohio Releaf’s Pre-hearing Brief;
- October 17, 2018, State of Ohio’s Notice of Proffer;
- October 17, 2018, Ohio Releaf’s Written Proffer;
- November 13, 2018, Ohio Releaf’s Written Closing Brief;
- November 13, 2018, State of Ohio’s Written Closing Brief;
- January 2, 2019, Report & Recommendation Cover Letter 2018-M1141;
- January 10, 2019, Letter Requesting Extension of Time to Respond to Report & Recommendation 2018-M1141;
- January 11, 2019, Order Granting Extension to Respond to Report & Recommendations;
- January 31, 2019, Ohio Releaf Objections 2018-M1141;
- February 12, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board;
- February 13, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board (Amended);

7) The following Ohio Releaf II Exhibits admitted by the Hearing Examiner:

- Exhibit A: Ohio Releaf Analysis
- Exhibit B: Dispensary Application Webinar
- Exhibit B-1: Dispensary Application Webinar
- Exhibit C 1-7: Demonstrative – Question/Evaluator Comparison Chart – Ohio Releaf Applications
- Exhibit D: Demonstrative – Question/Evaluator Comparison Chart – Southwest 1 winners
- Exhibit E: Demonstrative – Question/Evaluator Comparison Chart – Southeast 3 winners
- Exhibit F: Demonstrative – Question/Evaluator Comparison Chart – Northeast 2 winners
- Exhibit G 1-52: Provisional Dispensary License Informational Session – June 19, 2018
- Exhibit H 1-15: Ohio Revised Code – relevant provisions
- Exhibit I 1-67: Ohio Administrative Code – relevant provisions
- Exhibit J 1-57: 6/7/2017 – Department of Administrative Services RFP. No. CSP902918 for Medical Marijuana Dispensary Application and Scoring Consultant

- Exhibit K 1-4: 7/18/2017 – Contract between Ohio Department of Administrative Services and the North Highland Company for RFP. No. CSP902918
- Exhibit L 1-13: North Highland – Invoices
- Exhibit M 1: 4/6/2018 – Memorandum of Understanding between DAS and Ohio Board of Pharmacy– RE: Ohio Medical Marijuana Dispensary Application Security Assessment
- Exhibit N 1-2: 4/10/2018 – Gartner Purchase Order for Security Assessment on the Ohio Medical Marijuana Dispensary Application (RFQ no. OITRFQ150)
- Exhibit O 1-3: 4/25/18 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit P 1-3: 5/14/2018 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit Q 1-11: Compliance Variance Tracker worksheet
- Exhibit R 1-163: Evaluation Team Training – Business Plan
- Exhibit S 1-155: Evaluation Team Training – Operations Plan (C&E)
- Exhibit T 1-157: Evaluation Team Training – Operations Plan (Patient Care)
- Exhibit U 1-154: Evaluation Team Training – Patient Care Plan
- Exhibit V: Evaluator Position Description
- Exhibit W: Application Batches
- Exhibit X: Raw Score Breakdown – Ohio Releaf II (No. 1141), Ohio Releaf III (No. 929), Ohio Releaf IV (No. 949), Ohio Releaf V (No. 960), Ohio Releaf VI (No. 962)
- Exhibit Y: 8/9/2018 – Email FROM: Nicole Dehner, TO: Joel E. Sechler and Jeffrey A. Lipps, RE: Public Record Request
- Exhibit Z: 9/19/2018 – Email FROM: Justin Sheridan, TO: Jeffrey A. Lipps and Joel E. Sechler, RE: In Re Ohio Releaf, II, III, IV, V, & VI (Case Nos. 2018-M1141; M929; M949; M960; M962)
- Exhibit AA: North Highland – Response to RFI COM2016-ADM004 with cost quote
- Exhibit BB: North Highland –Response to RFI COM2016-ADM004 with questionnaire responses
- Exhibit CC: Minutes of June 4-6, 2008 Meeting of the State of Ohio Board of Pharmacy
- Exhibit DD: Demonstrative – Ohio Releaf Scoring Analysis
- Exhibit EE: 12/6/2017 – Email FROM: Erin Reed, TO: Robert Kubasak, RE: Follow Up
- Exhibit FF: 1/10/2018 – Email FROM: Dennis Luken, TO: Erin Reed, RE: Operations Plan (C&E) Evaluator Training Follow up
- Exhibit GG: 1/30/2018 – Email FROM: Paula Economus, TO: Paula Economus, et al., RE: Board of Pharmacy Training Session
- Exhibit HH: 2/5/2018 – Email FROM: Erin Reed, TO: Erin Reed, RE: Web Access
- Exhibit II: 2/12/2018 – Email FROM: Stephen Roka, TO: Erin Reed, RE: Business Plan Evaluator Training Follow up

8) The following Joint Exhibits admitted by the Hearing Examiner:

- Exhibit O1a: Ohio Releaf II – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1b: Ohio Releaf III – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1c: Ohio Releaf IV – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1d: Ohio Releaf V – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1e: Ohio Releaf VI – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O2a: Ohio Releaf II – Request for Hearing
- Exhibit O2b: Ohio Releaf III – Request for Hearing
- Exhibit O2c: Ohio Releaf IV – Request for Hearing

