

Minutes of the December 7-9, 2015
Meeting of the Ohio State Board of Pharmacy

Monday, December 7, 2015

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

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Also present were Steven Schierholt, *Executive Director*; Kevin Mitchell, *Assistant Executive Director*; Eric Griffin, *Director of Compliance and Enforcement*; David Ingram, *Associate Legal Counsel*; Chad Garner, *Director of OARRS*; and Cameron McNamee, *Director of Policies and Communications*.

10:02 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jeffrey Paul Poploski, R.Ph.**, Sagamore Hills, Ohio.

10:51 a.m. The hearing ended and the record was closed.

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

11:00 a.m. The recess ended and the hearing was opened to the public.

R-2016-126 After votes were taken in public session, the Board adopted the following order in the matter of **Jeffrey Paul Poploski, R.Ph.**, Sagamore Hills, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-1891)

In The Matter Of:

Jeffrey Paul Poploski, R.Ph.
544 Continental Drive
Sagamore Hills, Ohio 44067
(R.Ph. Number 03-1-25741)

INTRODUCTION

The Matter of Jeffrey Poploski came for hearing on December 7, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr.; Absent.

Jeffrey Poploski was represented by Robert Garrity. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Jeffrey Poploski, Petitioner

State's Exhibits:

- | | |
|---|------------|
| 1. Request for Reinstatement Hearing | 09-25-2015 |
| 2. Notice of Hearing | 09-25-2015 |
| 3. Order of the State Board of Pharmacy | 02-03-2015 |

Respondent's Exhibits:

- | | |
|--|------------|
| A. Current PRO Contract and Urine Screen Results | 11-05-2014 |
| B. Chemical Dependency Treatment Documentation | 12-04-2015 |
| C. 12 Step Meeting Attendance | Various |
| D. Letter from Psychiatrist | 11-13-2015 |
| E. Resume | No Date |
| F. Continuing Education Documentation | Various |
| G. Letters of Support | Various |

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 Jeffrey Poploski has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2014-1891, dated February 3, 2015.

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 Board hereby approves the reinstatement of the pharmacist identification card, No. 03-1-25741, held by Jeffrey Poploski, 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:

(A) Jeffrey Poploski must enter into 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. The contract must provide that:

(1) **Random, observed** urine drug screens shall be conducted at least once each month.

(a) 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.

(b) Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.

(c) 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Respondent 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.

(2) 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.

(3) 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.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Jeffrey Poploski 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 Orders and request Respondent reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Jeffrey Poploski 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 Orders and request Respondent reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Jeffrey Poploski must immediately report any violation of the terms of this probation and or any new offenses to the Board by contacting the legal department at legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Respondent to possible additional sanctions, including and up to revocation of license.

(E) Jeffrey Poploski 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:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of Jeffrey Poploski's progress towards recovery and what Jeffrey Poploski has been doing during the previous three months.

(F) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Jeffrey Poploski'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.

(2) Jeffrey Poploski may not serve as a responsible pharmacist.

(3) Jeffrey Poploski may not destroy, assist in, or witness the destruction of controlled substances.

(4) Jeffrey Poploski may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.

(5) Jeffrey Poploski must, during the first six months of practice, work only with a pharmacist whose license is in good standing.

(6) Jeffrey Poploski must continue with his current psychiatrist at the schedule required by the psychiatrist. Jeffrey Poploski must notify the Board if his current psychiatric treatment plan falls below quarterly appointments per calendar year and/or must notify the Board prior to the treatment plan and appointments being terminated.

(7) Jeffrey Poploski must not violate the drug laws of Ohio, any other state, or the federal government.

(8) Jeffrey Poploski must abide by the rules of the State Board of Pharmacy.

(9) Jeffrey Poploski must comply with the terms of this Order.

(10) Jeffrey Poploski's license is deemed not in good standing until successful completion of the probationary period.

(G) The Board will not consider any request for deviation from the terms and conditions listed herein until a minimum of three years has passed from the effective date of this order.

(H) Violation of any term of probation, 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.

(I) 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.

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

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

SO ORDERED.

11:09 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Kyle Prusinski, R.Ph.**, Geneva, Ohio.

11:54 a.m. The hearing ended and the record was closed.

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

12:17 p.m. The recess ended and the hearing was opened to the public.

R-2016-127 After votes were taken in public session, the Board adopted the following order in the matter of **Kyle Prusinski, R.Ph.**, Geneva, Ohio. However, this Order was held in abeyance until further hearing on the matter. Pursuant to a subsequent vote taken on December 9th at 11:47 a.m., the Board, upon learning of additional relevant information, reopened this case for additional testimony in a continuation of this matter which was set for hearing on January 12, 2015.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1707)

In The Matter Of:

Kyle Prusinski, R.Ph.
625 Timber Lane
Geneva, Ohio 44041
(R.Ph. Number 03-2-32556)

INTRODUCTION

The Matter of Kyle Prusinski came for hearing on December 7, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Kyle Prusinski was represented by Robert Garrity. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Kyle Prusinski, Respondent

Respondent's Witnesses:

1. Kyle Prusinski, Respondent

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 09-25-2015 |
| 2. | Request for Hearing | 09-28-2015 |
| 3. | Notice of Hearing | 10-09-2015 |
| 4. | Credential View Screen | 10-19-2015 |
| 5. | Notarized Statement of Kyle Prusinski | 09-23-2015 |
| 6. | DEA 106 Form | 09-22-2015 |
| 7. | Accountability Statements | 11-20-2015 |

Respondent's Exhibits:

- | | | |
|----|---|------------|
| A. | PRO Contract | 10-14-2015 |
| B. | Chemical Dependency Treatment Documentation | 10-01-2015 |
| C. | 12 Step Meeting Attendance | Various |
| D. | Resume | No Date |
| E. | Letters of Support | 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. Kyle Prusinski, is addicted to the use of controlled substances in violation of Section 3719.121(A) of the ORC and/or there is a clear and convincing evidence that continuation of his professional practice or method of prescribing or personally furnishing controlled substances presents a danger of immediate and serious harm to others as set forth in Section 3719.121(B) of the ORC, to wit:

- a. On September 23, 2015, Kyle Prusinski admitted to stealing tramadol from the Rite Aid Lake Avenue Store and having a seizure at the store due to an overdose of tramadol.

