

Minutes of the June 6-7, 2016
Meeting of the Ohio State Board of Pharmacy

Monday, June 6, 2016

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

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

Also present were Steven Schierholt, *Executive Director*; Nicole Dehner, *Chief Legal Counsel*; Eric Griffin, *Director of Compliance and Enforcement*; David Ingram, *Associate Legal Counsel*; Chad Garner, *Director of OARRS*; and Cameron McNamee, *Director of Policy and Communications*.

10:03 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Global Pharmacy**, Haleyville, Alabama.

10:21 a.m. The hearing ended and the record was closed.

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

10:33 a.m. The recess ended and the hearing was opened to the public.

R-2016-308 After votes were taken in public session, the Board adopted the following order in the matter of **Global Pharmacy**, Haleyville, Alabama.

ORDER OF THE STATE BOARD OF PHARMACY
(Case Number 2015-1714)

In The Matter Of:

Northside Pharmacy LLC
DBA Global Pharmacy
922 20th Street

Haleyville, AL 35565
(TDDD 02-2497350)

INTRODUCTION

The Matter of Global Pharmacy came for consideration on June 6, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Joshua M. Cox, R.Ph.; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Edward T. Cain, Public Member; Absent.
Michael A. Moné, R.Ph.; Absent.

Global Pharmacy was not present nor represented by Counsel. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. James Amend, State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|----|------------------------------------|------------|
| 1. | Notice of Opportunity for Hearing | 12-15-2015 |
| 2. | Request for Hearing | 01-15-2016 |
| 3. | Notice of Hearing | 01-19-2016 |
| 4. | TDDD Application | 07-09-2015 |
| 5. | Discipline of Kristopher Frederick | 07-15-2014 |

Respondent's Exhibits:

None

FINDINGS OF FACT

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

1. On or about July 7, 2015, the Board received an application for a Terminal Distributor of Dangerous Drugs license from Northside Pharmacy dba Global Pharmacy by and through James Mays who did sign and submit the document with an answer of "No" to the question inquiring whether 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 (or pending action) by any state or federal agency; even if subsequently dismissed or resolved without formal discipline. Upon further investigation, it was determined that answer was false.

2. During an investigation, the Compliance Specialist of the Board discovered that Northside Pharmacy dba Global Pharmacy staff pharmacist, Kristopher Kyle Frederick, was disciplined by the Alabama State Board of Pharmacy.

a. On or about July 15, 2014, Kristopher Kyle entered into a consent order with the Alabama State Board of Pharmacy for unlawfully obtaining or abusing multiple controlled substances and/or not being able to practice pharmacy with reasonable skill and safety to patients. Pursuant to the consent order, Kristopher Kyle was suspended for a period of five years with reversion to probation upon completion of its terms and assessed a \$2,500 administrative fine.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1), (2), and (2)(a) of the Findings of Fact constitutes a violation of each of the following divisions of Section 4729.57 of the ORC:

- a. Making any false material statements in an application for a license as a TDDD, ORC Section 4729.57(A)(1); and
- b. Violating any Rule of the Board, ORC Section 4729.57(A)(2); and
- c. Violating any provision of this chapter, ORC 4729.57(A)(3); and
- d. Ceasing to satisfy the qualifications of a TDDD set forth in 4729.55, ORC Section 4729.57(A)(7).

2. Such conduct as set forth in paragraphs (1), (2), and 2(a) of the Findings of Fact constitutes each of the following violations of the OAC:

- a. Has been convicted of violating any state or federal pharmacy or drug law, OAC Section 4729-9-19(A)(3); and
- b. Not of good moral character and habits, OAC Section 4729-9-19(A)(4); and
- c. Is addicted to or abusing alcohol or drugs; OAC Section 4729-9-19(A)(5); and
- d. Has been disciplined by any professional licensing board, OAC Section 4729-9-19(A)(7).

DECISION OF THE BOARD

Pursuant to Section 4729.57 of the Ohio Revised Code, Rule 4729-9-19 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby denies the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by Northside Pharmacy, LLC dba Global Pharmacy on or about July 9, 2015.

