



MINUTES OF THE MAY 1-2, 2017
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, May 1, 2017

10:03 a.m. The State of Ohio Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.; Absent.

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

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

10:37 a.m. The hearing ended and the record was closed.

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

10:51 a.m. The recess ended and the hearing was opened to the public.

R-2017-324 Mr. Weaver moved that the Board dismiss the citation issued to Kelley Cejer and her Intern application submitted on or about August 16, 2016, be approved. The motion was seconded by Mr. Wilt and approved by the Board: Aye-5.

The Board recessed briefly.

10:56 a.m. The meeting reconvened in Room South B&C.



The Board was joined by Assistant Attorney General Steven Kochheiser to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Crystal Zheng**, Milan, Michigan.

11:46 a.m. The hearing ended and the record was closed.

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

12:16 p.m. The recess ended and the hearing was opened to the public.

R-2017-325 After votes were taken in public session, the Board adopted the following order in the matter of **Crystal Zheng**, Milan, Michigan.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-2052)

In The Matter Of:

Crystal Zheng

10450 Timber Ridge Drive
Milan, MI 48160
(Registration No. 06-013991)

INTRODUCTION

The Matter of Crystal Zheng came for hearing on May 1, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; 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.

Joshua M. Cox, R.Ph and Kilee S. Yarosh, R.Ph.; Absent.

Crystal Zheng was represented by Brian Good. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Crystal Zheng—Respondent

Respondent's Witnesses:

1. Crystal Zheng—Respondent

State's Exhibits:

1. Notice of Opportunity for Hearing

01-23-2017

2.	Request for Hearing	02-17-2017
3.	Notice of Hearing	02-21-2017
4.	Initial Intern Application	06-02-2015
5.	Volusia County Court, Case No. 2014 302812 MMDB Records	03-04-2014
6.	Intern Renewal Application	08-21-2016
7.	Oldham County Court, Case No. 16-M-00165 Records	09-23-2016
8.	Statement of Crystal Zheng	09-27-2016

Respondent's Exhibits:

A.	Curricula Vitae	No Date
B.	Character Letter from Mentor	04-23-2017
C.	CE—Priority of Pharmacy Ethics in Healthcare	04-23-2017
D.	CE—Evolution of Healthcare Ethics	04-23-2017
E.	CE—Ethical and Liability Concerns Admitting Mistakes	04-23-2017
F.	CE—The Effects of Ethics on Patient Safety in Pharmacy	04-11-2017
G.	CE—Legal Obligations and Implications of Prescription Opioid Abuse	04-14-2017

FINDINGS OF FACT

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

1. On Crystal Zheng's renewal application, she answered "No" to the question inquiring in the last 18 months whether she had a record of arrest of criminal charges pending or had a conviction of a felony, misdemeanor, or traffic violation (even if expunged or sealed) or the equivalent in another jurisdiction? This answer was false.

a. On or about June 11, 2015, Crystal Zheng was arrested and charged with possession or marijuana, two counts of possession of a controlled substance, possession of drug paraphernalia, person 18-20 possession/purchase/attempt purchase/have another purchase, and speeding 19 MPH over the posted limit by the Oldham County Sheriff Department. On or about September 2, 2015, the charges were dismissed without prejudice. On or about March 31, 2016, the Oldham County Sheriff's Department refiled the charges and included an additional charge of possession of a controlled substance. Case No. 2016-M-00165.

i. On or about June 15, 2016, five charges were dismissed and the remaining two charges, possession of marijuana and speeding 19 MPH over the posted limit, were referred to diversion. On or about September 21, 2016, her case was dismissed after satisfying the diversion requirements by serving three months of diversion, attending and completing 4 marijuana classes, completing 40 hours of community service, and payment of \$550 to the Oldham County Drug Forfeiture Fund. Case No. 2016-M-00165.

ii. During the interview with an agent from the board, she admitted that she smoked marijuana while driving her vehicle before she was arrested and charged with the aforementioned offenses.