- b. During an interview by an Agent of the Board, Kyle Prusinski was asked if he was addicted to tramadol and he responded, "Yes. I'd say opiates in general."

- c. Kyle Prusinski admitted that he has been abusing opiates since he was in pharmacy school. Board records indicate that he graduated pharmacy school in 2013.

d. Kyle Prusinski admitted that from July 2015 through August 2015 he stole Percocet, tramadol, and Vicodin from Rite Aid store #3032 in Ashtabula.

e. Kyle Prusinski admitted to an Agent of the Board that he made an error in dispensing while under the influence.

f. Kyle Prusinski admitted to stealing medication that was returned to the pharmacy by individuals when a family member passed away. He also confirmed that accepting returned medication violated Rite Aid policy and that he never documented receipt of these drugs because he was aware it was improper.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraph (1)(a) through (f) of the Findings of Fact constitutes theft, in violation of Section 2913.02(A)(1) of the ORC.
2. Such conduct as set forth in paragraph (1)(a) through (f) of the Findings of Fact constitutes the following violations of the ORC.
 - a. Guilty of acts constituting a felony and gross immorality, ORC 4729.16(A)(1); and
 - b. Guilty of dishonesty and unprofessional conduct in the practice of pharmacy, ORC 4729.16(A)(2); and
 - c. Addicted to abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - d. Guilty of willfully violating any of provisions of this chapter, sections 3715.52 to 3715.72 of Revised Code, Chapter 2925. Or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(5)
3. Such conduct as set forth in paragraphs (1) if proven, constitutes the following violations of the Ohio Administrative Code (OAC).
 - a. Not being of good moral character and habits, OAC Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04(D).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Kyle Prusinski on September 25, 2015.

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. 03-2-32556, held by Kyle Prusinski and such suspension is effective as of the date of the mailing of this Order.

(A) Kyle Prusinski, 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.

(B) Kyle Prusinski, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her/his 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 December 7, 2016, the Board will consider any petition filed by Kyle Prusinski 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:

(A) Kyle Prusinski must enter into 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. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

(a) 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.

(b) Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.

(c) 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Kyle Prusinski 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.

(2) 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.

(3) 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.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Kyle Prusinski 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 Orders and request Kyle Prusinski reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Kyle Prusinski 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 Orders and request Kyle Prusinski reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Kyle Prusinski 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 Respondent to possible additional sanctions, including and up to revocation of license.

(E) Kyle Prusinski must demonstrate satisfactory proof to the Board that he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

(F) 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 imposes a monetary penalty of \$375.00 on Kyle Prusinski and payment in full is due prior to petitioning for reinstatement. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

(G) Kyle Prusinski must obtain, prior to petitioning for reinstatement, 6 hours (0.6 CEUs) of approved continuing pharmacy education in medication errors, which may not also be used for license renewal. Completed CEU documentation must be submitted to legal@pharmacy.ohio.gov

(H) Kyle Prusinski must provide, in the reinstatement petition, documentation of the following:

(1) 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.);

(2) 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;

(3) Compliance with the terms of this Order.

(I) If reinstatement is not accomplished within three years of the effective date of this Order, Kyle Prusinski must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.

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

(K) The Board will not consider any request for deviation from the terms and conditions listed herein until a minimum of three years has passed from the effective date of this order.

(L) 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.

(M) 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.

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

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

Mr. Weaver moved for Action of the Board; Ms. Marchal seconded the motion. Motion passed (Aye-4/Nay-1).

THE RECORD REMAINED OPEN PURSUANT TO RESOLUTION 2016-150.

12:21 p.m.

The Board recessed for lunch.

1:10 p.m. The meeting reconvened in Room East B.

Ms. Marchal provided the PAPC update.

Mr. Mitchell provided the Licensing update.

Mr. Garner provided the OARRS update.

R-2016-128 The Board received an application for the Continuing Education Provider Status of **Craig Roten, R.Ph.** (03-2-23304) West Chester, Ohio. Mr. Weaver moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Wilt and approved by the Board: Aye – 5.

R-2016-129 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Sherif Salama, M.D.** (35.071836) Broadview Heights, Ohio, be the responsible person for the following pain management clinics:

Advanced Comprehensive Pain Management, Parma (02-2144000)
Advanced Comprehensive Pain Management, Highland Heights (02-2143950)

After discussion, Mr. Moné moved that the Board approve the specific request. The motion was seconded by Mr. Cain and approved by the Board: Aye –5.

R-2016-130 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Amy Meyers, R.Ph.** (03-1-20444) Bluffton, Ohio, be the responsible person for the following pharmacies:

Riley Creek Pharmacy, Pandora (02-2023650)
Pharmacy Solutions, Pandora (02-2023900)

After discussion, Mr. Moné moved that the Board approve the request for a period of one year. The motion was seconded by Mr. Cain and approved by the Board: Aye – 3/Nay–2.

1:45 p.m. Mr. McNamee provided the Legislative Report.

R-2016-131 Mr. Moné moved that Rule 4729-5-04 be approved for filing with JCARR as amended. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.

R-2016-132 Mr. Wilt moved that Rule 4729-16-08 be approved for filing with JCARR as amended. The motion was seconded by Ms. Weaver and approved by the Board: Aye – 5.

R-2016-133 Mr. Moné moved that Rule 4729-5-17 be approved for filing with CSI and JCARR as amended. The motion was seconded by Mr. Wilt and approved by the Board: Aye – 5.

R-2016-134 Mr. Moné moved that Rule 4729-5-25 be approved for filing with CSI and JCARR as amended. The motion was seconded by Mr. Weaver and approved by the Board:
Aye – 5.

3:04 p.m. The Board recessed briefly.

3:23 p.m. The meeting reconvened in Room East B.

R-2016-135 Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-1395**

**Coral Springs Pharmacy
c/o Margaret Bradley, R.Ph.
10231 W. Sample Rd.
Coral Springs, FL 33065
TDDD License No. 02-2412750**

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Coral Springs Pharmacy, for the purpose of resolving all issues between the parties relating to the OSBP investigation of making a false material statement on an application for registration as a terminal distributor of dangerous drugs. Together, OSBP and Coral Springs Pharmacy are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Coral Springs Pharmacy applied for a Terminal Distributor of Dangerous Drugs license under license number 02-2412750.