Pursuant to Chapter 4729-9-01(I) of the Ohio Administrative Code, Northside Pharmacy, LLC dba Global Pharmacy may not reapply for any State of Ohio Board of Pharmacy license for a minimum of 12 months.

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

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

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

SO ORDERED.

10:35 a.m. Mr. Cain joined the meeting.

Ms. Marchal moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law. The motion was seconded by Mr. Weaver and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Cox – yes; Marchal – yes; Passafume – yes; Rudell – yes; Weaver – yes; and Wilt – yes.

11:45 a.m. The meeting reconvened in Room South B&C.

The Board recessed for lunch.

1:18 p.m. The meeting reconvened in Room South B&C.

Mr. McNamee provided the Legislative update.

R-2016-309 Mr. Passafume moved that Rule 4729-29-02 be placed in TBR status. The motion was seconded by Mr. Cain and approved by the Board: Aye –7.

1:33 p.m. Representatives from the Ohio Dermatological Association addressed the Board regarding amendments to Rules 4729-16-01 and 4729-16-04.

2:17 p.m. The Board recessed briefly.

2:27 p.m. The meeting reconvened in Room South B&C.

Mr. Passafume provided the CPG report.

Ms. Marchal provided the PAPC report.

Ms. Galante provided the Licensing Update.

Mr. Griffin provided the Compliance and Enforcement update.

Mr. Garner provided the OARRS update.

2:45 p.m. Ms. Dehner provided the Legal update.

R-2016-310 The Board received an application for the Continuing Education Provider Status of **Terry Brotherton, R.Ph.** (03-2-13735) Maineville, Ohio. Mr. Wilt moved that the Continuing Education Provider Status be approved. The motion was seconded by Ms. Marchal and approved by the Board: Aye – 6/ Nay – 0/ Abstain – 1.

R-2016-311 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A) (1) requesting that **Michael Sayegh, M.D.** (35.085692) Reynoldsburg, Ohio, be the responsible person for the following pain management clinics:

The Pain Management Clinic, LLC, Reynoldsburg, Ohio (02-2151150)
Michael Sayegh, M.D., Cambridge, Ohio (02-1647000)

After discussion, Ms. Marchal moved that the Board deny the request. The motion was seconded by Mr. Cain and approved by the Board: Aye –7.

R-2016-312 Ms. Yarosh announced that the following Settlement Agreement has been signed by all parties and is now effective.

**IN THE MATTER OF:
CASE NO. 2014-1153**

**Eastside Urgent Care
c/o Noor Hassan, M.D.
872 Ohio Pike
Cincinnati, Ohio 45245
License No. 02-1611800**

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Eastside Urgent Care, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the negative answer to the legal question on their renewal application. Together, OSBP and Eastside Urgent Care are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice pharmacy the state of Ohio.

2. Eastside Urgent Care is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1611800.

FACTS

1. On or about February 7, 2014, the OSBP initiated an investigation of Eastside Urgent Care, Terminal Distributor of Dangerous Drugs license number 02-1611800, related to Eastside Urgent Care's negative answer to the legal question on their renewal application.
2. On or about January 6, 2016 the OSBP sent a Notice of Opportunity for Hearing to Eastside Urgent Care, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.
3. On or about January 22, 2016, Eastside Urgent Care timely requested an administrative hearing, which was subsequently scheduled for June 6, 2016.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Eastside Urgent Care neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated January 6, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Eastside Urgent Care agrees to pay to the OSBP the amount of \$1,500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Dr. Noor Hassan must complete the "Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers" offered by Case Western University on June 2-3, 2016, and submit successful completion of the course to the Board Office no later than 30 days from the effective date of this Agreement.
5. Eastside Urgent Care and Noor Hassan, M.D. agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which Eastside Urgent Care currently holds a professional license, to the

extent required by law, including the OSBP on renewal applications or applications for a new license.

6. Eastside Urgent Care agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Eastside Urgent Care of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Eastside Urgent Care by the OSBP and will NOT discharge Eastside Urgent Care from any obligation under the terms of this Agreement.