- Exhibit 02d: Ohio Releaf V – Request for Hearing
- Exhibit 02e: Ohio Releaf VI – Request for Hearing
- Exhibit 03: Medical Marijuana Dispensary Districts
- Exhibit 04: Dispensary Application Document A – Instructions
- Exhibit 05: Dispensary Application Document B – Model Application
- Exhibit 06: Medical Marijuana Dispensary Licensing Report
- Exhibit 07: Dispensary Provisional License Presentation (6/4/2018)
- Exhibit 08: List of Medical Marijuana Dispensaries by District
- Exhibit 09: List of Medical Marijuana Dispensaries by Statewide Rank
- Exhibit 10: Application Scorecards
- Exhibit 11: Key Indicators – Business Plan
- Exhibit 12: Key Indicators – Operations Plan: Compliance and Enforcement
- Exhibit 13: Key Indicators – Operations Plan: Patient Care
- Exhibit 14: Key Indicators – Patient Care Plan
- Exhibit 15: Ohio Releaf II (SE3) – Raw Score Breakdown
- Exhibit 16: Ohio Releaf III (SW1) – Raw Score Breakdown
- Exhibit 17: Ohio Releaf IV (NE2) – Raw Score Breakdown
- Exhibit 18: Ohio Releaf V (SE3) – Raw Score Breakdown
- Exhibit 19: Ohio Releaf VI (NE2) – Raw Score Breakdown
- Exhibit 33: First Period Q&A Responses
- Exhibit 34: Second Period Q&A Responses
- Exhibit 35: Dispensary Application FAQs
- Exhibit 36: Dispensary Application Tips
- Exhibit 37: Dispensary Award Process - FAQs
- Exhibit 38: North Highland – Deliverable Expectation Documents and Deliverable Acceptance Forms
- Exhibit 39: Gartner – Dispensary Application Data Validation (5/21/2018)
- Exhibit 40: Ohio Releaf II Application – Southeast 3 (No. 1141)
- Exhibit 41: Ohio Releaf V Application – Southeast 3 (No. 960)
- Exhibit 45: Ohio Releaf III Application – Southwest 1 (No. 929)
- Exhibit 48: Ohio Releaf IV Application – Northeast-2 (No. 949)
- Exhibit 49: Ohio Releaf VI Application – Northeast 2 (No. 962)

DECISION OF THE BOARD

After thorough review of all documents related to the case, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 21, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Ohio Releaf II, LLC, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Shamansky, affirming the Board's license award process, which includes a denial of a Dispensary Provisional License to Ohio Releaf II, LLC.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

R-2019-232 After votes were taken in public session, the Board adopted the following order in the matter of **Ohio Releaf III, LLC.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number 2018-M929)

In Re Ohio Releaf III, LLC
88 East Broad Street, Suite 1740
Columbus, OH 43215
Account No./Application No.: 484-929
Application District: Southwest-1
Application Dispensary Address: 12145 Omniplex Court, Forest Park, OH 45240

INTRODUCTION

The Matter of Ohio Releaf III, LLC (Ohio Releaf III or Applicant) came for hearing before Hearing Examiner Rhonda Shamansky on September 26, 27, and 28, 2018; and also on October 9 and 10, 2018, and for consideration by the State of Ohio Board of Pharmacy (Board) on **March 6, 2019**, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Donald R. Miller, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; Richard J. Newlon, *public member*; Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.

Respondent was represented by Jeff Lipps and Joel Sechler. The State of Ohio was represented by Henry G. Appel and Lisa Haywood, Assistant Attorneys General.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 9) Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License for Case No. 2018-M929;
- 10) Applicant's Scorecard for Application ID 929;
- 11) Full List of Application Scores by District;
- 12) Transcript of September 26, 27, and 28, 2018; and October 9 and 10, 2018 proceedings;
- 13) Oral statements presented by Applicant and the State of Ohio on March 6, 2018;

14) The following additional filings in the administrative case record:

- Ohio Releaf Scorecard for Application No. 929;
- Ohio Releaf Scorecard for Application No. 960;
- Ohio Releaf Scorecard for Application No. 962;
- Ohio Releaf Scorecard for Application No. 1141;
- July 5, 2018, Request for Hearing – Application No. 929;
- July 11, 2018, 2018-M929 Notice of Appearance (Corrected);
- July 31, 2018, Acknowledgement of Hearing Request 2018-M929;
- August 21, 2018, Journal Entry with Notice of Hearing and Consolidation;
- August 27, 2018, State of Ohio’s Motion to Quash;
- August 30, 2018, Ohio Releaf’s Opposition to Motion to Quash;
- September 10, 2018, Journal Entry Withholding Ruling on Motion to Quash;
- September 14, 2018, Ohio Releaf Notice of Filing Witness List and Exhibit List;
- September 14, 2018, State of Ohio’s Witness List and Exhibit List;
- September 19, 2018, Journal Entry Continuing Hearing Date;
- September 24, 2018, State of Ohio’s Pre-hearing Brief;
- September 24, 2018, Ohio Releaf’s Pre-hearing Brief;
- October 17, 2018, State of Ohio’s Notice of Proffer;
- October 17, 2018, Ohio Releaf’s Written Proffer;
- November 13, 2018, Ohio Releaf’s Written Closing Brief;
- November 13, 2018, State of Ohio’s Written Closing Brief;
- January 2, 2019, Report & Recommendation Cover Letter 2018-M929;
- January 10, 2019, Letter Requesting Extension of Time to Respond to Report & Recommendation 2018-M929;
- January 11, 2019, Order Granting Extension to Respond to Report & Recommendations;
- January 31, 2019, Ohio Releaf Objections 2018-M929;
- February 12, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board;
- February 13, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board (Amended);

15) The following Ohio Releaf III Exhibits admitted by the Hearing Examiner:

- Exhibit A: Ohio Releaf Analysis
- Exhibit B: Dispensary Application Webinar
- Exhibit B-1: Dispensary Application Webinar
- Exhibit C 1-7: Demonstrative – Question/Evaluator Comparison Chart – Ohio Releaf Applications
- Exhibit D: Demonstrative – Question/Evaluator Comparison Chart – Southwest 1 winners
- Exhibit E: Demonstrative – Question/Evaluator Comparison Chart – Southeast 3 winners
- Exhibit F: Demonstrative – Question/Evaluator Comparison Chart – Northeast 2 winners
- Exhibit G 1-52: Provisional Dispensary License Informational Session – June 19, 2018
- Exhibit H 1-15: Ohio Revised Code – relevant provisions
- Exhibit I 1-67: Ohio Administrative Code – relevant provisions
- Exhibit J 1-57: 6/7/2017 – Department of Administrative Services RFP. No. CSP902918 for Medical Marijuana Dispensary Application and Scoring Consultant