FACTS

1. On or about April 15, 2014, the OSBP initiated an investigation of Coral Springs Pharmacy, Terminal Distributor of Dangerous Drugs license number 02-2412750, related to Coral Springs Pharmacy making a false material statement on an application for registration as a terminal distributor of dangerous drugs

2. On or about November 19, 2014, the OSBP sent a Notice of Opportunity for Hearing to Coral Springs Pharmacy, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.

3. On or about December 17, 2014, Coral Springs Pharmacy timely requested an administrative hearing, which was subsequently scheduled for February 3, 2015, then continued to September 1, 2015.

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. Coral Springs Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 19, 2014; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.

3. Coral Springs Pharmacy's application for a terminal distributor of dangerous drugs submitted on February 20, 2014, is hereby **approved**. Coral Springs Pharmacy's license will be granted with no restrictions; therefore it will not be considered reportable discipline.

4. Coral Springs Pharmacy must submit annual reports, with its renewal application, of any new discipline taken by any jurisdiction for a period of three years. Any derivative discipline issued as a result of this Order need not be reported.

5. Coral Springs Pharmacy 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 Coral Springs Pharmacy 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 Coral Springs Pharmacy by the OSBP and will NOT discharge Coral Springs Pharmacy from any obligation under the terms of this Agreement.

6. Coral Springs Pharmacy agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 7. Coral Springs Pharmacy 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 Coral Springs Pharmacy will operate.
 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.
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R-2016-136

Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2015-1267**

**Cornerstone Project, LLC
c/o Charles Lee Walters, M.D.
4124 Linden Avenue
Dayton, Ohio 45415
TDDD License No. 02-2484500**

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Cornerstone Project, LLC, for the purpose of resolving all issues between the parties relating to the OSBP investigation of Cornerstone Project, LLC's TDDD application naming Dr. Mubarak as the Responsible Person. Together, OSBP and Cornerstone Project, 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Cornerstone Project, LLC submitted a Terminal Distributor of Dangerous Drugs application under pending license number 02-2484500.

FACTS

1. On or about March 24, 2015, the OSBP initiated an investigation of Cornerstone Project, LLC, Terminal Distributor of Dangerous Drugs license number 02-2484500, related to Cornerstone Project, LLC's TDDD application naming Dr. Mubarak as the Responsible Person.
2. On or about April 30, 2015, the OSBP sent a Notice of Opportunity for Hearing to Cornerstone Project, LLC, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.
3. On or about September 1, 2015, Cornerstone Project, LLC timely requested an administrative hearing, which was subsequently scheduled for December 7, 2015.

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. Cornerstone Project, LLC neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated April 30, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Cornerstone Project, LLC must continue each of the policies and procedures instituted and described in the settlement proposal presented to the Board on November 2, 2015.
4. Cornerstone Project, LLC must continue to review and improve their policies and procedures on patient care, prescribing and auditing through an Annual Independent Compliance Audit.

5. Cornerstone Project, LLC agrees to pay to the OSBP the amount of \$2,500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
6. Cornerstone Project, LLC's application submitted on May 26, 2015, is hereby approved upon the effective date of this Agreement.
7. Cornerstone Project, LLC and Charles Walters agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
8. Cornerstone Project, 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 Cornerstone Project, 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 Cornerstone Project, LLC by the OSBP and will NOT discharge Cornerstone Project, LLC from any obligation under the terms of this Agreement.
9. Cornerstone Project, LLC agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. Cornerstone Project, LLC understands that it has the right to be represented by counsel for review and execution of this agreement.
11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom **Cornerstone Project, LLC** will operate.
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.

3:25 p.m. Mr. Moné 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. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.

4:23 p.m. The meeting reconvened in Room East B.

The Board recessed for the day.

Tuesday, December 8, 2015

9:05 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

9:04 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Dominic Pileggi, R.Ph.**, Cincinnati, Ohio.

9:52 a.m. The hearing ended and the record was closed.

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. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.

9:57 a.m. The recess ended and the hearing was opened to the public.

R-2016-137 After votes were taken in public session, the Board adopted the following order in the matter of **Dominic Pileggi, R.Ph.**, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-1998)

In The Matter Of:

Dominic Pileggi, R.Ph.

353 West 4th Street, Unit 405

Cincinnati, Ohio 45202

(R.Ph. Number 03-2-34002)

INTRODUCTION

The Matter of Dominic Pileggi came for hearing on December 8, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Dominic Pileggi was represented by William Mann. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

None

Respondent's Witnesses:

1. Jarrod Grossman, Executive Director of PRO
2. Dominic Pileggi, Petitioner

State's Exhibits:

- | | |
|---|------------|
| 1. Request for Reinstatement Hearing | 09-24-2015 |
| 2. Notice of Hearing | 09-25-2015 |
| 3. Order of the State of Ohio Board of Pharmacy | 06-04-2015 |

Respondent's Exhibits:

- | | |
|---------------------------------|------------|
| A. PRO Contract | 06-10-2015 |
| B. Letter of Jarrod Grossman | 11-15-2015 |
| C. First Lab Test Report | 11-30-2015 |
| E. Record of Meeting Attendance | Various |
| F. Record of Meeting Attendance | Various |
| G. Record of Meeting Attendance | Various |

H.	Record of Meeting Attendance	Various
I.	Record of Meeting Attendance	Various
J.	Record of Meeting Attendance	Various
K.	Record of Meeting Attendance	Various
L.	Record of Meeting Attendance	Various
M.	Record of Meeting Attendance	Various
N.	Record of Meeting Attendance	Various
O.	Record of Meeting Attendance	Various
O-1.	Record of Meeting Attendance	Various
O-2.	Record of Meeting Attendance	Various
P.	Documentation of Arrival for Urine Screen	06-04-2015
Q.	Documentation of Continuing Education	Various

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 Dominic Pileggi has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2014-1998, dated June 4, 2015.

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 Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-34002, held by Dominic Pileggi 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:

(A) Dominic Pileggi must enter into 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. The contract must provide that:

(1) Random, **observed** urine drug screens shall be conducted at least once each month.

