

**Minutes of the September 8-9, 2014**  
**Meeting of the Ohio State Board of Pharmacy**

**Monday, September 8, 2014**

**1:30 p.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., *Vice-President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Also present were Eric Griffin, *Interim Executive Director*; David Gallagher, *Interim Compliance Supervisor*; Chad Garner, *Director of OARRS*; Tracy Nave, *Director of Legal Affairs*; Charissa Payer, *Assistant Attorney General*, and Ashley Hood, *Executive Office Coordinator*.

Ms. Yarosh introduced new Board Member, Fred Weaver, R.Ph. to the Board, Staff, and audience. All Board Members and Staff introduced themselves as well.

Ms. Ferris stated there was no new Nursing Board CPG meeting report, and the next meeting is scheduled for September 22.

Ms. Huwer stated there was no Medical Board PAPC meeting.

Mr. Griffin presented the Licensing update..

**R-2015-050**

Mr. Griffin presented a request from pharmacy intern **Nisreen Nusair**, (06-0-08269) North Canton, Ohio, for permission to approve her internship hours due to extraordinary circumstances pursuant to Rule 4729-3-06 (Statement of Preceptor and Practical Experience Affidavit). After discussion, Ms. Huwer moved that the Board approve Ms. Nusair's request pending proof from employer. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

Mr. Gallagher provided the Compliance and Enforcement update.

Mr. Garner provided the OARRS/I.T. report.

Ms. Hood introduced Board Receptionist, Lisa Bozeman.

**R-2015-051**

The Board received an application for the Continuing Education Provider Status of **Colleen Harrell** (03-3-19926) Waterville, Ohio. Ms. Marchal moved that the Continuing

Education Provider Status be approved. The motion was seconded by Ms. Huwer and approved by the Board: Aye – 6.

**R-2015-052** The Board received an application for the Continuing Education Provider Status of **Ray Ryman** (03-1-10823) Barnesville, Ohio. Ms. Ferris moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 6.

**R-2015-053** The Board received an application for the Continuing Education Provider Status of **Jodie Fink** (03-3-24058) Bainbridge, Ohio. Ms. Huwer moved that the Continuing Education Provider Status be approved. The motion was seconded by Mr. Kolezynski and approved by the Board: Aye – 6.

**R-2015-054** The Board received an application for the Continuing Education Provider Status of **Bernie Albertini**, *Ohio Hospital Association*, Columbus, Ohio. Mr. Kolezynski moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.

**1:52 p.m.** Ms. Ferris moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code, to discuss the employment of a public employee and the purchase of property pursuant to Section 121.22(G)(1) & (2). The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by Vice-President Yarosh as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes and Weaver – yes.

**5:02 p.m.** The executive session ended and the meeting was opened to the public.

**R-2015-055** Mr. Kolezynski moved that paragraph two of the Notice of Opportunity for Hearing issued to **Helix Infusion Therapy** (02-1979350) Sugar Land, Texas, be dismissed. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6.

**R-2015-056** Ms. Ferris moved that the request for settlement presented by **Robert P. Fudge**, R.Ph. (03-3-09815) Dublin, Ohio, be accepted allowing for sufficient time for the preparation and approval of settlement documentation. The motion was seconded by Mr. Cain and approved by the Board: Aye – 5/Nay – 0/Abstain - 1.

**5:10 p.m.** The Board recessed for the day.

## **Tuesday, September 9, 2014**

**8:35 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., *Vice-President*; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Mr. McNamee presented the Legislative Report.

**9:00 a.m.** Lora Miller, *Ohio Retail Merchants*, and Antonio Ciaccia, *Ohio Pharmacists Association*, addressed the Board regarding House Bill 314.

**9:29 a.m.** The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Ann Elizabeth Nichols**, R.Ph., Pickerington, Ohio.

**10:10 a.m.** Ms. Ferris moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Kolezynski and a roll-call vote was conducted by Vice-President Yarosh as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes and Weaver – yes.

**10:37 a.m.** The executive session ended and the hearing in the matter of **Ann Elizabeth Nichols**, R.Ph. reconvened in Room East B.

**11:20a.m.** The hearing ended and the record was closed.

Ms. Huwer moved that the Board recess in order to consider this 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. Kolezynski and a roll-call vote was conducted by Vice-President Yarosh as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes; Weaver – yes.

**11:30 a.m.** The recess ended and the hearing was opened to the public.

**R-2015-057** After votes were taken in public session, the Board adopted the following order in the matter of **Ann Elizabeth Nichols**, R.Ph., Pickerington, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket Number D-110113-159)

In The Matter Of:

**Ann Elizabeth Nichols, R.Ph.**

132 Great Trail Street  
Pickerington, Ohio 43147  
(R.Ph. Number 03-3-29130)

**INTRODUCTION**

The Matter of Ann Elizabeth Nichols came for hearing on September 9, 2014, before the following members of the Board: Kilee S. Yarosh, R.Ph.; Vice President, presiding; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Michael A. Moné, R.Ph., Absent

Ann Elizabeth Nichols was represented by Christopher Connor. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

**SUMMARY OF EVIDENCE**

**State's Witnesses:**

None

**Respondent's Witnesses:**

1. Ann Elizabeth Nichols, R.Ph., Respondent
2. Stephen A. Nichols

**State's Exhibits:**

- |       |                                          |          |
|-------|------------------------------------------|----------|
| 1.    | Request for Reinstatement Letter         | 03-17-14 |
| 1A-B. | Procedurals                              |          |
| 2.    | Elizabeth Ann Nichols, R.Ph. Board Order | 06-19-12 |

**Respondent's Exhibits:**

- |    |                                                  |                           |
|----|--------------------------------------------------|---------------------------|
| A. | PRO Contract                                     | 06-19-12                  |
| B. | Letter from Jarrod Grossman                      | 07-28-14                  |
| C. | MPJE Score                                       | 07-31-14                  |
| D. | PRO Urine Screens                                | 09-30-11 through 08-18-14 |
| E. | E-mail from James L. Ferguson, FirstLab Director | 05-29-14                  |
| F. | Continuing Education Credits                     | 03-24-12 through 09-04-14 |

|    |                                   |                           |
|----|-----------------------------------|---------------------------|
| G. | Meeting Attendance Records        | 09-24-11 through 08-31-14 |
| H. | Meeting Attendance Calendar       | 09-24-11 through 08-29-14 |
| I. | Cornerstone Aftercare Report      | 09-02-14                  |
| J. | Letters of Advocacy               | 07-30-14 through 07-20-14 |
| K. | Statement of Continuing Education | 09-09-14                  |

### FINDING OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Ann Elizabeth Nichols has substantially complied with the terms set forth in the Board Order of the State Board of Pharmacy, Docket No. D-110113-159, effective June 19, 2012.

### 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, Number 03-3-29130, held by Ann Elizabeth Nichols to practice pharmacy in Ohio, subject to a period of probation for three years, beginning on the effective date of this Order, with the following conditions:

(A) Ann Elizabeth Nichols 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) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than three years and submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) **Random, observed** urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining two years.