- Exhibit K 1-4: 7/18/2017 – Contract between Ohio Department of Administrative Services and the North Highland Company for RFP. No. CSP902918
- Exhibit L 1-13: North Highland – Invoices
- Exhibit M 1: 4/6/2018 – Memorandum of Understanding between DAS and Ohio Board of Pharmacy– RE: Ohio Medical Marijuana Dispensary Application Security Assessment
- Exhibit N 1-2: 4/10/2018 – Gartner Purchase Order for Security Assessment on the Ohio Medical Marijuana Dispensary Application (RFQ no. OITRFQ150)
- Exhibit O 1-3: 4/25/18 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit P 1-3: 5/14/2018 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit Q 1-11: Compliance Variance Tracker worksheet
- Exhibit R 1-163: Evaluation Team Training – Business Plan
- Exhibit S 1-155: Evaluation Team Training – Operations Plan (C&E)
- Exhibit T 1-157: Evaluation Team Training – Operations Plan (Patient Care)
- Exhibit U 1-154: Evaluation Team Training – Patient Care Plan
- Exhibit V: Evaluator Position Description
- Exhibit W: Application Batches
- Exhibit X: Raw Score Breakdown – Ohio Releaf II (No. 1141), Ohio Releaf III (No. 929), Ohio Releaf IV (No. 949), Ohio Releaf V (No. 960), Ohio Releaf VI (No. 962)
- Exhibit Y: 8/9/2018 – Email FROM: Nicole Dehner, TO: Joel E. Sechler and Jeffrey A. Lipps, RE: Public Record Request
- Exhibit Z: 9/19/2018 – Email FROM: Justin Sheridan, TO: Jeffrey A. Lipps and Joel E. Sechler, RE: In Re Ohio Releaf, II, III, IV, V, & VI (Case Nos. 2018-M1141; M929; M949; M960; M962)
- Exhibit AA: North Highland – Response to RFI COM2016-ADM004 with cost quote
- Exhibit BB: North Highland –Response to RFI COM2016-ADM004 with questionnaire responses
- Exhibit CC: Minutes of June 4-6, 2008 Meeting of the State of Ohio Board of Pharmacy
- Exhibit DD: Demonstrative – Ohio Releaf Scoring Analysis
- Exhibit EE: 12/6/2017 – Email FROM: Erin Reed, TO: Robert Kubasak, RE: Follow Up
- Exhibit FF: 1/10/2018 – Email FROM: Dennis Luken, TO: Erin Reed, RE: Operations Plan (C&E) Evaluator Training Follow up
- Exhibit GG: 1/30/2018 – Email FROM: Paula Economus, TO: Paula Economus, et al., RE: Board of Pharmacy Training Session
- Exhibit HH: 2/5/2018 – Email FROM: Erin Reed, TO: Erin Reed, RE: Web Access
- Exhibit II: 2/12/2018 – Email FROM: Stephen Roka, TO: Erin Reed, RE: Business Plan Evaluator Training Follow up

16) The following Joint Exhibits admitted by the Hearing Examiner:

- Exhibit O1a: Ohio Releaf II – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1b: Ohio Releaf III – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1c: Ohio Releaf IV – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1d: Ohio Releaf V – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O1e: Ohio Releaf VI – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit O2a: Ohio Releaf II – Request for Hearing
- Exhibit O2b: Ohio Releaf III – Request for Hearing
- Exhibit O2c: Ohio Releaf IV – Request for Hearing

- Exhibit 02d: Ohio Releaf V – Request for Hearing
- Exhibit 02e: Ohio Releaf VI – Request for Hearing
- Exhibit 03: Medical Marijuana Dispensary Districts
- Exhibit 04: Dispensary Application Document A – Instructions
- Exhibit 05: Dispensary Application Document B – Model Application
- Exhibit 06: Medical Marijuana Dispensary Licensing Report
- Exhibit 07: Dispensary Provisional License Presentation (6/4/2018)
- Exhibit 08: List of Medical Marijuana Dispensaries by District
- Exhibit 09: List of Medical Marijuana Dispensaries by Statewide Rank
- Exhibit 10: Application Scorecards
- Exhibit 11: Key Indicators – Business Plan
- Exhibit 12: Key Indicators – Operations Plan: Compliance and Enforcement
- Exhibit 13: Key Indicators – Operations Plan: Patient Care
- Exhibit 14: Key Indicators – Patient Care Plan
- Exhibit 15: Ohio Releaf II (SE3) – Raw Score Breakdown
- Exhibit 16: Ohio Releaf III (SW1) – Raw Score Breakdown
- Exhibit 17: Ohio Releaf IV (NE2) – Raw Score Breakdown
- Exhibit 18: Ohio Releaf V (SE3) – Raw Score Breakdown
- Exhibit 19: Ohio Releaf VI (NE2) – Raw Score Breakdown
- Exhibit 33: First Period Q&A Responses
- Exhibit 34: Second Period Q&A Responses
- Exhibit 35: Dispensary Application FAQs
- Exhibit 36: Dispensary Application Tips
- Exhibit 37: Dispensary Award Process - FAQs
- Exhibit 38: North Highland – Deliverable Expectation Documents and Deliverable Acceptance Forms
- Exhibit 39: Gartner – Dispensary Application Data Validation (5/21/2018)
- Exhibit 40: Ohio Releaf II Application – Southeast 3 (No. 1141)
- Exhibit 41: Ohio Releaf V Application – Southeast 3 (No. 960)
- Exhibit 45: Ohio Releaf III Application – Southwest 1 (No. 929)
- Exhibit 48: Ohio Releaf IV Application – Northeast-2 (No. 949)
- Exhibit 49: Ohio Releaf VI Application – Northeast 2 (No. 962)

DECISION OF THE BOARD

After thorough review of all documents related to the case, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 21, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Ohio Releaf III, LLC, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Shamansky, affirming the Board's license award process, which includes a denial of a Dispensary Provisional License to Ohio Releaf III, LLC.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

R-2019-233 After votes were taken in public session, the Board adopted the following order in the matter of **Ohio Releaf VI, LLC.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number 2018-M962)

In Re Ohio Releaf VI, LLC
88 East Broad Street, Suite 1740
Columbus, OH 43215
Account No./Application No.: 501-962
Application District: Northeast-2
Application Dispensary Address: 3907 Mayfield Road, Cleveland Heights, OH 44121

INTRODUCTION

The Matter of Ohio Releaf VI, LLC (Ohio Releaf VI or Applicant) came for hearing before Hearing Examiner Rhonda Shamansky on September 26, 27, and 28, 2018; and also on October 9 and 10, 2018, and for consideration by the State of Ohio Board of Pharmacy (Board) on **March 6, 2019**, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Donald R. Miller, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; Richard J. Newlon, *public member*; Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.