(a) 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.

(b) Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.

(c) 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Respondent 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.

(2) 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.

(3) 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.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Dominic Pileggi 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 Orders and request Respondent reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Dominic Pileggi 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 Orders and request Respondent reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Respondent 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 Respondent to possible additional sanctions, including and up to revocation of license.

(E) Dominic Pileggi 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:

(1) The written report and documentation provided by the treatment program pursuant to the contract, and

(2) A written description of Dominic Pileggi's progress towards recovery and what Dominic Pileggi has been doing during the previous three months.

(F) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Dominic Pileggi'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.

(2) Dominic Pileggi may not serve as a responsible pharmacist.

(3) Dominic Pileggi may not destroy, assist in, or witness the destruction of controlled substances.

(4) Dominic Pileggi may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.

(5) Dominic Pileggi must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Dominic Pileggi must abide by the rules of the State Board of Pharmacy.

(7) Dominic Pileggi must comply with the terms of this Order.

(8) Dominic Pileggi's license is deemed not in good standing until successful completion of the probationary period.

(G) The Board will not consider any request for deviation from the terms and conditions listed herein until a minimum of three years has passed from the effective date of this order.

(H) Violation of any term of probation, 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.

(I) 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.

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

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

SO ORDERED.

- 10:07 a.m.** Mr. McNamee led a discussion regarding the proposal to schedule 6-Monoacetylmorphine (6-MAM).
- R-2016-138** Mr. Moné moved to list 6-Monoacetylmorphine (6-MAM) as a schedule I opium derivative. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.
- 10:11 a.m.** Mr. Moné 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. The motion was seconded by Ms. Marchal and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.
- 10:56 a.m.** The meeting reconvened in Room East B.
- Pursuant to Section 4729.16 of the Ohio Revised Code, the Board considered a summary suspension as required by Section 3719.121 of the Ohio Revised Code with the following members participating:
- Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.
- R-2016-139** After hearing Ms. Dehner discuss the significant facts regarding the activities of the facility, Mr. Moné moved that the Board summarily suspended the Terminal Distributor of Dangerous Drugs license belonging to **Ohliger Drug of Fairview Park, Inc.** (02-0125250) Fairview Park, Ohio, pursuant to Ohio Revised Code 4729.571. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 5.
- 11:06 a.m.** Mr. Moné 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. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.
- 11:12 a.m.** The meeting reconvened in Room East B.
- The Board recessed for lunch.
- 1:30 p.m.** The following candidates for licensure by reciprocity participated in a discussion of pharmacy laws and rules with Ms. Terri Ghitman, *OARRS Pharmacist*, in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts:

MARK BAILEY	VIRGINIA
LAURICE ANN BAKAEEN	TEXAS
CYNTHIA CHRISTINE BOU-ABBOUD	PENNSYLVANIA
HAE JIN CHO	MINNESOTA
JOSEPH KYLE CONOVER	MICHIGAN
AMBER DALHOVER	KENTUCKY
PAMELA MARIE DASSNER	NEBRASKA
JASON DAVIS	ARIZONA
LIAM JACOB-PAUL DAVIS	WEST VIRGINIA
MARGARET DAVIS	ALASKA
EMILY A. FITZMAURICE	SOUTH CAROLINA
DANIEL THOMAS FRANCE	KENTUCKY
REBECCA RAELYNN GRIMM	WEST VIRGINIA
JAMES ALEXANDER HANNON	NEW YORK
ASHLEY SUSANNE HOFFMANN	PENNSYLVANIA
SEUNG-RI LEE	WISCONSIN
ANDREW MARC LIPSHUTZ	NORTH CAROLINA
MIRA MATAYEVA	NEW YORK
DENNIS MENEAR	WEST VIRGINIA
TARA L. MERRITT	PENNSYLVANIA
NICOLE KATHRYN MILLER	INDIANA
AMIEE KRISTIN KOTA PROVOST	WEST VIRGINIA

1:46 p.m. The Board recessed for the day.

Wednesday, December 9, 2015

9:02 a.m. The Ohio State Board of Pharmacy convened in Room East B, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Megan E. Marchal, R.Ph.; Michael A. Moné R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

R-2016-140 Ms. Marchal moved that the Board Conference Call Minutes of October 30, 2015, be approved as written. Mr. Wilt seconded the motion and it was approved by the Board: Aye – 4/Abstain–1.

R-2016-141 Mr. Moné moved that the Board Conference Call Minutes of November 25, 2015, be approved as written. Mr. Wilt seconded the motion and it was approved by the Board: Aye – 5.

R-2016-142 Ms. Marchal moved that the Board Minutes of November 2-3, 2015, be approved as amended. Mr. Weaver seconded the motion and it was approved by the Board:
Aye – 5.

R-2016-143 Mr. Weaver moved that the following resolution be adopted by the Board and memorialized in the Minutes of this meeting:

A Resolution for Karen E. Prather

WHEREAS, the Board's Financial Program Manager, Karen Prather, has been with the Board since November of 1985, giving of herself great dedication to the benefit of the Board and the interest of the public for more than thirty years; WHEREAS, her efforts have significantly contributed to the ongoing operation of this Board, enabling this Board to serve its constituents effectively and efficiently; WHEREAS, the Board recognizes that, upon her retirement this December 31, 2015, her daily presence in the Board office will be greatly missed; BE IT RESOLVED that we, the undersigned Members of the Ohio State Board of Pharmacy, in the Board's one hundred thirty-first year, do hereby express our profound appreciation to Karen Prather for her dedication and service to the Board and to the citizens of Ohio; and BE IT FURTHER RESOLVED that this resolution be spread upon the permanent minutes of the State of Ohio Board of Pharmacy.

Ms. Marchal seconded the motion and it was approved by the Board: Aye – 6.

9:16 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Juan Hernandez, M.D.**, Parma, Ohio.

9:28 a.m. The hearing ended and the record was closed.

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. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain– yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.

9:35 a.m. The recess ended and the hearing was opened to the public.