(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 must be added to the standard urine drug screen. A Breathalyzer may be used to test for alcohol, but an appropriately certified individual must conduct the test within twelve hours of notification.

(c) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine 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.

(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 separate days per calendar week (Sunday through Saturday), 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) Ann Elizabeth Nichols 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 Ann Elizabeth Nichols progress towards recovery and what he has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Ann Elizabeth Nichols 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) Ann Elizabeth Nichols may not serve as a responsible pharmacist.

(3) Ann Elizabeth Nichols may not destroy, assist in, or witness the destruction of controlled substances.

(4) Ann Elizabeth Nichols must abide by the contract with her treatment provider and must immediately report any violation of the contract to the Board.

(5) Ann Elizabeth Nichols must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Ann Elizabeth Nichols must abide by the rules of the State Board of Pharmacy.

(7) Ann Elizabeth Nichols must comply with the terms of this Order.

(8) Ann Elizabeth Nichols license is deemed not in good standing until successful completion of the probationary period.

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Ann Elizabeth Nichols is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

Richard Kolezynski moved for Findings of Fact; Melinda Ferris seconded the motion. Motion passed (Aye-6/Nay-0).

Megan Marchal moved for Action of the Board; Melinda Ferris seconded the motion. Motion passed (Aye-6/Nay-0).

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**11:32 a.m.** The Board recessed briefly.

**11:41 a.m.** The meeting reconvened in Room East B.

The Board was joined by Assistant Attorney General Charissa Payer to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Joseph Francis Lutmer**, R.Ph., Cincinnati, Ohio.

**12:50 p.m.** The hearing ended and the record was closed.

Mr. Kolezynski moved that the Board recess in order to consider this 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. Weaver and a roll-call vote was conducted by Vice-President Yarosh as follows: Cain – yes; Ferris – yes; Huwer – yes; Kolezynski – yes; Marchal – yes; Weaver – yes.

**1:00 p.m.** The recess ended and the hearing was opened to the public.

**R-2015-058** After votes were taken in public session, the Board adopted the following order in the matter of **Joseph Francis Lutmer**, R.Ph., Cincinnati, Ohio.

**ORDER OF THE STATE BOARD OF PHARMACY**

(Docket Number D-121025-270)

In The Matter Of:

**Joseph Francis Lutmer, R.Ph.**  
3422 Paxton Avenue

Cincinnati, Ohio 45208  
(R.Ph. Number 03-3-16857)

### INTRODUCTION

The Matter of Joseph Francis Lutmer came for hearing on September 9, 2014, before the following members of the Board: Kilee S. Yarosh, R.Ph.; Vice President, presiding; Edward T. Cain, Public Member; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph.; Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph.

Michael A. Moné, R.Ph., Absent

Joseph Francis Lutmer was represented by John L. O'Shea. The State of Ohio was represented by Charissa D. Payer, Assistant Attorney General.

### SUMMARY OF EVIDENCE

#### State's Witnesses:

None

#### Respondent's Witnesses:

1. Joseph Francis Lutmer, R.Ph., Respondent
2. Tom Denier, R.Ph.

#### State's Exhibits:

- |       |                                                            |          |
|-------|------------------------------------------------------------|----------|
| 1.    | Request for Reinstatement Letter                           | 05-13-14 |
| 1A-1. | Procedurals                                                |          |
| 2.    | Joseph Francis Lutmer, R.Ph. Board Order                   | 01-17-13 |
| 3.    | Hamilton Co. Warrant Request for Joseph Lutmer, R.Ph.      | 10-23-12 |
| 4.    | Hamilton Co. Entry of Continuance for Joseph Lutmer, R.Ph. | 06-03-12 |

#### Respondent's Exhibits:

- |     |                                                    |                           |
|-----|----------------------------------------------------|---------------------------|
| A1. | Treatment Summary for Joseph Francis Lutmer, R.Ph. | 01-17-13                  |
| A2. | PRO Contract for Joseph Francis Lutmer, R.Ph.      | 02-17-13                  |
| A3. | Counseling Appointments                            | 09-13-12 through 11-14-13 |
| A4. | Letters of Support                                 | 01-07-14 through 08-27-14 |
| A5. | Continuing Education                               | 10-01-12 through 08-31-14 |
| A6. | Urine Screens                                      | 03-01-13 through 08-12-14 |
| A7. | Quarterly Reports w/Meeting Attendance Records     | 03-30-13 through 09-08-14 |

### FINDING OF FACT



After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds that Joseph Francis Lutmer has substantially complied with the terms set forth in the Board Order of the State Board of Pharmacy, Docket No. D-121025-270, effective January 17, 2013.

#### 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, Number 03-3-16857, held by Joseph Francis Lutmer 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) Joseph Francis Lutmer 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) approved treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and submit a copy of the signed contract to the Board office before his pharmacist identification card is issued. The contract must provide that:

(1) Random, observed urine drug screens shall be conducted at least once each month for the first year and then at least once every three months for the remaining four years.

(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) Results of all drug screens must be negative. Refusal of a urine screen or a diluted urine 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.

(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 separate days per calendar week (Sunday through Saturday), 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) Joseph Francis Lutmer 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 Joseph Francis Lutmer's progress towards recovery and what he has been doing during the previous three months.

(C) Other terms of probation are as follows:

(1) The State Board of Pharmacy hereby declares that Joseph Francis Lutmer'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) Joseph Francis Lutmer may not serve as a responsible pharmacist.

(3) Joseph Francis Lutmer may not destroy, assist in, or witness the destruction of controlled substances.

(4) Joseph Francis Lutmer must abide by the contract with his treatment provider and must immediately report any violation of the contract to the Board.

(5) Joseph Francis Lutmer must not violate the drug laws of Ohio, any other state, or the federal government.

(6) Joseph Francis Lutmer must abide by the rules of the State Board of Pharmacy.

(7) Joseph Francis Lutmer must comply with the terms of this Order.

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

(D) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Joseph Francis Lutmer is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

Margaret A. Huwer moved for Findings of Fact; Richard F. Kolezynski seconded the motion. Motion passed (Aye-6/Nay-0).

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

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**1:00 p.m.** The Board recessed briefly.

**1:08 p.m.** The meeting reconvened in Room East B.

The Board discussed the Joint Regulatory Naloxone Statement.

**1:25 p.m.** Ms. Huwer left the meeting to attend the Medical Board PAPC meeting.

**R-2015-059** Ms. Ferris moved that the Joint Regulatory Naloxone Statement be approved as amended. The motion was seconded by Ms. Marchal and approved by the Board: Aye -5.

**R-2015-060** Mr. Kolezynski moved that the following resolution be adopted by the Board and memorialized in the Minutes of this meeting:

#### RESOLUTION OF THE BOARD

WHEREAS, Troy A. Gahm has served his profession and the citizens of Ohio with distinction as a member of the State Board of Pharmacy for four years following his appointment by Governor Ted Strickland in 2009; and

WHEREAS, during his commendable term in this appointment, Mr. Gahm maintained the highest standards of his 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 Board of Pharmacy, in its one hundred and thirtieth year, do hereby express our profound appreciation to Troy A. Gahm for his service and recognize him as one of Ohio's most distinguished pharmacist-citizens.