2. On Crystal Zheng's initial Pharmacy Intern Registration application submitted on or about May 18, 2015, she answered "No" to the question that asked whether she had ever been charged

or convicted of a felony or misdemeanor other than a minor traffic violation (even if expunged or sealed)? This answer was false.

a. On or about March 3, 2014, she was charged with possession of an alcoholic beverage by a person under 21 years of age, a misdemeanor offense, in Volusia County Clerk of Circuit Court. On or about March 20, 2014, she was sentenced to pay \$218 in court costs after entering a plea of nolo contendere. Case No. 2014 302812 MMDB.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs (1) through (2)(a) of the Findings of Fact each constitutes a violation of each of the following divisions of Section 4729.16 of the ORC:

a. 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); and

b. Has committed fraud, misrepresentation, or deception in applying for or securing a license or identification card issued by the board under Chapter 4729. of the Revised Code, ORC Section 4729.16(A)(10).

2. Such conduct as set forth in paragraphs (1) through (2)(a) of the Findings of Fact each constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC:

a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and

b. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B); and

c. Has committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under Chapter 4729. of the Revised Code.

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 finds the severity of the underlying criminal action, facts and circumstances of each, and the type of drugs involved to be aggravating circumstances and the Board hereby immediately suspends indefinitely the Intern Registration, No. 06-013991, held by Crystal Zheng. Said suspension is effective as of the Board hearing held May 1, 2017.

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

2. Crystal Zheng, pursuant to Section 4729.16(B) of the Ohio Revised Code, must return her identification card and license (wall certificate) to the office of the State of Ohio Board of Pharmacy within ten days after receipt of this Order. The identification card and wall certificate should be sent by certified mail, return receipt requested.

On May 1, 2018, Crystal Zheng may submit a new application for an intern license along with the appropriate fee(s) and background check. Crystal Zheng must provide the following additional materials along with her application in order to be considered for an intern license: compliance with the contract required in term four of this Board Order (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.), as well as evidence of compliance with all other terms of this Order.

Should she meet the qualifications as set forth in Ohio Revised Code and Ohio Administrative Code and should she demonstrate compliance with all terms set forth herein, Crystal Zheng's intern license number 06-013991 will be granted, at which time her intern license will be placed on probation for the duration of its existence.

During the period of suspension and probation, Crystal Zheng must comply with all the following terms and conditions:

1. Crystal Zheng must fully cooperate with any Board investigations.
2. Crystal Zheng must maintain a current address with the Board throughout the duration of the suspension and probation.
3. If Crystal Zheng's intern license is reinstated and once she is on probation, Crystal Zheng must meet a minimum of annually with the Board's Probation Committee, unless otherwise determined by the Probation Committee. After the suspension period has successfully concluded, a Notice will be sent advising Crystal Zheng of her first appearance before the probation committee.
4. Crystal Zheng must enter into and adhere to the terms of a new contract, signed within thirty days after the effective date of this Order, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the treatment contract will be considered a violation of the Board's Order and subject Crystal Zheng to potential sanctions up to and including revocation of license. The contract must provide:
 - a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

- e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Crystal Zheng in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - f. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - g. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - h. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
5. Crystal Zheng shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any refused or positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Crystal Zheng reappear before the Board for possible additional sanctions, including and up to revocation of license.
6. Crystal Zheng shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Crystal Zheng reappear before the Board for possible additional sanctions, including and up to revocation of license.
7. Crystal Zheng must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Crystal Zheng to possible additional sanctions, including and up to revocation of license.
8. Crystal Zheng must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing alcohol or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
9. Violation of any term of suspension or probation, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of Crystal Zheng's intern license.
10. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
11. Crystal Zheng must immediately inform the school of pharmacy at which she is enrolled as well as her employer of the Board's decision in this matter. Notification should be made via

certified mail, return receipt requested. Proof of notifications should be sent to the Board at legal@pharmacy.ohio.gov.

12. If Crystal Zheng is no longer employed by CVS, Crystal Zheng must notify any future employer related to the practice of pharmacy of the terms of her suspension, probation, and this Board's Order.

Once the qualifications for examination and licensure as a pharmacist required by section 4729.08 of Revised Code are met, in order to obtain approval to take the pharmacist licensure examination, Crystal Zheng must submit a petition and appear before the full Board to obtain the Board's approval to sit for the examination. Crystal Zheng's request to appear before the Board should be included with the submission of her Certificate of Education, background check, application fee, and any other documents necessary for the pharmacist license.