R-2016-144 After votes were taken in public session, the Board adopted the following order in the matter of **Juan Hernandez, M.D.**, Parma, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1783)

In The Matter Of:

Juan Hernandez, M.D.
5454 State Road
Parma, Ohio 44134
(TDDD Number 02-2142600)

INTRODUCTION

The Matter of Jaun Hernandez, M.D. came for consideration on December 9, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Jaun Hernandez, M.D. was not present nor represented by Counsel. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Lynn Mudra, State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | |
|---|------------|
| 1. Summary Suspension/Notice of Opportunity for Hearing | 09-22-2015 |
| 2. Request for Hearing | 10-29-2015 |
| 3. Notice of Hearing | 10-30-2015 |
| 4. Certified State Medical Board Orders and Notices | Various |

Respondent's Exhibits:

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 September 9, 2015, the State Medical Board of Ohio, in case 15-CRF-092, determined that there was clear and convincing evidence that Juan Hernandez's

continued practice presented a danger of immediate and serious harm to the public and summarily suspended his license to practice medicine. In making this determination, the State Medical Board of Ohio concluded that his acts, conduct, and/or omissions that occurred in the relevant timeframe constitute failure to comply with standards and procedures established in rule under 4731.054.

2. During a deposition taken by the State Medical Board, Juan Hernandez admitted to the board:
 - a. He never conducted a criminal background check on his employees;
 - b. He allowed two of his employees to access his individual OARRS account without having appropriate delegation accounts with the Board of Pharmacy;
 - c. He did not have a structured ongoing quality assurance program for his pain management practice;
 - d. He prescribed controlled substances to patients and failed to timely obtain an OARRS report as required.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact constitutes the following violations of Section 4729.552 of the Ohio Revised Code (ORC):
 - a. Failure to be in control of a facility that is owned and operated solely by one or more physicians authorized under section 4731. of the Revised Code to practice medicine, ORC Section 4729.552 (B)(1); and
 - b. Failure to comply with the requirements for the operation of a pain management clinic as established by the medical board under section 4731.054 of the Revised code, ORC Section 4729.552 (B)(2); and
 - c. Failure to require all employees of the facility to submit to a criminal records check, ORC Section 4729.552(B)(5).
2. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact constitutes the following violations of Section 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC 4729.57(A)(2);
 - b. Violating any provision of this chapter, ORC 4729.57(A)(3);
 - 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(A)(4);
 - d. Violating any provision of the federal drug abuse control laws or Chapter 2925. Or 3719. Of the Revised Code, ORC 4729.57(A)(5);
 - e. Ceasing to satisfy the qualifications of a terminal distributor of dangers drugs, ORC 4729.57(A)(7).
3. Such conduct as set forth in paragraphs (1) and (2) of the Findings of Fact constitutes the following violations of rule 4729-9-19 of the OAC:
 - a. Not being of good moral character and habits, OAC Rule 4729-9-19(A)(3); and
 - b. Having been disciplined by any professional licensing board, OAC Rule 4729-9(A)(6)

DECISION OF THE BOARD

1. Pursuant to Section 4729.57 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby imposes a monetary penalty of \$2000 on Juan Hernandez and payment in full is due no later than thirty days from the effective date of this Order. The remittance should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126.

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

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs with Pain Management Classification license, No. 02-2142600, held by Juan Hernandez, M.D. 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 Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs with Pain Management Classification license, No. 02-2142600, held by Juan Hernandez, M.D. 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 Board of Pharmacy hereby revokes permanently the Terminal Distributor of Dangerous Drugs with Pain Management Classification license, No. 02-2142600, held by Juan Hernandez, M.D. effective as of the date of the mailing of this Order.

Mr. Moné moved for Findings of Fact, Conclusions of Law, and Action of the Board; Mr. Cain seconded the motion. Motion passed (Aye-5/Nay-0).

SO ORDERED.

9:38 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Jennifer Daley, Intern**, Columbia Station, Ohio.

10:51 a.m. The hearing ended and the record was closed.

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. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain- yes; Marchal – yes; Moné – yes; Weaver – yes; and Wilt – yes.

11:33 a.m. The recess ended and the hearing was opened to the public.

R-2016-145 After votes were taken in public session, the Board adopted the following order in the matter of **Jennifer Daley, Intern**, Columbia Station, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1402)

In The Matter Of:

Jennifer Daley, Intern
12971 East River Road
Columbia Station, Ohio 44028
(Intern Number 06-012613)

INTRODUCTION

The Matter of Jennifer Daley came for hearing on December 9, 2015, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Megan E. Marchal, R.Ph.; Michael A. Moné, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Curtis L. Passafume, Jr., R.Ph.; Absent.

Jennifer Daley was represented by Brian Pierce. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Jennifer Daley, Respondent

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 10-08-2015 |
| 2. | Request for Hearing | 11-03-2015 |
| 3. | Notice of Hearing | 11-13-2015 |
| 4. | Credential View Screen | 11-12-2015 |
| 5. | Notarized Statement of Jennifer Daley | 07-29-2015 |
| 6. | Notarized Statement of Victoria Ference | 11-16-2015 |

- | | | |
|-----|---------------------------------------|------------|
| 7. | Cuyahoga County Case Information Form | No Date |
| 8. | Accountability Statements | 07-30-2015 |
| 9. | Evidence Bag | No Date |
| 10. | Taped Interview of Jennifer Daley | 07-29-2015 |

Respondent's Exhibits:

- | | | |
|-----|---|------------|
| A. | Glenbeigh Outpatient Progress Report | 11-05-2015 |
| B. | Glenbeigh Correspondence from Charlie Bango | 11-20-2015 |
| C. | Correspondence from Jarrod Grossman | 11-21-2015 |
| D. | OHPRO Lab Test Reports | 11-30-2015 |
| E. | Appointment Card and Psychbc/Jodie Fenske | 11-10-2015 |
| F. | Meeting Attendance Sheets | Various |
| F1. | Meeting Attendance Sheets | Various |
| F2. | Meeting Attendance Sheets | Various |
| F3. | Meeting Attendance Sheets | Various |
| F4. | Meeting Attendance Sheets | Various |
| F5. | Meeting Attendance Sheets | Various |

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. Jennifer Daley, was engaged in conduct that provided clear and convincing evidence that continuation of her professional practice presented a danger of immediate serious harm to others set forth in Section 3719.121(B) of the ORC, to wit:

a. On or about July 23, 2015, an Agent of the Board observed a video where Jennifer Daley engaged in suspicious activity when she removed a stock bottle of carisoprodol from the storage bay, removed the cap from the bottle, and placed something in her hand.