7. Eastside Urgent Care agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Eastside Urgent Care understands that it has the right to be represented by counsel for review and execution of this agreement.

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

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

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

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

R-2016-313

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

**IN THE MATTER OF:
CASE NO. 2015-1260**

**Patrick Kovacs, R.Ph.
42190 Dutton Avenue
Flushing, Ohio 43977
License No. 03-1-20573**

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Patrick Kovacs, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the illegal processing of drug documents. Together, OSBP and Patrick Kovacs are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Patrick Kovacs is a licensed pharmacist under license number 03-1-20573.

FACTS

1. On or about March 23, 2015, the OSBP initiated an investigation of Patrick Kovacs, pharmacist license number 03-1-20573, related to Patrick Kovacs’ illegal processing of drug documents.
2. On or about December 22, 2015, the OSBP sent a Notice of Opportunity for Hearing to Patrick Kovacs, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.
3. On or about January 18, 2016, Patrick Kovacs timely requested an administrative hearing, which was subsequently scheduled for August 9, 2016.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Patrick Kovacs neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 22, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Patrick Kovacs agrees to pay to the OSBP the amount of \$1,250.00, by means of a cashier’s check made payable to “Treasurer, State of Ohio,” mailed with the enclosed form

to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Patrick Kovacs must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in Ethics, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

5. Patrick Kovacs agrees to cooperate as a witness and testify truthfully in Pharmacy Board Case Number 2015-1260, the Matter of Penny Gehrs-Nerderman.

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

7. Patrick Kovacs understands that he has the right to be represented by counsel for review and execution of this agreement.

8. Patrick Kovacs agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, to the extent required by law, including to the OSBP on renewal applications or applications for a new license.

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

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

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

R-2016-314

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

**IN THE MATTER OF:
CASE NO. 2015-1871**

Kristine Kingsbury, R.Ph.
5713 East Blvd. N.W.
Canton, Ohio 44718
License No. 03-3-17009

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Kristine Kingsbury, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of RX#C560268. Together, OSBP and Kristine Kingsbury are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy as in the state of Ohio.
2. Kristine Kingsbury is a licensed pharmacist under license number 03-3-17009.

FACTS

1. On or about October 22, 2015, the OSBP initiated an investigation of Kristine Kingsbury, pharmacist license number 03-3-17009, related to Kristine Kingsbury’s error in dispensing of RX#C560268.
2. On or about May 16, 2016, the OSBP sent a Notice of Opportunity for Hearing to Kristine Kingsbury, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Kristine Kingsbury neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated May 16, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Kristine Kingsbury agrees to pay to the OSBP the amount of \$500.00, by means of a cashier’s check made payable to “Treasurer, State of Ohio,” mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Kristine Kingsbury must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal.

Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov within 90 days from the effective date of this Agreement.

5. Kristine Kingsbury agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Kristine Kingsbury understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Kristine Kingsbury agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
8. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
9. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
10. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2016-315

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

**IN THE MATTER OF:
CASE NO. 2015-1027**

Marieta Nisperos
224 River Mews Lane
Edgewater, NJ 07020
License No. 03-1-29188

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

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Marieta Nisperos, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the violation of her Settlement Agreement with OSBP dated September 9, 2014. Together, OSBP and Marieta Nisperos are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.16 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Marieta Nisperos is a licensed pharmacist under license number 03-1-29188.

FACTS

1. On or about January 14, 2015, the OSBP initiated an investigation of Marieta Nisperos, pharmacist license number 03-1-29188, related to Marieta Nisperos' violation of her Settlement Agreement with OSBP dated September 9, 2014.
2. On or about December 11, 2015, the OSBP sent a Notice of Opportunity for Hearing to Marieta Nisperos, which outlined the allegations and provided notice of her right to a hearing, her rights in such hearing, and her right to submit contentions in writing.
3. On or about March 14, 2016, Marieta Nisperos timely requested an administrative hearing, which was subsequently scheduled for May 3, 2016.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Marieta Nisperos neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 11, 2015; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Marieta Nisperos must obtain, within 90 days from the effective date of this Agreement, 4 hours of approved continuing pharmacy education (0.4 CEUs) which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov within 90 days from the effective date of this Agreement.
4. Marieta Nisperos agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
5. Marieta Nisperos understands that she has the right to be represented by counsel for review and execution of this agreement.