Respondent was represented by Jeff Lipps and Joel Sechler. The State of Ohio was represented by Henry G. Appel and Lisa Haywood, Assistant Attorneys General.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 17) Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License for Case No. 2018-M962;
- 18) Applicant's Scorecard for Application ID 962;
- 19) Full List of Application Scores by District;
- 20) Transcript of September 26, 27, and 28, 2018; and October 9 and 10, 2018 proceedings;
- 21) Oral statements presented by Applicant and the State of Ohio on March 6, 2018;

22) The following additional filings in the administrative case record:

- Ohio Releaf Scorecard for Application No. 929;
- Ohio Releaf Scorecard for Application No. 960;
- Ohio Releaf Scorecard for Application No. 962;
- Ohio Releaf Scorecard for Application No. 1141;
- July 5, 2018, Request for Hearing – Application No. 962;
- July 11, 2018, 2018-M962 Notice of Appearance (Corrected);
- July 31, 2018, Acknowledgement of Hearing Request 2018-M962;
- August 21, 2018, Journal Entry with Notice of Hearing and Consolidation;
- August 27, 2018, State of Ohio’s Motion to Quash;
- August 30, 2018, Ohio Releaf’s Opposition to Motion to Quash;
- September 10, 2018, Journal Entry Withholding Ruling on Motion to Quash;
- September 14, 2018, Ohio Releaf Notice of Filing Witness List and Exhibit List;
- September 14, 2018, State of Ohio’s Witness List and Exhibit List;
- September 19, 2018, Journal Entry Continuing Hearing Date;
- September 24, 2018, State of Ohio’s Pre-hearing Brief;
- September 24, 2018, Ohio Releaf’s Pre-hearing Brief;
- October 17, 2018, State of Ohio’s Notice of Proffer;
- October 17, 2018, Ohio Releaf’s Written Proffer;
- November 13, 2018, Ohio Releaf’s Written Closing Brief;
- November 13, 2018, State of Ohio’s Written Closing Brief;
- January 2, 2019, Report & Recommendation Cover Letter 2018-M962;
- January 10, 2019, Letter Requesting Extension of Time to Respond to Report & Recommendation 2018-M962;
- January 11, 2019, Order Granting Extension to Respond to Report & Recommendations;
- January 31, 2019, Ohio Releaf Response, 2018-M962;
- February 12, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board;
- February 13, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board (Amended);

23) The following Ohio Releaf VI Exhibits admitted by the Hearing Examiner:

- Exhibit A: Ohio Releaf Analysis
- Exhibit B: Dispensary Application Webinar
- Exhibit B-1: Dispensary Application Webinar
- Exhibit C 1-7: Demonstrative – Question/Evaluator Comparison Chart – Ohio Releaf Applications
- Exhibit D: Demonstrative – Question/Evaluator Comparison Chart – Southwest 1 winners
- Exhibit E: Demonstrative – Question/Evaluator Comparison Chart – Southeast 3 winners
- Exhibit F: Demonstrative – Question/Evaluator Comparison Chart – Northeast 2 winners
- Exhibit G 1-52: Provisional Dispensary License Informational Session – June 19, 2018
- Exhibit H 1-15: Ohio Revised Code – relevant provisions
- Exhibit I 1-67: Ohio Administrative Code – relevant provisions
- Exhibit J 1-57: 6/7/2017 – Department of Administrative Services RFP. No. CSP902918 for Medical Marijuana Dispensary Application and Scoring Consultant
- Exhibit K 1-4: 7/18/2017 – Contract between Ohio Department of Administrative Services and the North Highland Company for RFP. No. CSP902918

- Exhibit L 1-13: North Highland – Invoices
- Exhibit M 1: 4/6/2018 – Memorandum of Understanding between DAS and Ohio Board of Pharmacy– RE: Ohio Medical Marijuana Dispensary Application Security Assessment
- Exhibit N 1-2: 4/10/2018 – Gartner Purchase Order for Security Assessment on the Ohio Medical Marijuana Dispensary Application (RFQ no. OITRFQ150)
- Exhibit O 1-3: 4/25/18 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit P 1-3: 5/14/2018 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit Q 1-11: Compliance Variance Tracker worksheet
- Exhibit R 1-163: Evaluation Team Training – Business Plan
- Exhibit S 1-155: Evaluation Team Training – Operations Plan (C&E)
- Exhibit T 1-157: Evaluation Team Training – Operations Plan (Patient Care)
- Exhibit U 1-154: Evaluation Team Training – Patient Care Plan
- Exhibit V: Evaluator Position Description
- Exhibit W: Application Batches
- Exhibit X: Raw Score Breakdown – Ohio Releaf II (No. 1141), Ohio Releaf III (No. 929), Ohio Releaf IV (No. 949), Ohio Releaf V (No. 960), Ohio Releaf VI (No. 962)
- Exhibit Y: 8/9/2018 – Email FROM: Nicole Dehner, TO: Joel E. Sechler and Jeffrey A. Lipps, RE: Public Record Request
- Exhibit Z: 9/19/2018 – Email FROM: Justin Sheridan, TO: Jeffrey A. Lipps and Joel E. Sechler, RE: In Re Ohio Releaf, II, III, IV, V, & VI (Case Nos. 2018-M1141; M929; M949; M960; M962)
- Exhibit AA: North Highland – Response to RFI COM2016-ADM004 with cost quote
- Exhibit BB: North Highland –Response to RFI COM2016-ADM004 with questionnaire responses
- Exhibit CC: Minutes of June 4-6, 2008 Meeting of the State of Ohio Board of Pharmacy
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- Exhibit EE: 12/6/2017 – Email FROM: Erin Reed, TO: Robert Kubasak, RE: Follow Up
- Exhibit FF: 1/10/2018 – Email FROM: Dennis Luken, TO: Erin Reed, RE: Operations Plan (C&E) Evaluator Training Follow up
- Exhibit GG: 1/30/2018 – Email FROM: Paula Economus, TO: Paula Economus, et al., RE: Board of Pharmacy Training Session
- Exhibit HH: 2/5/2018 – Email FROM: Erin Reed, TO: Erin Reed, RE: Web Access
- Exhibit II: 2/12/2018 – Email FROM: Stephen Roka, TO: Erin Reed, RE: Business Plan Evaluator Training Follow up