Failure to complete the terms set forth in this Board's Order, or to reapply for an intern license within five years of the date of this Order, will result in the Board issuing a notice of opportunity of hearing to consider additional disciplinary action, including and up to and revocation of Crystal Zheng's license.

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

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

SO ORDERED.

12:20 p.m. The Board recessed for lunch.

1:15 p.m. The meeting reconvened in Room South B&C.

Mr. Garner provided the OARRS/IT report.

Ms. Galante presented the Licensing update.

R-2017-326 Mr. Weaver moved to temporarily approve the following Multiple RP Requests until the July 2017 Meeting:

- **Christopher Armstrong**
 - McKesson Specialty Distribution—01-1554700
 - McKesson Specialty Distributions—01-12624650
- **David Wayne Kells**
 - Cardinal Health 200, INC—01-0967750
 - Cardinal Health 200, LLC-01-2632250
- **Chris Rodriguez**
 - Cardinal Health 200, LLC—01-0967800
 - Cardinal Health 200, LLC-01-2632200
- **Kedar Deshpande**

- Orthopaedic & Spine Center—02-1698600
 - Orthopaedic & Spine Center—02-2664700
 - Orthopaedic & Spine Center—02-2682850
- **Michael Donald Danko**
 - Premier Pain Treatment Institute—02-2594050
 - Premier Pain Treatment Institute—02-2594100
- **Charles Jason Sasser**
 - Cardinal Health 200, LLC—01-2632350
 - Cardinal Health 200, LLC-01-0980400
- **David Rendir**
 - Cardinal Health—01-1201450
 - Cardinal Health-01-2632400
- **Joseph Michael Mink**
 - Eden Springs Pharmacy—02-2653300
 - Eden Springs Pharmacy—02-2653250
- **Ross Allen Treible**
 - Sanofi Pasteur, INC—01-0606900
 - Sanofi-Aventis U.S. LLC—01-2512700
 - Vaxserve, INC—01-1368400

The motion was seconded by Mr. Passafume and approved by the Board: Aye-5.

1:28 p.m. Mr. Schierholt provided the Executive Director Report.

Mr. Griffin presented the Compliance and Enforcement update and introduced the Board's new field staff employees.

1:53 p.m. **Scott Knoer**, *Cleveland Clinic*, gave a presentation to the Board regarding their Refill Program.

2:40 p.m. The presentation ended and the Board recessed briefly.

2:47 p.m. The meeting reconvened in Room South B&C.

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

3:57 p.m. The hearing ended and the record was closed.

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

4:13 p.m. The recess ended and the hearing was opened to the public.

- R-2017-327** After votes were taken in public session, the Board adopted the following order in the matter of **Anita McDonald**, Cincinnati, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-1623)

In The Matter Of:

Anita McDonald, R.Ph.

5069 Sanro Drive
Cincinnati, Ohio 45244
(License No. 03-2-23614)

INTRODUCTION

The Matter of Anita McDonald came for hearing on May 1, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; 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.

Joshua M. Cox, R.Ph and Kilee S. Yarosh, R.Ph.; Absent.

Anita McDonald was represented by Levi Tkach. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCE

State's Witnesses:

1. Anita McDonald—Respondent
2. Michael Poe—State of Ohio Board of Pharmacy

Respondent's Witness:

1. Anita McDonald—Respondent

State's Exhibits:

- | | | |
|-----|--|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 01-23-2017 |
| 2. | Request for Hearing | 02-17-2017 |
| 3. | Notice of Hearing | 02-27-2017 |
| 4. | Credential View Screen | 04-07-2017 |
| 5. | Indictment | 01-12-2017 |
| 6. | Guilty Plea and ILC Entry | 03-31-2017 |
| 7. | Statement of Dr. David Van Zant D.M.D. | 06-24-2016 |
| 8. | Original RX#2053284 | 03-29-2016 |
| 9. | Patient Profile for Patient SH | 06-16-2016 |
| 10. | Altered RX#2053910 | 05-06-2016 |
| 11. | Patient Profile for Fake Patient | 06-16-2016 |

Respondent's Exhibits:

A.	CV of Anita McDonald	No Date
B.	Court Entry	03-13-2017
C.	Progress Report from CRC	04-27-2017
D.	Letter of Support	04-24-2017
E.	Letter of Support	04-27-2017

FINDINGS OF FACT

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

1. During a theft of drugs investigation, Anita McDonald admitted to the agents of the Board that on or around May of 2016, she was working too many hours and in a lot of pain. In order to get through another two days, she confirmed that she altered or forged prescription 2053910 to obtain 24 tablets of Norco 10/325mg to help cope with the pain.
2. On or about January 12, 2017, Anita McDonald was indicted in the Clermont County Court of Common Pleas on three felony charges of deception to obtain dangerous drugs, theft of drugs, and aggravated possession of drugs.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact constitutes a violation of Section 2925.23(B)(1) of the O.R.C.
2. Such conduct as set forth in the Findings of Fact constitutes a violation of Section 2913.02(A)(3) of the O.R.C.
3. Such conduct as set forth in the Findings of Fact constitutes a violation of Section 2925.11(A) of the O.R.C.
4. Such conduct as set forth in the Findings of Fact constitutes a violation of the following divisions of Section 4729.16 of the O.R.C.:
 - a. Guilty of a felony, O.R.C. 4729.16(A)(1); and
 - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, O.R.C. 4729.16(A)(2); and
 - c. Guilty of willfully violating any of the provisions of this chapter...Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, O.R.C. 4729.16(A)(5).

5. Such conduct as set forth in the Findings of Fact also constitute a violation of Chapter 4729-5 of the Ohio Administrative Code (O.A.C.), which allows the Board to consider as evidence of a person not meeting the requirements for licensure in the Revised Code:

a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, O.A.C. Rule 4729-5-04(A); and

b. Violated...any of the provisions of Chapters 4729., 3715., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, O.A.C. Rule 4729-5-04(B).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby lifts the Summary Suspension issued to Anita McDonald on January 23, 2017.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-23614, held by Anita McDonald and such suspension is effective as of the date of the mailing of this Order.

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

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

Further, after January 1, 2018, the Board will consider any petition for a reinstatement hearing filed by Anita McDonald, pursuant to Ohio Revised Code Chapter 119. The Board will only consider reinstatement of the license to practice pharmacy in Ohio if the following conditions have been met:

1. Anita McDonald must maintain a current address with the Board throughout the duration of the suspension.

2. **Anita McDonald must include evidence of completion of a substance abuse evaluation dated within sixty days of this Board's Order and a copy must be released to the Board immediately upon completion.** The petition for reinstatement must include evidence of compliance with all recommendations of the substance abuse evaluation. Should the substance abuse evaluation require ongoing treatment or any other follow-up recommendations related to substance abuse, Anita McDonald must enter into and adhere to the terms of a new contract, signed within thirty days after the effective date of substance abuse evaluation, with an Ohio Department of Mental Health and Addiction Services (ODMHAS) treatment provider or a treatment provider acceptable to the Board for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. Failure to adhere to the terms of the

treatment contract will be considered a violation of the Board's Order and subject Anita McDonald to potential sanctions up to and including revocation of license. The contract must provide that:

i. Random, observed urine drug screens shall be conducted at least once each month.

j. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.

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

l. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.

m. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Anita McDonald in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

n. 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.

o. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

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

3. Anita McDonald shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any refusal or positive drug or alcohol screen results that were obtained in the course of employment, the Board shall treat refusal or a positive result as a violation of the Board's Order and request Anita McDonald reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Anita McDonald shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Anita McDonald reappear before the Board for possible additional sanctions, including and up to revocation of license.

5. Anita McDonald must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Anita McDonald to possible additional sanctions, including and up to revocation of license.
6. Anita McDonald must provide, in the reinstatement petition, documentation of the following:
 - a. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - b. Compliance with the terms of this Order, including follow-up with all recommendations of the timely completed substance abuse evaluation.
7. If reinstatement is not accomplished within **three years** of the effective date of this Order, Anita McDonald must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.
8. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
9. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider should one be required as a result of the substance abuse evaluation, may result in additional action before the Board up to and including revocation of Anita McDonald's pharmacy license.
10. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
11. If Anita McDonald's employment is related to the practice of pharmacy, Anita McDonald must notify employer of the terms of Anita McDonald's suspension and this Board's Order.
12. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Anita McDonald's license.