6. Marieta Nisperos agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which she currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.

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

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

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

3:03 p.m.

Ms. Marchal moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Cox – yes; Marchal – yes; Passafume – yes; Rudell – yes; Weaver – yes; and Wilt – yes.

3:22 p.m.

The meeting reconvened in Room South B&C.

The Board recessed for the day.

Tuesday, June 7, 2016

9:02 a.m.

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

Kilee S. Yarosh, R.Ph., *President*; Edward T. Cain, *Public Member*; Joshua M. Cox, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Gary Bakst, R.Ph.**, Lyndhurst, Ohio.

10:02 a.m.

The hearing ended and the record was closed.

Mr. Passafume moved that the Board recess in order to consider the quasi-judicial matters in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman*

v. State Medical Bd. (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Yarosh as follows: Cain – yes; Cox – yes; Passafume – yes; Rudell – yes; Weaver – yes; and Wilt – yes.

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

R-2016-316 After votes were taken in public session, the Board adopted the following order in the matter of **Gary Bakst, R.Ph.**, Lyndhurst, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1031)

In The Matter Of:

Gary Bakst, R.Ph.
5678 Falkirk Road
Lyndhurst, Ohio 44124
(R.Ph. 03-2-13117)

INTRODUCTION

The Matter of Gary Bakst came for hearing on June 7, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Joshua M. Cox, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Megan E. Marchal, R.Ph.; Absent.

Michael A. Moné, R.Ph.; Absent.

Gary Bakst was represented by Douglas Graff. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Gary Bakst, Respondent

Respondent's Witnesses:

1. Gary Bakst, Respondent

State's Exhibits:

- | | |
|--|------------|
| 1. Notice of Opportunity for Hearing | 12-16-2015 |
| 2. Request for Hearing | 12-28-2015 |
| 3. Notice of Hearing | 01-04-2016 |
| 4. Cleveland Plain Dealer Article | 01-14-2015 |
| 5. Conviction, Identity Fraud and Tampering with Records | 10-10-2014 |

6. Ohio Supreme Court, Resignation with Discipline Pending 12-21-2015

Respondent's Exhibits:

- | | | |
|----|--|------------|
| A. | Resume of Gary Bakst | No Date |
| B. | CPE Information | Various |
| C. | Expiration of Sentence | 01-02-2016 |
| D. | Letters of Support | Various |
| E. | Ohio Department of Corrections Information | 05-27-2016 |

FINDINGS OF FACT

The State of Ohio and Gary Bakst, by and through counsel, stipulated to the following Findings of Fact, which are accepted and adopted by the Board:

1. On or about October 10, 2014 Gary Bakst was indicted by the Cuyahoga County Court of Common Pleas on a total of seven charges of Identity Fraud, Forgery, Tampering with Records, and grand theft for conduct that took place on or about July 13, 2011 to April 14, 2014.
2. On or about December 2, 2014, Gary Bakst plead guilty to one count of identity fraud and one count tampering with records. Each crime is a third degree felony offense.
3. After Gary Bakst plead guilty, he was sentenced to serve nine (9) months at the Lorain Correctional Institution with three (3) years of post-release control.

CONCLUSIONS OF LAW

1. Such conduct, as set forth in paragraphs (1) through (3) of the Findings of Fact constitutes the following violations of the ORC:
 - a. Guilty of a felony or gross immorality, ORC Section 4729.16(A)(1); and
 - b. Guilty of willfully violating...any rule adopted by the board, ORC Section 4729.16(A)(5).
2. Such conduct, as set forth in paragraphs (1) through (3) of the Findings of Fact constitutes the following violations of the OAC:
 - a. Has been convicted of a felony, OAC Section 4729-5-04(A); and
 - b. Not being of good moral character and habits, OAC Section 4729-5-04(C).