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

**1:30 p.m.** The Board convened in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts. The following candidates for licensure by reciprocity

introduced themselves to the Board, and then participated in a discussion of pharmacy laws and rules with Ms. Terri Ghitman, *OARRS Pharmacist*:

|                              |                |
|------------------------------|----------------|
| Mohamed Abdalla              | Virginia       |
| Scott Anthony Baker          | Pennsylvania   |
| Jennifer Elizabeth Ballman   | Pennsylvania   |
| Andrew Neil Baughman         | Indiana        |
| Beth Beachy                  | New Mexico     |
| Joshua Mark Dover            | Arizona        |
| James Joseph Henning         | Tennessee      |
| Bryan M. Krahenbuhl          | Kentucky       |
| Melissa J. Parson            | Maryland       |
| Kevin E. Philibin            | Indiana        |
| Alan John Potts              | New Mexico     |
| Amanda Suzanne Pruden        | Iowa           |
| Kari Lyn Roat                | Nebraska       |
| Mark Rothstein               | Kentucky       |
| Reeba Srivastava             | Florida        |
| Ashley Therasa Tewksbury     | Indiana        |
| Philip L. Thornton           | North Carolina |
| Kenneth Anton Willinger, III | Kentucky       |

**1:45 p.m.** The Board recessed for lunch.

**3:35 p.m.** The meeting reconvened in Room East B with Ms. Huwer present.

**R-2015-061** Ms. Ferris moved that the Board Minutes of August 5, 2014, be approved as amended. Ms. Marchal seconded the motion and it was approved by the Board: Aye – 5/Nay – 0/Abstain – 1.

**R-2015-062** Mr. Cain moved that the Board Conference Call Minutes of August 7, 2014, be approved as written. Ms. Ferris seconded the motion and it was approved by the Board: Aye – 5/Nay – 0/Abstain – 1.

**R-2015-063** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

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

Case No. 2013-1721

In The Matter Of:

**MARIETA GAMUTAN NISPEROS, R.Ph.**

7120 N. Blackburn Road

Athen, OH 45701

(R.Ph. No. 03-1-29122)

This Settlement Agreement is entered into by and between Marieta Gamutan Nisperos and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Marieta Gamutan Nisperos voluntarily enters into this Agreement being fully informed of her 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. Marieta Gamutan Nisperos acknowledges that by entering into this Agreement she has waived her rights under Chapter 119. of the Ohio Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Marieta Gamutan Nisperos is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about May 14, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Marieta Gamutan Nisperos was notified of the allegations or charges against her, her right to a hearing, her rights in such hearing, and her right to submit contentions in writing. Marieta Gamutan Nisperos requested a hearing; it was scheduled and continued. The November 14, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Marieta Gamutan Nisperos was originally licensed in the State of Ohio on June 25, 2009, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Marieta Gamutan Nisperos did, on or about July 30, 2013, misbrand a drug within the meaning of Section 3719.64 of the Ohio Revised Code, to wit: when Marieta Gamutan Nisperos received a prescription for Simethicone 40 mg/0.6ml, RX#

0818847 for a 20 day old infant, Marieta Gamutan Nisperos dispensed Fleet Pedialax stool softener, which had not been specifically prescribed by the physician. The infant patient was subsequently harmed in that the patient suffered from diarrhea. Such conduct, is prohibited under Section 3715.51(A)(2) of the Ohio Revised Code, and if proven constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Marieta Gamutan Nisperos neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 14, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Marieta Gamutan Nisperos knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Marieta Gamutan Nisperos agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within 30 days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) In addition, Marieta Gamutan Nisperos must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in patient safety/medication errors, which may not also be used for license renewal.

If, in the judgment of the Board, Marieta Gamutan Nisperos appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Marieta Gamutan Nisperos acknowledges that she 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.

Marieta Gamutan Nisperos waives any and all claims or causes of action she may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Marieta Gamutan Nisperos waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2015-064**

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

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case No.2013-1382)

In The Matter Of:

**TIMOTHY SIZEMORE, R.Ph.**

1201 Wedgewood  
Bardstown, KY 40004  
(R.Ph. No. 03-1-25939)

This Settlement Agreement is entered into by and between Timothy Sizemore and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Timothy Sizemore voluntarily enters into this Agreement being fully informed of his 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. Timothy Sizemore acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Timothy Sizemore is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about July 16, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Timothy Sizemore was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. The July 16, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Timothy Sizemore was originally licensed in the State of Ohio on August 5, 2003, pursuant to Reciprocity, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Timothy Sizemore did, on or about October 1, 2013, plead guilty to 1 count of Wire Fraud in violation of Title 18 USC 1343 and 1 count of Health Care Fraud in violation of Title 18 USC 1347, to wit: on March 20, 2013, Timothy Sizemore entered into a plea agreement with the United States of America in which he agreed to plead to a felony information filed by the Assistant United States Attorney for the Western District of Kentucky. *United States of America v. Timothy Sizemore*, Case. No. 3:13CR-00032-001-1, U.S. Dist. Ct. W.D. Kentucky, March 20, 2013. The facts that form the basis for the cited plea agreement stem from a federal investigation into his use of patient and doctor

names to create fraudulent prescriptions and bill Medicare Part D, Anthem, and various private health care programs, between on or about April 2010 through February 2012. Timothy Sizemore billed these entities for prescriptions that were never filled. The cited plea agreement further indicates that he caused signals to be transmitted by wire in interstate commerce. The result of those transmissions was a loss of \$154,112.33 to private insurance companies and a loss of \$96,076.39 to Medicare Part D. In the cited plea agreement, Timothy Sizemore agreed to repay \$250,188.72 in restitution on or before the date of his sentencing. On or about October 1, 2013, Timothy Sizemore was sentenced to a term of 27 months incarceration to be followed by 2 years of supervised release. Such conduct constitutes having been convicted of a felony, having been convicted of violating any state or federal pharmacy or drug law, and not being of good moral character and habits within the meaning of Rule 4729-9-19 of the Ohio Administrative Code. Further, such conduct constitutes being guilty of a felony or gross immorality, and being guilty of dishonesty or unprofessional conduct in the practice of pharmacy, within the meaning of Section 4729.16 of the Ohio Revised Code.

For these reasons, the State Board of Pharmacy will determine whether to take action pursuant to Section 4729.16 of the Ohio Revised Code.

Timothy Sizemore neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated July 16, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Timothy Sizemore knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) A seven year suspension of Timothy Sizemore's pharmacist identification card, No. 03-1-25939, and such suspension is effective as of this date of the Agreement. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code. Timothy Sizemore may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

(B) Division (B) of Section 4729.16 of the Revised Code provides that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of the notice of such action." The certificate and identification card should be forwarded by certified mail, return receipt requested.

(C) After seven years from the date of this Agreement, the Board will consider any petition filed by Timothy Sizemore for a hearing, pursuant to Ohio Revised Code Chapter 119., for reinstatement. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

(1) Timothy Sizemore must reapply for licensure as a pharmacist in Ohio.



(2) Timothy Sizemore, within 60-days prior to reinstatement, must take and successfully complete the MPJE and NAPLEX offered by the Board. If Timothy Sizemore has not successfully completed the examination prior to this period, his license will continue to be suspended until this condition has been met.