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

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

SO ORDERED.

- 4:18 p.m.** The Board was joined by Assistant Attorney General Steven Kochheiser to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Ann Ellis**, Springfield, Ohio.
- 6:03 p.m.** The hearing ended and the record was closed.
- Ms. Marchal moved that the Board recess in order to consider the quasi-judicial matter in accordance with Chapter 119. of the Revised Code and the case precedent of *Angerman v. State Medical Bd.* (1990) 70 Ohio App.3d 346 and *TBC Westlake Inc. v. Hamilton Cty Bd of Revision, et al.* (1998) 81 Ohio St.3d 58. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Moné as follows: Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; and Wilt-yes.
- 6:14 p.m.** The recess ended and the hearing was opened to the public.
- R-2017-328** After votes were taken in public session, the Board adopted the following order in the matter of **Ann Ellis**, Springfield, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-2370)

In The Matter Of:

Ann Ellis, R.Ph.

284 South Broadmoor Boulevard
Springfield, Ohio 45504
(License No. 03-2-17762)

INTRODUCTION

The Matter of Ann Ellis came for hearing on May 1, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; Shawn C. Wilt, R.Ph.

Joshua M. Cox, R.Ph and Kilee S. Yarosh, R.Ph.; Absent.

Ann Ellis was represented by Kevin Kerns. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Ann Ellis—Respondent
2. Gregory McGlaun—State of Ohio Board of Pharmacy

Respondent's Witnesses:

1. Sarah Vorhis—Cornerstone Recovery
2. Jarrod Grossman—PRO, Inc.
3. Mary Casto—PRO Sponsor
4. Ann Ellis—Respondent

State's Exhibits:

- | | | |
|-----|--|------------|
| 1. | Summary Suspension/Notice of Opportunity for Hearing | 12-01-2016 |
| 2. | Request for Hearing | 12-30-2016 |
| 3. | Notice of Hearing | 01-20-2017 |
| 4. | Credential View Screen | 04-07-2017 |
| 5. | Statement of Ann Ellis | 11-28-2016 |
| 6. | Other Statements from Investigation | Various |
| 7. | Photos of Kroger Pharmacy | No Date |
| 8. | Drug Identification | 01-08-2017 |
| 9. | 2016 Renewal Application with OVI Records | 09-07-2016 |
| 10. | 2013 Renewal Application with OVI Records | 08-20-2013 |

Respondent's Exhibits:

- | | | |
|----|----------------------------------|------------|
| A. | Treatment Records | Various |
| B. | PRO Contract | 01-17-2016 |
| C. | Urine Screens | Various |
| D. | AA/Caduceus Meeting Attendance | Various |
| E. | IOP Attendance | Various |
| F. | Cornerstone Aftercare Attendance | Various |
| G. | PRO Meeting Attendance | Various |
| H. | Letters of Reference | Various |
| I. | CPE Monitor Transcript | 04-18-2017 |

FINDINGS OF FACT

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

1. During a theft of drugs investigation, Ann Ellis admitted to the agents of the Board that she stole and was addicted to prescription medication. Specifically, she admitted to stealing and being addicted to zolpidem and consuming other stolen drugs such as lorazepam and diazepam.
2. Ann Ellis admitted to agents of the Board that during her employment as a pharmacist at Kroger Pharmacy in Springfield, Ohio she stole various amounts and strengths of controlled substances, to wit:

- a. On or about November 27, 2016, she took, without consent, zolpidem 10mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - b. On or about November 27, 2016, she took, without consent, lorazepam 1mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - c. On or about November 27, 2016, she took, without consent, diazepam 10mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - d. On or about November 27, 2016, she took, without consent, alprazolam 1mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - e. On or about July 2015 through September 2016 she took, without consent, approximately 20 alprazolam 1mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - f. On or about July 2015 through September 2016 she took, without consent, approximately 10 diazepam 10mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - g. On or about July 2015 through September 2016 she took, without consent, approximately 5 lorazepam 1mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - h. On or about July 2015 through September 2016 she took, without consent, approximately 450 zolpidem 10mg tablets from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - i. On or about July 2015 through September 2016 she took, without consent, approximately 16 zolpidem ER 6.26mg tablets from Kroger Pharmacy #730, located at 2300 N. Limestone Street., Springfield, Ohio.
 - j. On or about July 2015 through September 2016 she took, without consent, an unknown amount of zolpidem 10mg tablets from Kroger Pharmacy #832, located at 2129 S. Main St., Bellefontaine, Ohio.
 - k. On or about July 2015 through September 2016 she took, without consent, an unknown amount of zolpidem 10mg tablets from Kroger Pharmacy #835, located at 2728 E. Main St., Springfield, Ohio.
3. During the interview, Ann Ellis also admitted that she had stolen drugs on her person. She consented to a search and the agents discovered various amounts and strengths of the following controlled substances:
- a. On or about November 28, 2016, she took, without consent, 1 tablet and 3 pieces of lorazepam 1mg from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.

- b. On or about November 28, 2016, she took, without consent, 18 tablets and 2 half tablets of alprazolam 1mg from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - c. On or about November 28, 2016, she took, without consent, 8 tablets and 1 half tablet of diazepam 10mg from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
 - d. On or about November 28, 2016, she took, without consent, 18 tablets and 2 half tablets of zolpidem 10mg from Kroger Pharmacy #741, located at 2989 Derr Rd., Springfield, Ohio.
4. Ann Ellis indicated to agents she was scheduled to serve ten days in jail for a criminal offense of driving under the influence. At the conclusion of the interview, she was transported to the hospital for 72-hour observation after stating that she was suicidal.

CONCLUSIONS OF LAW

- 1. Such conduct as set forth in paragraphs 1, 2(a) through (2)(k) and 3(a) through 3(d) of the Findings of Fact each constitutes a violation of 2925.11(A).
- 2. Such conduct as set forth in paragraphs 1, 2(a) through (2)(k) and 3(a) through 3(d) of the Findings of Fact each constitutes a violation of 2913.02.
- 3. Such conduct as set forth in paragraphs 1 through 3, and each subparagraph contained therein, of the Findings of Fact each constitutes a violation of Section 4729.16 of the O.R.C.:
 - a. Guilty of a felony, O.R.C. 4729.16(A)(1); and
 - b. Guilty of dishonesty and unprofessional conduct in the practice of pharmacy, O.R.C. 4729.16(A)(2); and
 - c. Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, O.R.C. 4729.16(A)(3); and
 - d. Guilty of willfully violating any of the provisions of this chapter...Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, O.R.C. 4729.16(A)(5).
- 4. Such conduct as set forth in each paragraph 1 through 4, and each subparagraph contained therein, of the Findings of Fact, also constitute a violation of Chapter 4729-5 of the Ohio Administrative Code (O.A.C.), which allows the Board to consider as evidence of a person not meeting the requirements for licensure in the Revised Code:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, except for minor traffic violations such as parking violations, speeding tickets and violations such as failure to obey a red light, failure to use a turn signal or expired registration; O.A.C. Rule 4729-5-04(A); and
 - b. Violated...any of the provisions of Chapters 4729., 3715., 3719., and 2925. of the Revised Code, or any rule adopted by the board under those provisions, O.A.C. Rule 4729-5-04(B); and

c. Is addicted to or abusing alcohol, drugs or other chemical substances or impaired physically or mentally to such a degree as to render the pharmacist unfit to practice pharmacy, O.A.C. Rule 4729-5-04(D).

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued to Ann Ellis on December 1, 2016.

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby suspends indefinitely the pharmacist identification card, No. 03-2-17762, held by Ann Ellis and such suspension is effective as of the date of the mailing of this Order.

1. Ann Ellis, 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.

Further, after one year from the effective date of this Order, the Board will consider any petition filed by Ann Ellis 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. Ann Ellis must maintain a current address with the Board throughout the duration of the suspension.

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

q. Random, observed urine drug screens shall be conducted at least once each month.

r. 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.

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

t. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives

which resulted from medication legitimately prescribed, indicates a violation of the contract.

u. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Ann Ellis in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.

v. 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.

w. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.

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

3. Ann Ellis shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Ann Ellis reappear before the Board for possible additional sanctions, including and up to revocation of license.