DECISION OF THE BOARD

In reviewing the evidence and the testimony before it, the Board finds the Respondent, Gary Bakst, not to be a credible witness and finds that the type of felony conviction is such that the safety of the public cannot be maintained and this Board cannot support Respondent's return to the practice of the profession of pharmacy. The Board further finds

the surrender of Respondent's law license with discipline pending to be an aggravating factor.

Pursuant to Section 4729.16 of the Ohio Revised Code and Section 4729-9-01(E) of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy finds reliable, probative and substantial evidence for the revocation of Gary Bakst's pharmacist License No. 03-2-13117 and adjudicates the matter of Gary Bakst as follows:

1. **On the basis of the Findings of Fact and paragraph (1)(a) and (2)(a) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13117, held by Gary Bakst effective as of the date of the mailing of this Order.**
2. **On the basis of the Findings of Fact and paragraph (1)(b) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13117, held by Gary Bakst effective as of the date of the mailing of this Order.**
3. **On the basis of the Findings of Fact and paragraph (2)(b) of the Conclusions of Law, the State Board of Pharmacy hereby revokes permanently the pharmacist identification card, No. 03-2-13117, held by Gary Bakst effective as of the date of the mailing of this Order.**

Gary Bakst, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (wall certificate) to the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

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

SO ORDERED.

R-2016-317

Mr. Passafume moved that the Board adopt the following Resolution:

A Resolution for David G. Gallagher

WHEREAS, the administrative and investigative efforts of David G. Gallagher, Compliance & Enforcement Regional Supervisor with the State of Ohio Board of Pharmacy, has directly led to the successful and thoughtful enforcement of the Ohio Drug Laws; and

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

BE IT RESOLVED, that the State of Ohio Board of Pharmacy hereby commends David G. Gallagher for his 25 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of his position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundredth thirty-second year, so express our profound appreciation to David G. Gallagher for his dedication and service to the Board and the citizens of Ohio, and

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

The motion was seconded by Ms. Rudell and approved by the Board: Aye –6.

R-2016-318 Mr. Weaver moved that the Board adopt the following Resolution:

A Resolution for Todd F. Knauss

WHEREAS, the administrative and investigative efforts of Todd F. Knauss, as a Compliance Agent with the State of Ohio Board of Pharmacy, have directly led to the successful and thoughtful enforcement of the Ohio Drug Laws; and

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

BE IT RESOLVED, that the State of Ohio Board of Pharmacy hereby commends Todd F. Knauss for his more than 15 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of his position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundredth thirty-second year, so express our profound appreciation to Todd F. Knauss for his dedication and service to the Board and the citizens of Ohio, and

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

The motion was seconded by Mr. Passafume and approved by the Board: Aye –6.

R-2016-319 Mr. Passafume moved that the Board adopt the following Resolution:

A Resolution for Kevin J. Mitchell

WHEREAS, Kevin J. Mitchell has served his profession and the citizens of Ohio with distinction as a member of the State Board of Pharmacy from 03/09/11 – 08/06/14 following his appointment by Governor John R. Kasich; and

WHEREAS, during his commendable term in in this appointment, Mr. Mitchell 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 hundredth thirty-second year, do hereby express our profound appreciation to Kevin J. Mitchell for his service and recognize him as one of Ohio's most distinguished pharmacist-citizens.

The motion was seconded by Ms. Rudell and approved by the Board: Aye –6.

R-2016-320 Mr. Passafume moved to approve a 2.5% increase in compensation to the Executive Director, to be effective in the pay period beginning June 26, 2016, subject to approval of the Governor's Office. The motion was seconded by Mr. Weaver and approved by the Board: Aye –6.

R-2016-321 Mr. Wilt moved that the conference call minutes of May 11, 2016, be approved as written. The motion was seconded by Mr. Cox and approved by the Board: Aye – 6.

R-2016-322 Mr. Passafume moved that the Board meeting minutes of May 2-4, 2016, be approved as amended. The motion was seconded by Ms. Rudell and approved by the Board: Aye – 6.

11:59 a.m. The Board was joined by Assistant Attorney General Matthew Lampke to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Brandon Basile, Intern**, Akron, Ohio.