24) The following Joint Exhibits admitted by the Hearing Examiner:

- Exhibit 01a: Ohio Releaf II – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01b: Ohio Releaf III – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01c: Ohio Releaf IV – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01d: Ohio Releaf V – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01e: Ohio Releaf VI – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 02a: Ohio Releaf II – Request for Hearing
- Exhibit 02b: Ohio Releaf III – Request for Hearing
- Exhibit 02c: Ohio Releaf IV – Request for Hearing
- Exhibit 02d: Ohio Releaf V – Request for Hearing
- Exhibit 02e: Ohio Releaf VI – Request for Hearing

- Exhibit 03: Medical Marijuana Dispensary Districts
- Exhibit 04: Dispensary Application Document A – Instructions
- Exhibit 05: Dispensary Application Document B – Model Application
- Exhibit 06: Medical Marijuana Dispensary Licensing Report
- Exhibit 07: Dispensary Provisional License Presentation (6/4/2018)
- Exhibit 08: List of Medical Marijuana Dispensaries by District
- Exhibit 09: List of Medical Marijuana Dispensaries by Statewide Rank
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- Exhibit 11: Key Indicators – Business Plan
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- Exhibit 14: Key Indicators – Patient Care Plan
- Exhibit 15: Ohio Releaf II (SE3) – Raw Score Breakdown
- Exhibit 16: Ohio Releaf III (SW1) – Raw Score Breakdown
- Exhibit 17: Ohio Releaf IV (NE2) – Raw Score Breakdown
- Exhibit 18: Ohio Releaf V (SE3) – Raw Score Breakdown
- Exhibit 19: Ohio Releaf VI (NE2) – Raw Score Breakdown
- Exhibit 33: First Period Q&A Responses
- Exhibit 34: Second Period Q&A Responses
- Exhibit 35: Dispensary Application FAQs
- Exhibit 36: Dispensary Application Tips
- Exhibit 37: Dispensary Award Process - FAQs
- Exhibit 38: North Highland – Deliverable Expectation Documents and Deliverable Acceptance Forms
- Exhibit 39: Gartner – Dispensary Application Data Validation (5/21/2018)
- Exhibit 40: Ohio Releaf II Application – Southeast 3 (No. 1141)
- Exhibit 41: Ohio Releaf V Application – Southeast 3 (No. 960)
- Exhibit 45: Ohio Releaf III Application –Southwest 1 (No. 929)
- Exhibit 48: Ohio Releaf IV Application – Northeast-2 (No. 949)
- Exhibit 49: Ohio Releaf VI Application – Northeast 2 (No. 962)

DECISION OF THE BOARD

After thorough review of all documents related to the case, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 21, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Ohio Releaf VI, LLC, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Shamansky, affirming the Board's license award process, which includes a denial of a Dispensary Provisional License to Ohio Releaf VI, LLC.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

R-2019-234 After votes were taken in public session, the Board adopted the following order in the matter of **Ohio Releaf V, LLC.**

ORDER OF THE STATE OF OHIO BOARD OF PHARMACY
CONFIRMING AND APPROVING
REPORT & RECOMMENDATION OF HEARING EXAMINER
(Case Number 2018-M960)

In Re Ohio Releaf V, LLC
88 East Broad Street, Suite 1740
Columbus, OH 43215
Account No./Application No.: 494-960
Application District: Southeast-3
Application Dispensary Address: 3110 North High Street, Columbus, OH 43202

INTRODUCTION

The Matter of Ohio Releaf V, LLC (Ohio Releaf V or Applicant) came for hearing before Hearing Examiner Rhonda Shamansky on September 26, 27, and 28, 2018; and also on October 9 and 10, 2018, and for consideration by the State of Ohio Board of Pharmacy (Board) on **March 6, 2019**, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Donald R. Miller, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; Richard J. Newlon, *public member*; Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.

Respondent was represented by Jeff Lipps and Joel Sechler. The State of Ohio was represented by Henry G. Appel and Lisa Haywood, Assistant Attorneys General.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 25) Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License for Case No. 2018-M960;
- 26) Applicant's Scorecard for Application ID 960;
- 27) Full List of Application Scores by District;
- 28) Transcript of September 26, 27, and 28, 2018; and October 9 and 10, 2018 proceedings;
- 29) Oral statements presented by Applicant and the State of Ohio on March 6, 2018;
- 30) The following additional filings in the administrative case record:

- Ohio Releaf Scorecard for Application No. 929;
- Ohio Releaf Scorecard for Application No. 960;
- Ohio Releaf Scorecard for Application No. 962;
- Ohio Releaf Scorecard for Application No. 1141;
- July 5, 2018, Request for Hearing – Application No. 960;
- July 11, 2018, 2018-M960 Notice of Appearance (Corrected);
- July 31, 2018, Acknowledgement of Hearing Request 2018-M960;
- August 21, 2018, Journal Entry with Notice of Hearing and Consolidation;
- August 27, 2018, State of Ohio’s Motion to Quash;
- August 30, 2018, Ohio Releaf’s Opposition to Motion to Quash;
- September 10, 2018, Journal Entry Withholding Ruling on Motion to Quash;
- September 14, 2018, Ohio Releaf Notice of Filing Witness List and Exhibit List;
- September 14, 2018, State of Ohio’s Witness List and Exhibit List;
- September 19, 2018, Journal Entry Continuing Hearing Date;
- September 24, 2018, State of Ohio’s Pre-hearing Brief;
- September 24, 2018, Ohio Releaf’s Pre-hearing Brief;
- October 17, 2018, State of Ohio’s Notice of Proffer;
- October 17, 2018, Ohio Releaf’s Written Proffer;
- November 13, 2018, Ohio Releaf’s Written Closing Brief;
- November 13, 2018, State of Ohio’s Written Closing Brief;
- January 2, 2019, Report & Recommendation Cover Letter 2018-M960;
- January 10, 2019, Letter Requesting Extension of Time to Respond to Report & Recommendation 2018-M960;
- January 11, 2019, Order Granting Extension to Respond to Report & Recommendations;
- January 31, 2019, Ohio Releaf Response, 2018-M960;
- February 12, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board;
- February 13, 2019, State of Ohio Board of Pharmacy Granting Request to Address Board (Amended);