b. On or about July 23, 2015, an Agent of the Board observed a video where Jennifer Daley engaged in suspicious activity when she removed a stock bottle of alprazolam from the storage bay, removed the cap from the bottle, and placed something in her hand.

c. Jennifer Daley admitted that she stole approximately two-hundred (200) acetaminophen/codeine 300/30mg tablets over a span of about a year.

d. Jennifer Daley admitted to an Agent of the Board that the drugs she stole were never sold or given away but only for her personal use.

e. When asked if she had anything in her pockets during the interview, she reached in her pocket and handed the Agent two (2) tablets of acetaminophen/codeine 300/30 mg.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a) through (e) of the Findings of Fact constitutes theft, in violation of Section 2913.02(A)(1) of the ORC.
2. Such conduct as set forth in paragraphs (1)(a) through (e) of the Findings of Fact constitutes the following violations of the ORC.
 - i. Guilty of acts constituting a felony and gross immorality, ORC 4729.16(A)(1); and
 - ii. Guilty of dishonesty and unprofessional conduct in the practice of pharmacy, ORC 4729.16(A)(2); and
 - iii. Addicted to abusing liquor or drugs or impaired physically or mentally to such a degree as to render the intern unfit to practice pharmacy, ORC 4729.16(A)(3); and
 - iv. Guilty of willfully violating any of provisions of this chapter, sections 3715.52 to 3715.72 of Revised Code, Chapter 2925. Or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC 4729.16(A)(5).
3. Such conduct as set forth in paragraphs (1)(a) through (e) of the Findings of Fact constitutes the following violations of the Ohio Administrative Code (OAC):
 - i. Not being of good moral character and habits, OAC Rule 4729-5-04(C); and
 - ii. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04(D).

DECISION OF THE BOARD

3. 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 Board of Pharmacy adjudicates the matter of Jennifer Daley as follows:

On the basis of the Findings of Fact and section (1) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the Intern license, No. 06-012613, held by Jennifer Daley 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 Board of Pharmacy hereby revokes permanently the Intern license, No. 06-012613, held by Jennifer Daley 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 Board of Pharmacy hereby revokes permanently the Intern license, No. 06-012613, held by Jennifer Daley effective as of the date of the mailing of this Order.

1. Further, the Board will lift the revocation of the Intern license, No. 06-012613, held by Jennifer Daley only if she meets the following requirements:

a) Attends 90 Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting in 90 days to begin no later than December 31, 2015.

b) Attendance must begin upon the effective date of the Order.

c) Must attend a minimum of 1 meeting per day for 90 days.

d) Jennifer Daley must submit evidence of meeting attendance to legal@pharmacy.ohio.gov no later than the 92nd day from the receipt of the effective Order.

3. If satisfactory evidence of compliance of the 90 meetings in 90 days is timely submitted to the Board, the Board hereby suspends indefinitely the intern license, No. 06-012613, held by Jennifer Daley and such suspension is effective as of the date of this Order.

(A) Jennifer Daley, 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.

(B) Jennifer Daley, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her intern 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 30 months from the effective date of this Order, the Board will consider any petition filed by Jennifer Daley for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the intern license to practice pharmacy in Ohio if the following conditions have been met:

(A) Jennifer Daley must enter into 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. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month.

(a) 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.

(b) Alcohol and Ethyl Glucoronide (ETG) must be added to the standard urine drug screen.

(c) 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.

(d) In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Jennifer Daley 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.

(2) 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.

(3) After successful completion of the 90 support group meetings in 90 days and during the remainder of the suspension if imposed in lieu of revocation, 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.

(4) The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.

(B) Jennifer Daley 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 Orders and request Jennifer Daley reappear before the Board for possible additional sanctions, including and up to revocation of license.

(C) Jennifer Daley 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 Orders and request Jennifer Daley reappear before the Board for possible additional sanctions, including and up to revocation of license.

(D) Jennifer Daley 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 Jennifer Daley to possible additional sanctions, including and up to revocation of license.

(E) Jennifer Daley 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.

(F) Jennifer Daley must provide, in the reinstatement petition, documentation of the following:

(1) 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.);

(2) Compliance with the terms of this Order.

(G) Any reinstatement of Jennifer Daley's intern license shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.

(H) 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 intern license.

(I) 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.

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

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

Mr. Moné moved for Action of the Board; Mr. Wilt seconded the motion. Motion passed (Aye-4/Nay-1).

SO ORDERED.

R-2016-146 Mr. McNamee led a discussion regarding Rule 4729-16-04. Mr. Moné moved to approve the Rules as amended. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5.

R-2016-147 Mr. McNamee led a discussion regarding Rule 4729-9-11. Mr. Moné moved to approve the Rules as amended. The motion was seconded by Mr. Wilt and approved by the Board: Aye – 5.

R-2016-148 Mr. Cain moved that the following resolution be adopted by the Board and memorialized in the Minutes of this meeting:

A Resolution for Melinda J. Ferris

WHEREAS, Melinda J. Ferris, has served her profession and the citizens of Ohio with distinction as a member of the State of Ohio Board of Pharmacy for two years following her appointment by Governor Kasich in 2013; and

WHEREAS, during her commendable term in this appointment, Ms. Ferris maintained the highest standards of her respected profession and demonstrated the admirable traits of integrity, intelligence, and impartiality in matters concerning the profession of pharmacy; therefore

BE IT RESOLVED that we, the Members of the State of Ohio Board of Pharmacy, in its one hundred and thirty-first year, do hereby express our profound appreciation to Melinda J. Ferris for her service and recognize her as one of Ohio's most distinguished pharmacist-citizens.

Mr. Weaver seconded the motion and it was approved by the Board: Aye – 5.