(3) The Board explicitly reserves all rights and privileges under law at any reinstatement hearing to restore Timothy Sizemore's license.

(D) Timothy Sizemore agrees to the imposition of a monetary penalty of one thousand (\$1000.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty 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, Room 1702, Columbus, Ohio 43215-6126

If, in the judgment of the Board, Timothy Sizemore appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Timothy Sizemore acknowledges that he 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.

Timothy Sizemore waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Timothy Sizemore waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

**R-2015-065**

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

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case No.2013-2064)

In The Matter Of:

**DANIEL KANE CHERRY, R.Ph.**  
5007 Roecklein Court

Grove City, OH 43123  
(R.Ph. No. 03-1-24728)

This Settlement Agreement is entered into by and between Daniel Kane Cherry and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Daniel Kane Cherry voluntarily enters into this Agreement being fully informed of his 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. Daniel Kane Cherry acknowledges that by entering into this Agreement he has waived his rights under Chapter 119. of the Ohio Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, Daniel Kane Cherry is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about June 26, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Daniel Kane Cherry was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. Daniel Kane Cherry requested a hearing; it was scheduled and continued. The June 26, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that Daniel Kane Cherry was originally licensed in the State of Ohio on July 11, 2001, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) Daniel Kane Cherry did, on or about November 22, 2013, knowingly make a false statement or knowingly swear or affirm the truth of a false statement previously made, with purpose to secure the issuance of a license or registration, to wit: on his application for a Terminal Distributor of Dangerous Drugs license he answered "no" to Questions #11 and 12 when in fact he admitted to a Board Agent that his answers to both questions should have been "yes" because: Question #11 asks "[h]as the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed, or any officer of the corporation, ever been subject to disciplinary action by any state or federal agency?" Daniel Kane Cherry answered "no," however, on or about November 2, 2011, he was disciplined by the Ohio State Board of Pharmacy, for failure to obtain and/or submit to the Board evidence of approved continuing education after it had been determined that he was short one (1) continuing education hour of Board approved Jurisprudence. In the Matter Of: DANIEL KANE CHERRY, R.Ph., Docket Number D-

110816-204 Question #12 asks “[d]oes the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed, or any officer of the corporation, have charges pending or have a conviction of a felony or a misdemeanor other than a minor traffic conviction (even if expunged or sealed)?” Daniel Kane Cherry answered “no,” however, on November 9, 1998, he pled guilty to theft in violation of Section 2913.02 of the Ohio Revised Code, a first degree misdemeanor, in Bowling Green Municipal Court, for running off from Myle’s Pizza without paying for approximately \$30 worth of food, *State of Ohio v. Daniel K. Cherry*, Case No. 98CRB02253. Such conduct is a violation of Section 2921.13 of the Ohio Revised Code. Such conduct constitutes being guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) Daniel Kane Cherry did, on or about August 27, 2012, knowingly make a false statement or knowingly swear or affirm the truth of a false statement previously made, with purpose to secure the issuance of a license or registration, to wit: on his pharmacist renewal application he answered “no” to Question #12, which asks, “[w]ithin the last 18 months, have you been the subject of disciplinary action by any state or federal agency?” Daniel Kane Cherry admitted in a written statement to a Board Agent that his answer should have been “yes” because, on or about November 2, 2011, he was disciplined by the Ohio State Board of Pharmacy in the case of, **In the Matter Of: DANIEL KANE CHERRY, R.Ph., Docket Number D-110816-204**, for failure to obtain and/or submit to the Board evidence of approved continuing education after it had been determined that he was short one (1) continuing education hour on board approved Jurisprudence. Such conduct is a violation of Section 2921.13 of the Ohio Revised Code. Such conduct constitutes being guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Daniel Kane Cherry neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated June 26, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Daniel Kane Cherry knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) The State Board of Pharmacy hereby reprimands Daniel Kane Cherry for his actions in this matter.

(B) Daniel Kane Cherry agrees to the imposition of a monetary penalty of two hundred and fifty dollars (\$250.00) due and owing within 30 days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(C) In addition, Daniel Kane Cherry must obtain, within 90 days from the effective date of this Agreement, three hours of approved continuing pharmacy education (0.3 CEUs) in law, which may not also be used for license renewal.

If, in the judgment of the Board, Daniel Kane Cherry appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Daniel Kane Cherry acknowledges that he 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.

Daniel Kane Cherry waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Daniel Kane Cherry waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

**R-2015-066** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case No. 2013-1936)

In The Matter Of:

**JAMES FESCINA, R.Ph.**  
4561 Harvest Drive  
Liberty Township, OH 45011  
(R.Ph. No. 03-1-14814)

This Settlement Agreement is entered into by and between James Fescina and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

James Fescina voluntarily enters into this Agreement being fully informed of his 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. James Fescina acknowledges that by entering

into this Agreement he has waived his rights under Chapter 119. of the Ohio Revised Code.

Whereas, the Board is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, limit, place on probation, refuse to grant or renew an identification card or enforce a monetary penalty on the license holder for violation of any of the enumerated grounds therein.

Whereas, James Fescina is licensed to practice pharmacy in the State of Ohio.

Whereas, on or about March 19, 2014, pursuant to Chapter 119. of the Ohio Revised Code, James Fescina was notified of the allegations or charges against him, his right to a hearing, his rights in such hearing, and his right to submit contentions in writing. The March 19, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the State Board of Pharmacy indicate that James Fescina was originally licensed in the State of Ohio on August 6, 1982, pursuant to examination, and is currently licensed to practice pharmacy in the State of Ohio.

(2) James Fescina did, on or about September 16, 2013, misbrand a drug, to wit: when he received a prescription for Novolog, RX #854444, James Fescina labeled and dispensed the prescription as Humalog. James Fescina admitted to an Ohio State Board of Pharmacy Agent on October 20, 2013, that he mislabeled the prescription because the patient insurance had changed and would no longer cover Novolog. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code, and constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(3) James Fescina did, on or about October 2, 2013, misbrand a drug, to wit: when he received a prescription for Novolog, RX #844967 Refill, 1813636, James Fescina labeled and dispensed as Humalog. James Fescina admitted to an Ohio State Board of Pharmacy Agent on October 20, 2013, that he mislabeled the prescription because the patient insurance had changed and would no longer cover Novolog. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code, and constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

(4) On or about September 16, 2013 and October 2, 2013, James Fescina engaged in a pattern of conduct to avoid having to obtain prior authorization for patients to receive their specifically prescribed drug, Novolog, for example, when James Fescina received a prescription for Novolog, RX #854444, and Novolog, RX #844967, James Fescina mislabeled the prescriptions and dispensed them as Humalog to avoid having to call the new insurance carriers for Mr. Taylor and Mr. Franz to obtain prior authorization for Novolog. Such conduct is in violation of Section 3715.52(A)(2) of the Ohio Revised Code,

and constitutes unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

James Fescina neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 19, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, James Fescina knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) James Fescina agrees to the imposition of a monetary penalty of five hundred dollars (\$500.00) due and owing within 30 days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.