31) The following Ohio Releaf V Exhibits admitted by the Hearing Examiner:

- Exhibit A: Ohio Releaf Analysis
- Exhibit B: Dispensary Application Webinar
- Exhibit B-1: Dispensary Application Webinar
- Exhibit C 1-7: Demonstrative – Question/Evaluator Comparison Chart – Ohio Releaf Applications
- Exhibit D: Demonstrative – Question/Evaluator Comparison Chart – Southwest 1 winners
- Exhibit E: Demonstrative – Question/Evaluator Comparison Chart – Southeast 3 winners
- Exhibit F: Demonstrative – Question/Evaluator Comparison Chart – Northeast 2 winners
- Exhibit G 1-52: Provisional Dispensary License Informational Session – June 19, 2018
- Exhibit H 1-15: Ohio Revised Code – relevant provisions
- Exhibit I 1-67: Ohio Administrative Code – relevant provisions
- Exhibit J 1-57: 6/7/2017 – Department of Administrative Services RFP. No. CSP902918 for Medical Marijuana Dispensary Application and Scoring Consultant
- Exhibit K 1-4: 7/18/2017 – Contract between Ohio Department of Administrative Services and the North Highland Company for RFP. No. CSP902918
- Exhibit L 1-13: North Highland – Invoices

- Exhibit M 1: 4/6/2018 – Memorandum of Understanding between DAS and Ohio Board of Pharmacy– RE: Ohio Medical Marijuana Dispensary Application Security Assessment
- Exhibit N 1-2: 4/10/2018 – Gartner Purchase Order for Security Assessment on the Ohio Medical Marijuana Dispensary Application (RFQ no. OITRFQ150)
- Exhibit O 1-3: 4/25/18 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit P 1-3: 5/14/2018 – Gartner Invoice for Ohio Board of Pharmacy - Dispensary Application Data Validation – 330049657
- Exhibit Q 1-11: Compliance Variance Tracker worksheet
- Exhibit R 1-163: Evaluation Team Training – Business Plan
- Exhibit S 1-155: Evaluation Team Training – Operations Plan (C&E)
- Exhibit T 1-157: Evaluation Team Training – Operations Plan (Patient Care)
- Exhibit U 1-154: Evaluation Team Training – Patient Care Plan
- Exhibit V: Evaluator Position Description
- Exhibit W: Application Batches
- Exhibit X: Raw Score Breakdown – Ohio Releaf II (No. 1141), Ohio Releaf III (No. 929), Ohio Releaf IV (No. 949), Ohio Releaf V (No. 960), Ohio Releaf VI (No. 962)
- Exhibit Y: 8/9/2018 – Email FROM: Nicole Dehner, TO: Joel E. Sechler and Jeffrey A. Lipps, RE: Public Record Request
- Exhibit Z: 9/19/2018 – Email FROM: Justin Sheridan, TO: Jeffrey A. Lipps and Joel E. Sechler, RE: In Re Ohio Releaf, II, III, IV, V, & VI (Case Nos. 2018-M1141; M929; M949; M960; M962)
- Exhibit AA: North Highland – Response to RFI COM2016-ADM004 with cost quote
- Exhibit BB: North Highland –Response to RFI COM2016-ADM004 with questionnaire responses
- Exhibit CC: Minutes of June 4-6, 2008 Meeting of the State of Ohio Board of Pharmacy
- Exhibit DD: Demonstrative – Ohio Releaf Scoring Analysis
- Exhibit EE: 12/6/2017 – Email FROM: Erin Reed, TO: Robert Kubasak, RE: Follow Up
- Exhibit FF: 1/10/2018 – Email FROM: Dennis Luken, TO: Erin Reed, RE: Operations Plan (C&E) Evaluator Training Follow up
- Exhibit GG: 1/30/2018 – Email FROM: Paula Economus, TO: Paula Economus, et al., RE: Board of Pharmacy Training Session
- Exhibit HH: 2/5/2018 – Email FROM: Erin Reed, TO: Erin Reed, RE: Web Access
- Exhibit II: 2/12/2018 – Email FROM: Stephen Roka, TO: Erin Reed, RE: Business Plan Evaluator Training Follow up

32) The following Joint Exhibits admitted by the Hearing Examiner:

- Exhibit 01a: Ohio Releaf II – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01b: Ohio Releaf III – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01c: Ohio Releaf IV – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01d: Ohio Releaf V – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 01e: Ohio Releaf VI – Notice of Opportunity for Hearing and Intent to Deny
- Exhibit 02a: Ohio Releaf II – Request for Hearing
- Exhibit 02b: Ohio Releaf III – Request for Hearing
- Exhibit 02c: Ohio Releaf IV – Request for Hearing
- Exhibit 02d: Ohio Releaf V – Request for Hearing
- Exhibit 02e: Ohio Releaf VI – Request for Hearing
- Exhibit 03: Medical Marijuana Dispensary Districts