4. Ann Ellis shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of suspension. The Board shall treat any such refusal as a violation of the Board's Order and request Ann Ellis reappear before the Board for possible additional sanctions, including and up to revocation of license.

5. Ann Ellis must immediately report any violation of the terms of this suspension to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Ann Ellis to possible additional sanctions, including and up to revocation of license.

6. Ann Ellis must demonstrate satisfactory proof to the Board that she is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.

7. Ann Ellis must provide, in the reinstatement petition, documentation of the following:

c. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);

- d. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
- e. Compliance with the terms of this Order.
- 8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Ann Ellis must also show successful completion of the North American Pharmacist Licensure Examination (NAPLEX) or an equivalent examination approved by the Board.
- 9. Any reinstatement shall not occur until such time as any criminal intervention in lieu of conviction has been successfully completed.
- 10. Violation of any term of suspension, including but not limited to any violation of the contract signed with the ODMHAS or other approved treatment provider may result in additional action before the Board up to and including revocation of your pharmacy license.
- 11. Any violation of Chapters 2925., 3715., 3719., 4729., of the Ohio Revised Code, any administrative code violation or a violation of any other state or federal law will be considered a violation of this Order resulting in a hearing before the Board and may also result in criminal and/or administrative charges.
- 12. If Ann Ellis' employment is related to the practice of pharmacy, Ann Ellis must notify employer of the terms of Ann Ellis' suspension and this Board's Order.
- 13. Failure to complete the terms set forth in this Board's Order, or to petition for reinstatement within five years of the date of this Order, will result in the Board issuing a notice of opportunity for hearing to consider additional disciplinary action, including and up to revocation of Ann Ellis' license.

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

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

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

SO ORDERED.

R-2017-329

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

**IN THE MATTER OF:
CASE NO. 2013-2083**

Hopkington Drug, Inc.
c/o Dennis Katz, RPh
52 Main Street
Hopkington, MA 01748
License No. 02-2358000

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 Hopkington Drug, Inc., for the purpose of resolving all issues between the parties relating to the OSBP investigation of the dispensing of dangerous drugs into Ohio without a Terminal Distributor of Dangerous Drugs License. Together, OSBP and Hopkington Drug, Inc. are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the 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. Hopkington Drug, Inc. applied for a Terminal Distributor of Dangerous Drugs on or about October 11, 2013.

FACTS

1. On or about December 13, 2013, the OSBP initiated an investigation of Hopkington Drug, Inc., Terminal Distributor of Dangerous Drugs pending license number 02-2358000, related to Hopkington Drug, Inc.’s dispensing of prescription drugs into Ohio without a Terminal Distributor of Dangerous Drugs License.
2. On or about January 17, 2017, the OSBP sent a Notice of Opportunity for Hearing to Hopkington Drug, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Hopkington Drug, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated January 17, 2017; however, the OSBP has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Hopkington Drug, Inc. agrees to pay to the OSBP the amount of \$5,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
 4. Hopkington Drug, Inc. Terminal Distributor of Dangerous Drugs license will be issued upon receipt of a corrected application, application fee, and fine payment.
 5. Hopkington Drug, Inc. and Denis Katz, RPh agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.
 6. Hopkington Drug, Inc. 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 Hopkington Drug, Inc. 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 Hopkington Drug, Inc. by the OSBP and will NOT discharge Hopkington Drug, Inc. from any obligation under the terms of this Agreement.
 7. Hopkington Drug, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 8. Hopkington Drug, Inc. 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 Hopkington Drug, Inc. will operate.
 10. Hopkington Drug, Inc. waives its right to request a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and waives any right to an appeal.
 11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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R-2017-330

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

**IN THE MATTER OF:
CASE NO. 2015-1753**

Lisa Hoffman, RPh
1320 Mercy Drive NW
Canton, Ohio 44708
License No. 03-2-25216

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 Lisa Hoffman, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription number 0105012. Together, OSBP and Lisa Hoffman 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. Lisa Hoffman is a licensed pharmacist under license number 03-2-25216.