12:21 p.m. The hearing ended and the record was closed.

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

12:37 p.m. The recess ended and the hearing was opened to the public.

R-2016-323 After votes were taken in public session, the Board adopted the following order in the matter of **Brandon Basile, Intern**, Akron, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2015-1847)

In The Matter Of:

Brandon Basile, Intern

143 Highpoint Avenue

Akron, Ohio 44312

(Intern 06-013591)

INTRODUCTION

The Matter of Brandon Basile came for hearing on June 7, 2016, before the following members of the State of Ohio Board of Pharmacy (Board): Kilee S. Yarosh, R.Ph. (presiding); Edward T. Cain, Public Member; Joshua M. Cox, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph. and Shawn C. Wilt, R.Ph.

Megan E. Marchal, R.Ph.; Absent.

Michael A. Moné, R.Ph.; Absent.

Brandon Basile was not present nor represented by Counsel. The State of Ohio was represented by Matthew J. Lampke, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Greg Whitney, State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Notice of Opportunity for Hearing | 05-12-2016 |
| 2. | Renewal Application | 09-09-2015 |
| 3. | Akron Municipal Court, Case No. 15CRB2936 | 04-02-2015 |
| 4. | Akron Municipal Court, Case No. 15TRC5250 | 04-02-2015 |
| 5. | Akron Municipal Court, Case No. 15CRB2949 | 03-28-2015 |
| 6. | Akron Municipal Court, Case No. 15RDD11619 | 07-09-2015 |
| 7. | Kent Municipal Court, Case No. 14TRC875 | 09-03-2013 |
| 8. | Letter of Brandon Basile | 04-19-2016 |
| 9. | Notice of Hearing | 05-31-2016 |

Respondent's Exhibits:

None

FINDINGS OF FACT

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

4. On Brandon Basile's renewal application, he truthfully answered "YES" to the question that inquired whether within the last 18 months he had a record of arrest or criminal charges pending or has a conviction of a felony, misdemeanor, or traffic violation (even if sealed, expunged, or the equivalent thereof in another jurisdiction). Brandon Basile included a statement, police reports, and court documents in his application that detailed his arrest and subsequent convictions of Impaired Operation of a Vehicle and Open Container.

a. On or about March 27, 2015, Brandon Basile was charged by the Akron Police Department with Drug Abuse/Possession of Controlled Substances, a minor misdemeanor, and Drug Paraphernalia, a misdemeanor of the fourth degree. Case No. 2015 CRB 2936.

b. On or about March 28, 2015, Brandon Basile was charged by the Akron Police Department in Akron, Ohio with Impaired Operation of a Vehicle, a misdemeanor of the first degree, Drug Paraphernalia, a misdemeanor of the fourth degree, Open Container, a misdemeanor of the fourth degree, Right-of-way of Public Safety Vehicles, a minor misdemeanor, and Driving Left of Center, a minor misdemeanor. Case Number 2015 TRC 5250; 2015 CRB 2949.

c. On or about August 10, 2015, Brandon Basile plead guilty to Impaired Operation of a Vehicle and Open Container by the Akron Municipal Court in Akron, Ohio. The additional charges in Case Numbers 2015 TRC 5250, 2015 CRB 2949, and 2015 CRB 2936 were dismissed. On the Impaired Operation of a Vehicle offense, he was sentenced to complete a three-day driver intervention program, \$375 fine, six-month driver's rights suspension, one-year probation with random drug screens, and one day of observation in misdemeanor drug court. On the Open Container offense, Brandon Basile was sentenced to \$150 fine and court costs.

d. During an interview with an Agent of the Board, Brandon Basile discussed his conduct and confirmed that he plead guilty to Impaired Operation of a Vehicle and Open Container.