- Exhibit 04: Dispensary Application Document A – Instructions
- Exhibit 05: Dispensary Application Document B – Model Application
- Exhibit 06: Medical Marijuana Dispensary Licensing Report
- Exhibit 07: Dispensary Provisional License Presentation (6/4/2018)
- Exhibit 08: List of Medical Marijuana Dispensaries by District
- Exhibit 09: List of Medical Marijuana Dispensaries by Statewide Rank
- Exhibit 10: Application Scorecards
- Exhibit 11: Key Indicators – Business Plan
- Exhibit 12: Key Indicators – Operations Plan: Compliance and Enforcement
- Exhibit 13: Key Indicators – Operations Plan: Patient Care
- Exhibit 14: Key Indicators – Patient Care Plan
- Exhibit 15: Ohio Releaf II (SE3) – Raw Score Breakdown
- Exhibit 16: Ohio Releaf III (SW1) – Raw Score Breakdown
- Exhibit 17: Ohio Releaf IV (NE2) – Raw Score Breakdown
- Exhibit 18: Ohio Releaf V (SE3) – Raw Score Breakdown
- Exhibit 19: Ohio Releaf VI (NE2) – Raw Score Breakdown
- Exhibit 33: First Period Q&A Responses
- Exhibit 34: Second Period Q&A Responses
- Exhibit 35: Dispensary Application FAQs
- Exhibit 36: Dispensary Application Tips
- Exhibit 37: Dispensary Award Process - FAQs
- Exhibit 38: North Highland – Deliverable Expectation Documents and Deliverable Acceptance Forms
- Exhibit 39: Gartner – Dispensary Application Data Validation (5/21/2018)
- Exhibit 40: Ohio Releaf II Application – Southeast 3 (No. 1141)
- Exhibit 41: Ohio Releaf V Application – Southeast 3 (No. 960)
- Exhibit 45: Ohio Releaf III Application – Southwest 1 (No. 929)
- Exhibit 48: Ohio Releaf IV Application – Northeast-2 (No. 949)
- Exhibit 49: Ohio Releaf VI Application – Northeast 2 (No. 962)

DECISION OF THE BOARD

After thorough review of all documents related to the case, the Board hereby adopts in its entirety Hearing Examiner Shamansky's Report and Recommendation, as it relates to the Board's June 21, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Ohio Releaf V, LLC, including the Findings of Fact and Conclusions of Law.

The Board confirms and approves the Report and Recommendation of Hearing Examiner Shamansky, affirming the Board's license award process, which includes a denial of a Dispensary Provisional License to Ohio Releaf V, LLC.

Mr. Newlon moved to confirm and approve the Report and Recommendation of Hearing Examiner Shamansky; Mr. Cox seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

R-2019-235 After votes were taken in public session, the Board adopted the following order in the matter of **Green Leaf Medical of Ohio II, LLC.**

ORDER OF THE STATE BOARD OF PHARMACY
APPROVING IN PART & MODIFYING IN PART
THE REPORT & RECOMMENDATION OF HEARING EXAMINER

(Case Number 2018-M431)

In The Matter Of Applicant:
GREEN LEAF MEDICAL OF OHIO II, LLC
10151 ASBURY ROAD
Mantua, OH 44255
Account No./Application No.: 352-431
Application District: Northeast-5
Application Dispensary Address: 8231 Murray Ridge Road, Elyria, OH 44035

INTRODUCTION

The Matter of Green Leaf Medical of Ohio II, LLC came for hearing before Hearing Examiner Linda Mosbacher on Friday, October 19, 2018, and for consideration by the Board on **March 6, 2019** before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, *Presiding*; Donald R. Miller, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; Richard J. Newlon, *public member*; Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.

BOARD REVIEW OF THE RECORD

Prior to making its decision, the Board reviewed the entire administrative record in this matter, consisting of the following items:

- 1) Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License for Application ID 431;
- 2) Applicant's Scorecard for Application ID 431;
- 3) Full List of Application Scores by District;
- 4) Transcript of October 19, 2018 proceedings;
- 5) Oral statements presented by the Applicant and the State of Ohio to the Board on March 6, 2019;
- 6) The following additional filings in the administrative case record:
 - June 26, 2018, Green Leaf Medical of Ohio II, LLC's request for hearing;
 - July 31, 2018, State of Ohio Board of Pharmacy's acknowledgment of request for hearing;
 - September 5, 2018, acknowledgment of parties to receive electronic filings;
 - September 24, 2018, journal entry with notice of hearing;

- October 4, 2018, Green Leaf Medical of Ohio II, LLC's notice of change of law firm and address of attorney;
 - October 5, 2018, journal entry granting extension of time to exchange exhibits and witness information;
 - October 15, 2018, Green Leaf Medical of Ohio II, LLC's witness and exhibit disclosure;
 - October 15, 2018, Green Leaf Medical of Ohio II, LLC's amended witness and exhibit disclosure;
 - October 15, 2018, State of Ohio's exhibit and witness disclosure;
 - October 17, 2018, State of Ohio's notice of appearance of attorney Lisa Haywood;
 - October 17, 2018, pre-hearing brief of Green Leaf Medical of Ohio II, LLC;
 - October 17, 2018, pre-hearing brief of State of Ohio;
 - October 18, 2018, State of Ohio's disclosure of additional exhibits;
 - October 22, 2018, Green Leaf Medical of Ohio II, LLC's notice of withdrawal of certain issues on appeal;
 - January 17, 2019, Report & Recommendation of Hearing Examiner Linda Mosbacher;
 - January 18, 2019, Cover letter of Report & Recommendation of Hearing Examiner Linda Mosbacher;
 - January 28, 2019, Green Leaf Medical of Ohio II, LLC's objections to the Report & Recommendation of Hearing Examiner Linda Mosbacher;
 - January 28, 2019, State of Ohio's opposition to Green Leaf Medical of Ohio II, LLC's objections to the Report & Recommendation of Hearing Examiner Linda Mosbacher;
 - February 12, 2019, State of Ohio Board of Pharmacy granting request to address the Board; and
 - February 13, 2019, State of Ohio Board of Pharmacy (amended) granting request to address the Board.
- 7) The following State of Ohio Exhibits admitted by the Hearing Examiner:
- Exhibit 3: Login/Logout Time in Application Portal;
 - Exhibit 4: June 15, 2018 Notice of Intent to Deny Application for Medical Marijuana Dispensary License;
 - Exhibit 7: E-mails dated between June 22, 2018 and June 25, 2018;
 - Exhibit 13: Ohio Medical Marijuana Control Program Model Dispensary Application;
 - Exhibit 14: Ohio Medical Marijuana Control Program Dispensary Application Instructions;
 - Exhibit 15: Ohio Medical Marijuana Control Program Dispensary Application FAQ Nos. 1-9;
 - Exhibit 16: Ohio Medical Marijuana Control Program First Round Question and Answer Responses;
 - Exhibit 24: Medical Marijuana Dispensaries Rank by State;
 - Exhibit 33: Email dated November 8, 2017;
 - Exhibit 41: Email dated November 10, 2017;
 - Exhibit 46: Email dated November 12, 2017;
 - Exhibit 51: Email dated November 14, 2017;
 - Exhibit 52: Email dated November 14, 2017;
 - Exhibit 54: Email dated November 16, 2017; and
 - Exhibit 70: Email dated November 17, 2017.
- 8) The following Green Leaf Medical of Ohio II, LLC Exhibits admitted by the Hearing Examiner:
- Exhibit A: Ohio Medical Marijuana Control Program Model Dispensary Application;
 - Exhibit B: Ohio Medical Marijuana Control Program Dispensary Application Instructions;
 - Exhibit C-1: Green Leaf Medical of Ohio II, LLC Application;
 - Exhibit C-2: Green Leaf Medical of Ohio II, LLC Application No. 431;
 - Exhibit D: State of Ohio Board of Pharmacy Dispensary Districts;
 - Exhibit F: Emails;