R-2016-149 Mr. Cain moved that the following resolution be adopted by the Board and memorialized in the Minutes of this meeting:

A Resolution for Margaret A. Huwer

WHEREAS, Margaret A. Huwer, has served her profession and the citizens of Ohio with distinction as a member of the State of Ohio Board of Pharmacy for three years following her appointment by Governor Kasich in 2012; and

WHEREAS, during her commendable term in this appointment, Ms. Huwer maintained the highest standards of her respected profession and demonstrated the admirable traits of integrity, intelligence, and impartiality in matters concerning the profession of pharmacy; therefore

BE IT RESOLVED that we, the Members of the State of Ohio Board of Pharmacy, in its one hundred and thirty-first year, do hereby express our profound appreciation to Margaret A. Huwer for her service and recognize her as one of Ohio's most distinguished pharmacist-citizens.

Mr. Weaver seconded the motion and it was approved by the Board: Aye – 5.

R-2016-150 Mr. Moné moved that the Board issue an appropriate order in the matter of Kyle Prusinski, R.Ph. The motion was seconded by Mr. Cain and approved by the Board:

Aye – 5.

R-2016-151 Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-2066**

Henry Schein Animal Health
3820 Twin Creeks Drive
Columbus, Ohio 43204
WDDD License No. **01-1528550**

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Henry Schein Animal Health, for the purpose of resolving all issues between the parties relating to the OSBP investigation of selling/distributing at wholesale dangerous drugs to an entity not holding a valid Ohio license. Together, OSBP and Henry Schein Animal 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 OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.56 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Henry Schein Animal Health is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-1528550.

FACTS

1. On or about November 10, 2014, the OSBP initiated an investigation of Henry Schein Animal Health, Wholesale Distributor of Dangerous Drugs license number 01-1528550, related to Henry Schein Animal Health’s selling/distributing at wholesale dangerous drugs to an entity not holding a valid Ohio license.
2. On or about August 6, 2015, the OSBP sent a Notice of Opportunity for Hearing to Henry Schein Animal 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 August 18, 2015, Henry Schein Animal Health timely requested an administrative hearing, which was subsequently scheduled for December 8, 2015.

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. Henry Schein Animal Health neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 6, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Henry Schein Animal Health must adhere to the following procedures to ensure that its Ohio customers purchasing dangerous drugs will possess the required Ohio licensure:
 - a) Cease selling dangerous drugs to Ohio customers until they verify that the respective customer has a valid Ohio Terminal Distributor of Dangerous Drugs License (TDDD) or exemption letter;
 - b) Henry Schein Animal Health must complete an analysis of all active/existing customers to identify whether a TDDD license or exemption letter is required. If the customer did not provide a TDDD license and were not exempt, their accounts are to be blocked for sales of dangerous drugs.
 - c) All new customers are required to provide either a TDDD license or proof of exemption prior to being set up in Henry Schein Animal Health's system to place an order for dangerous drugs.
4. Henry Schein Animal Health agrees to provide timely notice of suspicious orders to OSBP in accordance with Henry Schein Animal Health's suspicious order process and to support OSBP's drug diversion program.
5. Henry Schein Animal Health agrees to continue working with OSBP staff to facilitate veterinarian clinics obtaining proper TDDD licenses under Ohio law.
6. Henry Schein Animal Health agrees to pay to the OSBP the amount of \$5,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

7. Henry Schein Animal Health and James Ayres agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
 8. Henry Schein Animal 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 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 Henry Schein Animal 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 Henry Schein Animal Health by the OSBP and will NOT discharge Henry Schein Animal Health from any obligation under the terms of this Agreement.
 9. Henry Schein Animal Health agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 10. Henry Schein Animal Health understands that it has the right to be represented by counsel for review and execution of this agreement.
 11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Henry Schein Animal Health will operate.
 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.
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R-2016-152

Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-2002**

Bradley Nichol
1302 Crescent Drive
Wheelersburg, OH 45694
Pharmacist License No. 03-2-30511

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Bradley Nichol, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of RX#1072543. Together, OSBP and Bradley Nichol are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Bradley Nichol is a licensed pharmacist under license number 03-2-30511.

FACTS

1. On or about October 24, 2014, the OSBP initiated an investigation of Bradley Nichol, pharmacist license number 03-2-30511, related to Bradley Nichol’s error in dispensing of RX#1072543.
2. On or about November 20, 2015, the OSBP sent a Notice of Opportunity for Hearing to Bradley Nichol, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

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

2. Bradley Nichol neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 20, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
 3. Bradley Nichol agrees to pay to the OSBP the amount of \$500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
 4. Bradley Nichol must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in medication errors, which may not also be used for license renewal.
 5. Bradley Nichol agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 6. Bradley Nichol understands that it has the right to be represented by counsel for review and execution of this agreement.
 7. Bradley Nichol agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including to the OSBP on renewal applications or applications for a new license.
 8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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R-2016-153

Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

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

CVS Pharmacy, Inc.
1 CVS Drive
Woonsocket, RI 02895

**SETTLEMENT AGREEMENT CVS CAREMARK AND THE STATE OF OHIO
BOARD OF PHARMACY**

This Settlement Agreement is entered into by and between CVS Pharmacy, Inc., on its own behalf and on behalf of each of its subsidiaries and affiliates that operate pharmacies in the State of Ohio (“CVS”) and the State of Ohio Board of Pharmacy (“Board”), a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729 of the Ohio Revised Code.

CVS enters into this Agreement on its own behalf and on behalf of its affiliates including its subsidiary stores located in Ohio. CVS is fully informed of its rights afforded under Chapter 119 of the Ohio Revised Code, including the right to representation by counsel, the right to a formal adjudication hearing on the issues contained herein, and the right to appeal. CVS acknowledges that by entering into this Agreement it has waived its rights under Chapter 119 of the Revised Code, including but not limited to the right to receive notice of opportunity for hearing and all related hearing rights.

The Board is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, and refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to Ohio Revised Code §4729.54. Additionally, Section 4729.57 of the Revised Code grants the Board the Authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the ORC., or may impose a monetary penalty on the license holder, for violation of any of the enumerated grounds of Section 4729.57 of the Ohio Revised Code.

CVS is knowingly and voluntarily entering into this agreement to settle any disciplinary charges that could be brought against it, its affiliates, and its employees in order to obviate the need to conduct administrative hearings to determine whether disciplinary sanction should be imposed based on the Board’s investigation of CVS and CVS’s voluntary disclosure of possible violations related to CVS’ failure to conduct proper background checks on various pharmacy technicians as well as CVS’ failure to ensure all pharmacy technicians timely completed the required examination.