5. On Brandon Basile's 2014 Pharmacy Intern Registration application, he answered "YES" to question 5(A) that inquired whether you have ever been charged with or convicted of a felony or a misdemeanor other than a minor traffic violation (even if expunged or sealed).

a. On or about March 28, 2014, he was charged by the Portage Police Department with Operating a Vehicle while under the influence of alcohol and/or a drug of abuse. Case No. 2014 TRC 875. On or about June 18, 2014, Brandon Basile plead guilty to an

amended charge of Reckless Operation and were sentenced to pay \$150 fine and court costs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1)(a), (1)(b), (1)(c), and (2)(a) of the Findings of Fact constitutes a violation of each of the following Sections of the ORC:
 - a. Addicted to or abusing alcohol or drugs or impaired physically or mentally such a degree as to render the pharmacy intern unfit to practice pharmacy, ORC Section 4729.16(A)(3); and
 - b. Guilty of willfully violating any of the provisions of this chapter or any rule adopted by the board under those provisions; ORC Section 4729.16(A)(5).
2. Such conduct, as set forth in paragraphs (1)(a), (1)(b), (1)(c), (2)(a) of the Findings of Fact each constitute the following violations of the OAC:
 - a. Not of good habits, OAC Rule 4729-5-04(C); and
 - b. Being addicted to or abusing liquor or drugs, OAC Rule 4729-5-04(D).

DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby suspends the Intern identification card, No. 06-013591, belonging to Brandon Basile until such time as he appears before the Board and demonstrates satisfactory proof that he meets the requirements for pharmacy internship.

Brandon Basile, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State of Ohio Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

Brandon Basile, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his license to practice (pocket ID card) and registration (wall certificate) to the office of the State of Ohio Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

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

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

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

SO ORDERED.

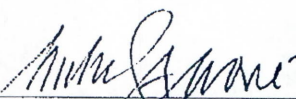
12:40 p.m. The Board recessed for lunch.

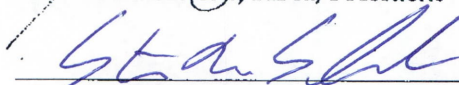
1:30 p.m. The following candidates for licensure by reciprocity participated in a discussion of pharmacy laws and rules with Ms. Terri Ghitman, *OARRS Pharmacist*, in Room South A, 31st Floor of the Vern Riffe Center for Government and the Arts:

GEETIKA BAJPAI	VIRGINIA
CHRISTINE ELIZABETH BOULOS	NEW JERSEY
WILSON JAMES BUNTON	MICHIGAN
KIMBERLY ILA CASHION	NEW YORK
AMANDA NICOLE CASTELLI	TEXAS
ALYSSA M. CHAN	MASSACHUSETTS
ADELE ROLANDE CHATELLIER	PENNSYLVANIA
MICHAEL PETER CINQUE	PENNSYLVANIA
JANINE F. CLEVELAND	SOUTH CAROLINA
JUSTIN COLLINGWOOD	IOWA
JUSTIN MICHAEL COMEAU	MICHIGAN
DAVID DELGADO	FLORIDA
LUAN DINH	NORTH CAROLINA
ALEXIS FABIAN	NORTH CAROLINA
MOLLIE GOWAN	SOUTH CAROLINA
BENJAMIN ALAN HOHLFELDER	MASSACHUSETTS
JULIA E. KUROSKI	PENNSYLVANIA
PATSY V. LONGHI	PENNSYLVANIA
JOSHUA WAYNE MATHIS	MISSISSIPPI
CARA BRITTANY MCGURRY	WISCONSIN
THU MINH NGUYEN	NORTH CAROLINA
ANITA PATEL	OKLAHOMA
MEAGAN RUSHE	MARYLAND
LAUREN E. SCONO	INDIANA
NATHAN D. SELIGSON	FLORIDA
ALICIA MARIE SHONTZ	PENNSYLVANIA
CHRISTINA MARIE SIMS	ALABAMA
KYLE MARK SPANIOL	PENNSYLVANIA
TSZ YEE TSUI	ARIZONA
WALTER VALENTINE	NEW JERSEY
ASHLEY ELIZABETH WESTER	NORTH CAROLINA
JOHN WHITE	IOWA
AMMARA SYED ZAIDI	ILLINOIS

2:07 p.m.

The meeting adjourned



Michael A. Mone, R.Ph., PresidentDate: 7/14/2016

Steven W. Schierholt, Esq., Executive DirectorDate: 7/14/16