(B) In addition, James Fescina must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in Law and Ethics, and 6 hours of approved continuing pharmacy education (0.6 CEUs) in fraud and abuse. These hours may not be used for license renewal.

If, in the judgment of the Board, James Fescina appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, revoke probation, modify the conditions of probation, and reduce or extend the period of probation, and/or the Board may institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

James Fescina acknowledges that he 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.

James Fescina waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. James Fescina waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2015-067**

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

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY  
(Case No. 2012-1941)

In the Matter of:  
**Prime Therapeutics, LLC**  
c/o Jagruti Patel-Herron, R.Ph.  
1305 Corporate Center Drive  
Eagan, MN 55121  
(Terminal Distributor Number 02-1547900)

This Settlement Agreement is entered into by and between Prime Therapeutics, LLC and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Prime Therapeutics, LLC enters into this Agreement being 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, the right to appeal. Prime Therapeutics, LLC acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, 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.

WHEREAS, Prime Therapeutics, LLC is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about March 27, 2014, pursuant to Chapter 119. of the Ohio Revised Code, Prime Therapeutics, LLC was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. The March 27, 2014, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that Prime Therapeutics is licensed with the State Board of Pharmacy as a Terminal Distributor of Dangerous Drugs. Records further reflect during the relevant time periods stated herein, Jagruti Patel-Herron, R.Ph. was the Responsible Pharmacist pursuant to Rule 4729-5-11 of the Ohio Administrative Code and Sections 4729.27 and 4729.55 of the Ohio Revised Code.

(2) On or about November 9, 2012, Prime Therapeutics, LLC applied for licensure renewal of NTP 021686550 and NTP 021547900 and checked "Yes" to the question

“[w]ithin the past 18 months; has the responsible person or owner(s) or any agent or employee of the responsible person/owner(s) or any officer of the corporation been the subject of disciplinary actions by any state or federal agency?”

- On or about August 21, 2009 Prime Therapeutics, LLC was reprimanded by the Texas State Board of Pharmacy for errors that occurred between May 18, 2005 and January 16, 2009. Prime Therapeutics, LLC was ordered by the Texas Board to develop and implement policies and procedures for the prevention and handling of dispensing errors. IN THE MATTER OF PRIMETHERAPEUTICS, LLC (PHARMACY LICENSE #24033), BEFORE THE TEXAS STATE BOARD OF PHARMACY, AGREED BOARD ORDER #H-08-020-B, August 21, 2009.
- On or about July 2, 2010, Prime Therapeutics, LLC was reprimanded by the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, as a result of the disciplinary action taken against the company by the Texas Board of Pharmacy under Texas Agreed Board Order #H-08-020-B. DIVISION OF PROFESSIONAL REGULATION of the State of Illinois v. PRIME THERAPEUTICS, LLC, License No. 054-015744, Case No. 2009-11059, July 2, 2010.
- On or about September 19, 2011, the Michigan Board of Pharmacy issued an administrative complaint against Prime Therapeutics, LLC, for the discipline the company received in Texas and Illinois. In the matter of PRIME THERAPEUTICS, LLC, License Number: 53-01-008239, File Number 53-11-121140, April 11, 2012.
- On or about December 27, 2012, Prime Therapeutics, LLC, notified the Ohio State Board of Pharmacy that they entered into a stipulation and order in the State of Idaho to resolve violations of the Idaho Insurance Code for failure to submit reports in a timely manner. In the Matter of PRIME THERAPEUTICS LLC, STIPULATION AND ORDER RESOLVING VIOLATION OF IDAHO INSURANCE CODE, Docket No. 18-2821-12, December 17, 2012.
- On or about February 6, 2013, Prime Therapeutics, LLC, notified the Ohio State Board of Pharmacy that they were cited and fined by the California Board of Pharmacy for incorrectly calculating the quantity of use product to dispense to a patient in a timely manner, In the matter of Prime Therapeutics, LLC, California Board of Pharmacy, Citation No. C12011 50110, January 30, 2013.

Such conduct constitutes failure to meet the qualifications of a terminal distributor within the meaning of Section 4729.57 of the Ohio Revised Code and prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code.

Prime Therapeutics, LLC neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated March 27, 2014; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.



Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Prime Therapeutics, LLC knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Prime Therapeutics, LLC agrees to the imposition of administrative costs in the amount of one thousand dollars (\$1000.00) due and owing within thirty days from the effective date of this Agreement. Checks should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed forms to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

Prime Therapeutics, LLC 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.

Prime Therapeutics, LLC waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Prime Therapeutics, LLC waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

**R-2015-068** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
Docket Number 121114-271

In the Matter of:

**ALLIED PAIN TREATMENT CENTER, INC.**  
c/o THOMAS RANIERI, M.D.  
6495 East Broad Street, Suite E/F  
Columbus, Ohio 43213

This Settlement Agreement is entered into by and between Allied Pain Treatment Center, Inc. and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Allied Pain Treatment Center, Inc. enters into this Agreement being 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. Allied Pain Treatment Center, Inc. acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, 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.

WHEREAS, Allied Pain Treatment Center, Inc. is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about November 14, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Allied Pain Treatment Center, Inc. was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. A hearing was scheduled for February 6, 2013 and continued June 3, 2013, then continued to October 7, 2013, then scheduled for January 6, 2014. The November 14, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about August 29, 2011, Thomas Ranieri, M.D. was the owner of Allied Pain Treatment Center - Columbus, and that on August 29, 2011, Allied Pain treatment Center, Inc. submitted an Application for Registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification.

(2) Thomas Ranieri, M.D., did, on or about August 29, 2011, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Thomas Ranieri indicated on his Application he had never been the subject of disciplinary action by any state or federal agency when in fact his medical licenses were disciplined by the Medical Boards in Ohio, Pennsylvania and New York. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

(3) Thomas Ranieri, M.D. has failed to furnish satisfactory proof to the Board that he complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code. Specifically, Ohio Administrative Code Section 4731-29-01(D)(2) states that "no physician owner of a pain management clinic, employee of the clinic, or person with whom the clinic contracts for services shall have held a license issued by the drug enforcement administration or a state licensing agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance, that has ever been restricted, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, administering, supplying, or selling a controlled substance or other dangerous drug." Thomas Ranieri's medical licenses in Ohio, New York and

Pennsylvania have been restricted in such a manner, to wit: On May 8, 2002 and January 8, 2003, Thomas Ranieri entered into Step I and Step II Consent Agreements with the State Medical Board of Ohio wherein he admitted the following:

- During the first half of 1996 Thomas Ranieri began self-administering injections and ingesting pills of anabolic steroids, Schedule III controlled substances. Thomas Ranieri's sole source of the steroids was through self-prescribing in the state of Pennsylvania.
- In 1998 Thomas Ranieri began self-administering injections of depo-testosterone, a Schedule III controlled substance. Thomas Ranieri's sole source of testosterone was through self-prescribing in the state of Pennsylvania.
- In 1997 Thomas Ranieri began self-prescribing Xanax, a Schedule IV controlled substance. Thomas Ranieri's sole source of Xanax was through self-prescribing in the state of Pennsylvania.
- In the second half of 1999 Thomas Ranieri began prescribing diazepam, a Schedule IV controlled substance, in the name of his wife. Thomas Ranieri admitted that he wrote prescriptions for diazepam for his wife with the intention of digesting some of the diazepam himself. Thomas Ranieri's sole source of diazepam was through prescriptions he wrote in the name of his wife in the state of Pennsylvania.
- In May of 1999, Thomas Ranieri began prescribing hydrocodone, a Schedule III controlled substance in the name of his wife. Thomas Ranieri admitted that he wrote prescriptions for hydrocodone for his wife with the intention of digesting all of the hydrocodone himself. Thomas Ranieri's sole source of hydrocodone was through prescriptions he wrote in the name of his wife in the state of Pennsylvania.
- On November 28, 2000, the Pennsylvania State Board of Medicine suspended Thomas Ranieri's license to practice medicine based on the above-outlined acts. On September 29, 2001, the New York State Department of Health placed Thomas Ranieri's license to practice medicine on probation based on the above-outlined acts. Such disciplinary history is contrary to Section 4729.552(B)(2) of the Ohio Revised Code and Rule 4731-29-01(D) of the Ohio Administrative Code.

Allied Pain Treatment Center, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 5, 2013; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Allied Pain Treatment Center, Inc. knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Allied Pain Treatment Center, Inc.'s request to withdraw the application submitted on August 29, 2011 for Registration as a terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification is hereby approved.

(B) Allied Pain Treatment Center, Inc. will not be eligible henceforth to apply for or hold a Pain Management Classification licence in Ohio until and unless the legal requirements for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic classification in Ohio change.

(C) Allied Pain Treatment Center, Inc. specifically states that it has closed all offices in Ohio and Pennsylvania as of December 15, 2013.

(D) For a period of two years, Thomas Ranieri, M.D. agrees to report to the State Board of Pharmacy on a monthly basis, under penalty of perjury, the following:

- Where he is currently working as a doctor; name of practice and physical location.
- The total number of patients he treated in the previous month.
- The total number of patients he treated in the previous month for chronic pain.
- The total number of prescriptions he issued in the previous month for tramadol containing products and controlled substances.

(E) For a period of two years, if Thomas Ranieri, M.D. henceforth owns a medical practice, he shall report to the Board of Pharmacy, on a monthly basis, under penalty of perjury the following information in addition to the information reported under paragraph (D) of this Agreement:

- The physical location and name of his practice.
- The total number of patients he treated in the previous month.
- The total number of patients he treated in the previous month for chronic pain.
- The total number of prescriptions he issued in the previous month for tramadol containing products and controlled substances.

Allied Pain Treatment Center, Inc. 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.

Allied Pain Treatment Center, Inc. waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Allied Pain Treatment Center, Inc. waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2015-069** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
Docket Number 121114-271

In the Matter of:

**ALLIED PAIN TREATMENT CENTER, INC.**  
c/o THOMAS RANIERI, M.D.  
950 Windham Ct., Suite 1  
Youngstown, OH, 44512

This Settlement Agreement is entered into by and between Allied Pain Treatment Center, Inc. and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Allied Pain Treatment Center, Inc. enters into this Agreement being 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. Allied Pain Treatment Center, Inc. acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, 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.

WHEREAS, Allied Pain Treatment Center, Inc. is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about November 14, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Allied Pain Treatment Center, Inc. was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. A hearing was scheduled for February 6, 2013 and continued

June 3, 2013, then continued to October 7, 2013, then scheduled for January 6, 2014. The November 14, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about July 8, 2011, Thomas Ranieri, M.D. was the owner of Allied Pain Treatment Center - Youngstown, and that on July 8, 2011, Allied Pain Treatment Center, Inc.- Youngstown submitted an Application for Registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification.

(2) Thomas Ranieri, M.D. did, on or about July 8, 2011, knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: Thomas Ranieri, M.D. indicated on his Application he had never been the subject of disciplinary action by any state or federal agency when in fact his medical licenses were disciplined by the Medical Boards in Ohio, Pennsylvania and New York. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code.

(3) Thomas Ranieri, M.D. has failed to furnish satisfactory proof to the Board that he comply with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code. Specifically, Ohio Administrative Code Section 4731-29-01(D)(2) states that "no physician owner of a pain management clinic, employee of the clinic, or person with whom the clinic contracts for services shall have held a license issued by the drug enforcement administration or a state licensing agency in any jurisdiction, under which the person may prescribe, dispense, administer, supply or sell a controlled substance, that has ever been restricted, based, in whole or in part, on the prescriber's inappropriate prescribing, dispensing, administering, supplying, or selling a controlled substance or other dangerous drug." Thomas Ranieri, M.D.'s medical licenses in Ohio, New York and Pennsylvania have been restricted in such a manner, to wit: On May 8, 2002 and January 8, 2003, Thomas Ranieri, M.D. entered into Step I and Step II Consent Agreements with the State Medical Board of Ohio wherein you admitted the following:

- During the first half of 1996 Thomas Ranieri, M.D. began self-administering injections and ingesting pills of anabolic steroids, Schedule III controlled substances. His sole source of the steroids was through self-prescribing in the state of Pennsylvania.
- In 1998 Thomas Ranieri, M.D. began self-administering injections of depo-testosterone, a Schedule III controlled substance. His sole source of testosterone was through self-prescribing in the state of Pennsylvania.
- In 1997 Thomas Ranieri, M.D. began self-prescribing Xanax, a Schedule IV controlled substance. His sole source of Xanax was through self-prescribing in the state of Pennsylvania.

- In the second half of 1999 Thomas Ranieri, M.D. began prescribing diazepam, a Schedule IV controlled substance, in the name of his wife. Thomas Ranieri, M.D. admitted that he wrote prescriptions for diazepam for his wife with the intention of digesting some of the diazepam himself. Thomas Ranieri, M.D.'s sole source of diazepam was through prescriptions he wrote in the name of his wife in the state of Pennsylvania.
- In May of 1999, Thomas Ranieri, M.D. began prescribing hydrocodone, a Schedule III controlled substance in the name of his wife. Thomas Ranieri, M.D. admitted that he wrote prescriptions for hydrocodone for his wife with the intention of digesting all of the hydrocodone himself. Thomas Ranieri, M.D.'s sole source of hydrocodone was through prescriptions he wrote in the name of his wife in the state of Pennsylvania.
- On November 28, 2000, the Pennsylvania State Board of Medicine suspended Thomas Ranieri, M.D.'s license to practice medicine based on the above-outlined acts. On September 29, 2001, the New York State Department of Health placed Thomas Ranieri, M.D.'s license to practice medicine on probation based on the above-outlined acts. Such disciplinary history is contrary to Section 4729.552(B)(2) of the Ohio Revised Code and Rule 4731-29-01(D) of the Ohio Administrative Code.