- Exhibit G: Emails;
 - Exhibit H: Full List of Application Scores by District;
 - Exhibit J: Application #714 Scorecard;
 - Exhibit K: Application #969 Scorecard;
 - Exhibit L: Application #1,007 Scorecard;
 - Exhibit M: Application #431 Scorecard;
 - Exhibit N: Application #845 Scorecard;
 - Exhibit P: Dispensary Award Process – Frequently Asked Questions;
 - Exhibit R: Medical Marijuana Dispensary Licensing Report (June 2018);
 - Exhibit T: Applicant Information Spreadsheet (By District);
 - Exhibit U: Screenshot from www.medicalmarijuana.ohio.gov;
 - Exhibit V: Emails; and
 - Exhibit X: Emails.
- 9) The following Joint Exhibit admitted by the Hearing Examiner:
- Deposition of Michael Clark (October 12, 2018)

DECISION OF THE BOARD

FINDINGS OF FACT

After thorough review of all the testimony and evidence presented, the Board hereby adopts in its entirety the Hearing Examiner’s Findings of Fact contained within the Report and Recommendation, as it relates to the Board’s June 15, 2018 *Notice of Opportunity of Hearing/Notice of Intent to Deny Application for Medical Marijuana Dispensary License* to Green Leaf Medical of Ohio II, LLC.

CONCLUSIONS OF LAW

Upon an independent review of the testimony and evidence, the Board adopts in its entirety the following “Conclusions of Law” contained within the Hearing Examiner’s Report & Recommendation:

- Paragraphs 1, 2, 3, 4, 6, 7, 8, and 9.

Upon an independent review of the testimony and evidence presented, the Board modifies the following “Conclusion of Law” contained within the Hearing Examiner’s Report & Recommendation, along with the reason(s) for such modification:

Paragraph 5:

The Board modifies the standard of proof to remain consistent with the law applicable to administrative cases. The appropriate standard of proof in administrative cases is a preponderance of the evidence. *VFW Post 8586 v. Ohio Liquor Control Comm.*, 83 Ohio St.3d 79, 81, 697 N.E.2d 655 (1998); *see also Ohio State Bd. of Pharmacy v. Weinstein*, 33 Ohio Misc.2d 25, 27, 514 N.E.2d 1143 (C.P.1987); *Buckeye Bar, Inc. v. Liquor Control Comm.*, 32 Ohio App.2d 89, 91, 288 N.E.2d 318 (10th Dist.1972). Preponderance of the evidence means “more likely than not.”

Thus, to prevail, Applicant was required to prove by a preponderance of the evidence that the Board abused its discretion by acting in bad faith or in a way that was unreasonable, arbitrary, or unconscionable when it adhered

to its policy that no applicant would be permitted to change their designated district and/or county after applications were submitted.

Applying the appropriate standard of proof, the Board agrees with the Hearing Examiner's conclusion as provided in Paragraph 9 "that the Applicant did not meet its burden of proof, by a preponderance of the evidence, that the Board acted fraudulently, abused its discretion, or acted unreasonably, arbitrarily, unconscionably or in violation of the law when it adhered to its uniformly applied policy that no applicants would be permitted to change their designated district or county location, did not permit Applicant to change its designated county and district, and did not award Applicant a dispensary license in either district Northeast-5 or district Northeast-1."

ORDER OF THE BOARD


Upon an independent review of the administrative record, and for the reasons outlined herein, the Board hereby adopts the recommendation of the Hearing Examiner and makes the following findings. The Board finds it substantially complied with the criteria set forth in the request for applications. The Board finds Applicant failed to prove by a preponderance of the evidence that the Board abused its discretion in the evaluation and scoring of Application #431. The Board affirms its determination to deny Applicant's application for a license as a Medical Marijuana Dispensary under authority of Section 3796.14(B) of the Ohio Revised Code and Chapter 3796:6 of the Ohio Administrative Code, because Applicant's score was not high enough to qualify Applicant to receive a provisional dispensary license in District Northeast-5.

Mr. Cox moved to confirm and approve the Report and Recommendation of the Hearing Examiner with the exception of the modifications as set forth herein; Mr. Wilt seconded the motion. Motion passed (Aye-7/Nay-0).

SO ORDERED.

R-2019-236 Mr. Wilt moved that the meeting be adjourned. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7, Nay-0.

3:59 p.m. The meeting adjourned.



Fred M. Weaver, RPh, President

Date: 4-2-19



Steven W. Schierholt, Executive Director

Date: 4/4/19