CVS asserts Ohio is the only state that requires an employer to conduct a background check of a pharmacy technician candidate in order to determine whether the candidate can be qualified as a pharmacy technician. Most states, unlike Ohio, have a state run pharmacy technician certification or licensing program that includes testing and a background check. In those states, the burden on a prospective employer is relatively light; the employer simply has to establish that the pharmacy technician candidate has the necessary license or certification. The Board asserts that the law relating to background checks and timely examinations of technicians led to a Board initiated investigation as to CVS’ practices in this regard.

The Board acknowledges CVS has cooperated in the course of its investigation and has voluntarily disclosed possible failures to fully comply with the requirements of Ohio Revised Code §4729.42.

CVS neither admits nor denies any allegations of wrongdoing related to background checks and examinations of pharmacy technicians; however, the Board has initiated and conducted an investigation pursuant to Ohio Revised Code Chapter 4729 and the Board asserts it has evidence sufficient to sustain the allegations and hereby adjudicates the same.

In consideration of the mutual promises contained herein, CVS and the Board agree as follows:

1. CVS certifies that the information that it has provided in the course of the investigation is true and accurate to the best of its knowledge and belief.
2. CVS will pay a fine of \$95,000.00. The fine shall be payable within thirty days of the effective date of this Agreement, payable to the "Treasurer, State of Ohio".
3. For a period of three years after approval of the settlement agreement, every six months CVS will submit to the Board of Pharmacy a report identifying all pharmacy technicians employed by CVS since the last such report along with the dates that each technician passed the qualifying test and the background check. The first such report shall be due six months after the effective date of this Agreement and shall list all individuals who commenced employment with CVS as a pharmacy technician in Ohio since August 1, 2015.
4. Subject to CVS fully paying the amount described above, the Ohio State Board of Pharmacy, on behalf of itself, its officers, and agents, hereby fully, finally, and forever releases CVS, its subsidiaries, parent corporations, affiliates, directors, officers, and employees (hereafter "CVS Releasees") from any and all claims, demands, actions, causes of action, sums of money, obligations and liabilities of any kind or nature whatsoever, at law or in equity, known or unknown, direct or indirect, asserted or unasserted, accrued or unaccrued (including, without limitation civil, criminal, or administrative causes of action, claims, lawsuits or proceedings) through the date of this release against the CVS Releasees based upon CVS Releasees having employed pharmacy technicians who were not fully qualified under applicable Ohio law, including, without limitation, Ohio Revised Code §4729.42.
5. Moreover, the Board acknowledges and agrees that it will not request or recommend that any criminal charges be brought against the CVS Releasees resulting from the violations based upon CVS pharmacies having employed prior to the date of this release pharmacy technicians who were not fully qualified under applicable Ohio law, including, without limitation, Ohio Revised Code §4729.42. This release includes but is not limited to any future action by the State of Ohio Board of Pharmacy in any

way arising out of or relating to CVS' employment at the time of, or prior to, this release of pharmacy technicians in CVS pharmacies who did not have required background checks or did not take required tests.

6. CVS agrees and acknowledge that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which CVS currently holds a professional license, to the extent required under any applicable laws and regulations including the Board on renewal applications or applications for a new license.

7. CVS 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 not covered by this Agreement by CVS of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to CVS by the Board and will not discharge CVS from any obligation under the terms of this Agreement.

8. CVS does hereby fully, finally and forever release, waive and forever discharge the Board, its members, officers, directors, employees, and agents, of or from any and all claims, actions and causes of actions, suits, debts, liability, demands whatsoever known or unknown, in law or in equity, which CVS ever had, or may now have, arising out of matters which are the subject of this Agreement. CVS further waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code of any issue arising out of this Agreement.

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

10. CVS understands that it has the right to be represented by counsel for review and execution of this agreement.

11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom CVS will operate.

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.

Contemporaneously with the consummation of this Agreement and to assist pharmacists and prescribers in detecting opiate abuse, CVS will contribute \$100,000.00 to support the Ohio Automated Rx Reporting System, in accordance with Ohio Revised Code §4729.83. This contribution will be provided within 30 days of the execution of this Agreement.

CVS acknowledges that it has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

R-2016-154

Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-1945**

Suellen Datkuliak, R.Ph.
1867 C.R. 655
Ashland, Ohio 44805

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Suellen Datkuliak, for the purpose of resolving all issues between the parties relating to the OSBP investigation of a theft from Discount Drug Mart. Together, OSBP and Suellen Datkuliak are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.

2. Suellen Datkuliak is a licensed pharmacist under license number 03-1-20832.

FACTS

1. On or about October 5, 2014, the OSBP initiated an investigation of Suellen Datkuliak, pharmacist license number 03-1-20832, related to Suellen Datkuliak's theft from Discount Drug Mart.
2. On or about August 10, 2015, the OSBP sent a Notice of Opportunity for Hearing to Suellen Datkuliak, 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.
3. On or about August 25, 2015, Suellen Datkuliak timely requested an administrative hearing, which was subsequently scheduled for December 8, 2015.

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. Suellen Datkuliak neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated August 10, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Suellen Datkuliak agrees to pay to the OSBP the amount of \$250.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Suellen Datkuliak must obtain, within 90 days from the effective date of this Agreement, 4 hours of approved continuing pharmacy education (0.4 CEUs) in ethics, which may not also be used for license renewal.
5. Suellen Datkuliak agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Suellen Datkuliak understands that it has the right to be represented by counsel for review and execution of this agreement.
7. Suellen Datkuliak agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which

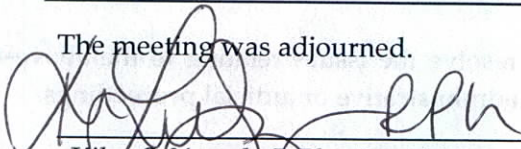
they currently hold a professional license, including to the OSBP on renewal applications or applications for a new license.

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

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

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

11:57 a.m. The meeting was adjourned.



Kilee S. Yarosh, R.Ph., President

Date: 1/12/16



Steven W. Schierholt, Esq., Executive Director

Date: 1/13/16