Allied Pain Treatment Center, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 5, 2013; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Allied Pain Treatment Center, Inc. knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

- (A) Allied Pain Treatment Center, Inc.'s request to withdraw the application submitted on July 8, 2011 for Registration as a terminal Distributor of Dangerous Drugs with a Pain Management Clinic Classification is hereby approved.
- (B) Allied Pain Treatment Center, Inc. will not be eligible henceforth to apply for or hold a Pain Management Classification licence in Ohio until and unless the legal requirements for registration as a Terminal Distributor of Dangerous Drugs with a Pain Management Clinic classification in Ohio change.
- (C) Allied Pain Treatment Center, Inc. specifically states that it has closed all offices in Ohio and Pennsylvania as of December 15, 2013.
- (D) For a period of two years, Thomas Ranieri, M.D. agrees to report to the State Board of Pharmacy on a monthly basis, under penalty of perjury, the following:

- Where he is currently working as a doctor; the name and physical location of the practice.
- The total number of patients he treated in the previous month.
- The total number of patients he treated in the previous month for chronic pain.
- The total number of prescriptions he issued in the previous month for tramadol containing products and controlled substances.

(E) For a period of two years, if Thomas Ranieri, M.D. henceforth owns a medical practice, he shall report to the Board of Pharmacy, on a monthly basis, under penalty, of perjury the following information in addition to the information reported under paragraph (D) of this Agreement:

- Where he is currently working as a doctor; the name and physical location of the practice.
- The total number of patients he treated in the previous month.
- The total number of patients he treated in the previous month for chronic pain.
- The total number of prescriptions he issued in the previous month for tramadol containing products and controlled substances.

Allied Pain Treatment Center, Inc. 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.

Allied Pain Treatment Center, Inc. waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Allied Pain Treatment Center, Inc. waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

**R-2015-070**

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

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case No. 2013-1385)

In the Matter of:



**VICKSBURG SPECIAL CARE PHARMACY  
AND COMPOUNDING**

c/o MITCHELL BARRETT, R.Ph.  
1485 Livingston Lane  
Jackson, Mississippi 39213

This Settlement Agreement is entered into by and between Vicksburg Special Care Pharmacy and Compounding c/o Mitchell Barrett, R.Ph. and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Vicksburg Special Care Pharmacy and Compounding enters into this Agreement being 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, the right to appeal. Vicksburg Special Care Pharmacy and Compounding acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, 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.

WHEREAS, between Vicksburg Special Care Pharmacy and Compounding is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about October 21, 2013, pursuant to Chapter 119. of the Ohio Revised Code, between Vicksburg Special Care Pharmacy and Compounding was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. The October 21, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about January 24, 2013, Mitchell Barrett was the president of Vicksburg Special Care Pharmacy & Compounding, 1485 Livingston Lane, Jackson, Mississippi, and that on said date, Vicksburg Special Care Pharmacy & Compounding submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or about January 24, 2013, applicant did knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: the application shows a positive answer to the following question: "[h]as the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed, or any officer of the corporation, ever been the subject of disciplinary action by any state or

federal agency?" Documentation was provided concerning a Consent Orders for co-owner, Angela Nicole Hotard. In the Matter of Angela Nicole Hotard, Louisiana Board of Pharmacy Case No. 11-0162. However, co-owner, Mitchell Chad Barrett, failed to provide documentation of two (2) separate disciplinary actions against his pharmacist license in Louisiana and Mississippi. In the matter of Mitchell Chad Barrett, Louisiana Board of Pharmacy Case No. 10-0387; In the Matter of Mitchell C. Barrett, Before the Mississippi Board of Pharmacy. Failure to provide documentation of all disciplinary actions constitutes an omission of information. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes making a false material statement in an application for registration as a terminal distributor of dangerous drugs, not being of good moral character and habits, and constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

(3) Co-owner of Vicksburg Special Care Pharmacy & Compounding, LLC, Angela Nicole Hotard, was the subject of discipline against her license in Louisiana. To wit: While working at Monroe Clinic Pharmacy, Ms. Hotard was responsible for numerous violations of laws and rules. As a result of these violations Ms. Hotard was issued a Letter of Reprimand, fined \$1,000 and required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs. In the Matter of Angela Nicole Hotard, Louisiana Board of Pharmacy Case No. 11-0162. Monroe Clinic Drugs was likewise reprimanded, fined \$2,500, required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs and \$3,771.02 for investigation costs. In the Matter of Monroe Clinic Pharmacy, Louisiana Board of Pharmacy Case No. 11-0161. Such conduct constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

(4) Co-owner of Vicksburg Special Care Pharmacy & Compounding, LLC, Mitchell Chad Barrett, was the subject of discipline against his license in Louisiana and Mississippi. To wit: While acting as Pharmacist-in-Charge for Village Pharmacy, Mr. Barrett committed various violations of law and rule. As a result of these violations, Mr. Barrett was issued a Letter of Reprimand, fined \$5,000, required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs and \$861.80 for investigative costs. In the matter of Mitchell Chad Barrett, Louisiana Board of Pharmacy Case No. 10-0387. Further, while acting as the Pharmacist-in-Charge for Gluckstadt Specialty Care Pharmacy and Compounding, Mr. Barrett was responsible for various violations of rule and law. As a result of these violations, Mr. Barrett was fined \$500 for each violation and required to pay the costs of the investigation. In the Matter of Mitchell C. Barrett, Before the Mississippi Board of Pharmacy. Such conduct constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

Vicksburg Special Care Pharmacy & Compounding, LLC neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 21, 2013

however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Vicksburg Special Care Pharmacy & Compounding, LLC knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Mitchell Barrett agrees to the imposition of a monetary penalty of One Thousand Dollars (\$1,000.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty 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, Room 1702, Columbus, Ohio 43215-6126.

(B) Angela Hotard agrees to the imposition of a monetary penalty of Three Hundred Dollars (\$300.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty 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, Room 1702, Columbus, Ohio 43215-6126.

(C) Vicksburg Special Care Pharmacy & Compounding has submitted sufficient information to the Board to establish substantial compliance with the required qualifications of a TDDD and are thereby granted a license.

Vicksburg Special Care Pharmacy & Compounding, LLC 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.

Vicksburg Special Care Pharmacy & Compounding, LLC waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Vicksburg Special Care Pharmacy & Compounding, LLC waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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**R-2015-071** Ms. Yarosh announced the following Settlement Agreement has been signed by all parties and is now effective.

**SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY**  
(Case No. 2013-1232)

In the Matter of:

**STERLINGTON VILLAGE PHARMCY**

MITCHELL BARRETT, R.Ph.

10374 Hwy 165 N.

Sterlington, Louisiana 71280

This Settlement Agreement is entered into by and between Sterlington Village Pharmacy and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Sterlington Village Pharmacy enters into this Agreement being 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, the right to appeal. Sterlington Village Pharmacy acknowledges that by entering into this Agreement it has waived its rights under Chapter 119. of the Revised Code.

WHEREAS, the State Board of Pharmacy is empowered by Section 4729.57 of the Ohio Revised Code to suspend, revoke, refuse to renew any license issued to a terminal distributor of dangerous drugs pursuant to section 4729.54 of the Revised Code, 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.

WHEREAS, Sterlington Village Pharmacy is a licensed terminal distributor of dangerous drugs in the State of Ohio.

WHEREAS, on or about October 21, 2013, pursuant to Chapter 119. of the Ohio Revised Code, Sterlington Village Pharmacy was notified of the allegations or charges against it, its right to a hearing, its rights in such hearing, and its right to submit contentions in writing. The October 21, 2013, Notice of Opportunity for Hearing contains the following allegations or charges:

(1) Records of the Board of Pharmacy indicate that on or about February 21, 2013, you were a co owner of Sterlington Village Pharmacy, 10374 Hwy 165 N., Sterlington, Louisiana, and that on said date, Sterlington Village Pharmacy submitted an application for registration as a Terminal Distributor of Dangerous Drugs.

(2) On or about February 21, 2013, applicant did knowingly make a false statement with purpose to secure the issuance of a license or registration, to wit: the application shows a positive answer to the following question: “[h]as the applicant, owner(s), Responsible Person, any agent, or any employee of the location being licensed, or any officer of the corporation, ever been the subject of disciplinary action by any state or federal agency?” Documentation was provided concerning a Consent Orders for co-owner, Angela Nicole Hotard. In the Matter of Angela Nicole Hotard, Louisiana Board of Pharmacy Case No. 11-0162. However, co-owner, Mitchell Chad Barrett, failed to

provide documentation of two (2) separate disciplinary actions against his pharmacist license in Louisiana and Mississippi. In the matter of Mitchell Chad Barrett, Louisiana Board of Pharmacy Case No. 10-0387; In the Matter of Mitchell C. Barrett, Before the Mississippi Board of Pharmacy. Failure to provide documentation of all disciplinary actions constitutes an omission of information. Such conduct is in violation of Section 2921.13 of the Ohio Revised Code, and if proven constitutes making a false material statement in an application for registration as a terminal distributor of dangerous drugs, not being of good moral character and habits, and constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

(3) Co-owner of Sterlington Village Pharmacy, Angela Nicole Hotard, was the subject of discipline against her license in Louisiana. To wit: While working Sterlington Village Pharmacy y, Ms. Hotard was responsible for numerous violations of laws and rules. As a result of these violations Ms. Hotard was issued a Letter of Reprimand, fined \$1,000 and required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs. In the Matter of Angela Nicole Hotard, Louisiana Board of Pharmacy Case No. 11-0162. Sterlington Village Pharmacy was likewise reprimanded, fined \$2,500, required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs and \$3,771.02 for investigation costs. In the Matter of Sterlington Village Pharmacy, Louisiana Board of Pharmacy Case No. 11-0161. Such conduct constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

(4) Co-owner of Sterlington Village Pharmacy, Mitchell Chad Barrett, was the subject of discipline against his license in Louisiana and Mississippi. To wit: While acting as Pharmacist-in-Charge for Serlington Village Pharmacy, Mr. Barrett committed various violations of law and rule. As a result of these violations, Mr. Barrett was issued a Letter of Reprimand, fined \$5,000, required to reimburse the Louisiana Board of Pharmacy \$250 for administrative costs and \$861.80 for investigative costs. In the matter of Mitchell Chad Barrett, Louisiana Board of Pharmacy Case No. 10-0387. Further, while acting as the Pharmacist-in-Charge for Gluckstadt Specialty Care Pharmacy and Compounding, Mr. Barrett was responsible for various violations of rule and law. As a result of these violations, Mr. Barrett was fined \$500 for each violation and required to pay the costs of the investigation. In the Matter of Mitchell C. Barrett, Before the Mississippi Board of Pharmacy. Such conduct constitutes prior discipline by a professional licensing board pursuant within the meaning of Rule 4729-9-19 of the Ohio Administrative Code and Section 4729.57 of the Ohio Revised Code.

Sterlington Village Pharmacy neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated October 21, 2013; however, the Board has evidence sufficient to sustain the allegations and hereby adjudicates the same.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Sterlington Village Pharmacy knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

(A) Mitchell Barrett agrees to the imposition of a monetary penalty of One Thousand Dollars (\$1,000.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty 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, Room 1702, Columbus, Ohio 43215-6126.

(B) Angela Hotard agrees to the imposition of a monetary penalty of Three Hundred Dollars (\$300.00) due and owing within thirty days from the effective date of this Agreement. The monetary penalty 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, Room 1702, Columbus, Ohio 43215-6126.

(C) Sterlington Village Pharmacy has submitted sufficient information to the Board to establish substantial compliance with the required qualifications of a TDDD and are thereby granted a license.

Sterlington Village Pharmacy 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.

Sterlington Village Pharmacy waives any and all claims or causes of action it may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Sterlington Village Pharmacy waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

**R-2015-072** Mr. Kolezynski moved that the Board receive Per Diem as follows:

| PER DIEM   | 1/27 | 4/21 | 8/14 | 8/22 | 8/25 | 9/6 | 9/8 | 9/9 | Total |
|------------|------|------|------|------|------|-----|-----|-----|-------|
| Cain       | 0    | 0    | 0    | 0    | 0    | 0   | 1   | 1   | 2     |
| Ferris     | 0    | 0    | 0    | 1    | 0    | 0   | 1   | 1   | 3     |
| Huwer      | 1    | 1    | 1    | 0    | 0    | 0   | 1   | 1   | 5     |
| Kolezynski | 0    | 0    | 0    | 0    | 0    | 0   | 1   | 1   | 2     |
| Marchal    | 0    | 0    | 0    | 0    | 0    | 1   | 1   | 1   | 3     |
| Moné       | 0    | 0    | 0    | 0    | 0    | 0   | 0   | 0   | 0     |
| Weaver     | 0    | 0    | 0    | 0    | 1    | 0   | 1   | 1   | 3     |
| Yarosh     | 1    | 1    | 1    | 0    | 0    | 0   | 1   | 1   | 5     |

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

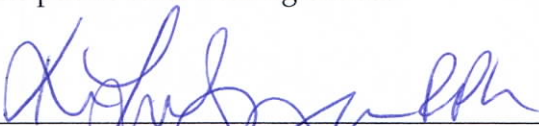
R-2015-073 Ms. Marchal moved that the meeting be adjourned after the Public Rules Hearing. The motion was seconded by Mr. Weaver and approved by the Board: Aye – 6.

3:48 p.m. The Board recessed for the Public Rules Hearing.

The public hearing concerning the proposed new and amended rules began in Room 1948, 19<sup>th</sup> Floor of the Riffe Center, with the following members in attendance:

Kilee S. Yarosh, R.Ph., *Vice-President*; Edward T. Cain, *Public Member*; Melinda J. Ferris, R.Ph.; Margaret A. Huwer, R.Ph.; Richard F. Kolezynski, R.Ph., Megan E. Marchal, R.Ph. and Fred M. Weaver, R.Ph. Also attending were Legislative Affairs Liaison, Cameron McNamee; Interim Executive Director, Eric Griffin; Director of Legal Affairs, Tracy Nave; and Assistant Attorney General, Charissa Payer.

4:06 p.m. The public rules hearing ended.

  
Kilee S. Yarosh, R.Ph., Vice-President

Date: 10/7/14

  
Eric Griffin, Interim Executive Director

Date: 10/7/14