FACTS

1. On or about September 9, 2015, the OSBP initiated an investigation of Lisa Hoffman, pharmacist license number 03-2-25216, related to Lisa Hoffman’s error in dispensing of prescription number 0105012.
2. On or about March 14, 2017, the OSBP sent a Notice of Opportunity for Hearing to Lisa Hoffman, 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. Lisa Hoffman neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 14, 2017; however, the OSBP has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Lisa Hoffman agrees to pay to the OSBP the amount of \$250.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Lisa Hoffman must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.
5. Lisa Hoffman agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Lisa Hoffman understands that she has the right to be represented by counsel for review and execution of this agreement.
7. Lisa Hoffman 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. Lisa Hoffman waives her right to request a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and specifically waives any right to an appeal.
9. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
10. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
11. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

R-2017-331

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

**IN THE MATTER OF:
CASE NO. 2014-1590**

**American Health Service Sale Corp
dba Med-Vet International
c/o Jeffrey Lapietra**

13822 W. Boulton Blvd.
Mettawa, IL 60045
License No. 01-1963500

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 Med-Vet International, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the shipment(s) of unauthorized dangerous drugs. Together, OSBP and Med-Vet International are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.56 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Med-Vet International is a licensed Wholesale Distributor of Dangerous Drugs under license number 01-1963500.

FACTS

1. On or about June 6, 2014, the OSBP initiated an investigation of Med-Vet International, Wholesale Distributor of Dangerous Drugs license number 01-1963500, related to Med-Vet International's shipment(s) of unauthorized dangerous drugs.
2. On or about September 23, 2016, the OSBP sent a Notice of Opportunity for Hearing to Med-Vet International, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Med-Vet International neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated September 23, 2016; however, the OSBP has evidence sufficient to sustain the allegations and hereby adjudicates the same.
3. Med-Vet International agrees to pay to the OSBP the amount of \$7,500.00, 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. Med-Vet International agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which Med-Vet International currently holds a professional license, including the OSBP on renewal applications or applications for a new license.

5. Med-Vet International agrees to comply with all federal and state requirements related to Wholesale Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Med-Vet International 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 Med-Vet International by the OSBP and will NOT discharge Med-Vet International from any obligation under the terms of this Agreement.

6. Med-Vet International agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

7. Med-Vet International understands that it has the right to be represented by counsel for review and execution of this agreement.

8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Med-Vet International will operate.

9. Med-Vet International withdraws its request for a hearing and its opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and waives any right to appeal in this matter.

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

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

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

R-2017-332

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

**IN THE MATTER OF:
CASE NO. 2016-1114**

Foster's Pharmacy, Inc.
c/o Heidi Hatfield, RPh
207 W. High Street
Mount Vernon, Ohio 43050
License No. 02-0179600

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 Foster's Pharmacy, Inc., for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription #1322767. Together, OSBP and Foster's Pharmacy, Inc. are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the 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. Foster's Pharmacy, Inc. is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0179600.

FACTS

1. On or about February 10, 2016, the OSBP initiated an investigation of Foster's Pharmacy, Inc., Terminal Distributor of Dangerous Drugs license number 02-0179600, related to Foster's Pharmacy, Inc.'s error in dispensing of prescription #1322767
2. On or about November 22, 2016, the OSBP sent a Notice of Opportunity for Hearing to Foster's Pharmacy, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.
3. On or about December 15, 2016, Foster's Pharmacy, Inc. timely requested an administrative hearing, which was subsequently scheduled for May 2, 2017.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Foster's Pharmacy, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated November 22, 2016; however, the OSBP has evidence

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

3. Foster's Pharmacy, Inc. agrees to pay to the OSBP the amount of \$2,500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Foster's Pharmacy, Inc. and Heidi Hatfield, RPh agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.

5. Foster's Pharmacy, Inc. 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 Foster's Pharmacy, Inc. 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 Foster's Pharmacy, Inc. by the OSBP and will NOT discharge Foster's Pharmacy, Inc. from any obligation under the terms of this Agreement.

6. Foster's Pharmacy, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

7. Foster's Pharmacy, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.

8. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Foster's Pharmacy, Inc. will operate.

9. Foster's Pharmacy, Inc. waives its right to an appeal and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code and specifically withdraws its request for a hearing in this matter.

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

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

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

R-2017-333

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

**IN THE MATTER OF:
CASE NO. 2016-1169**

Giant Eagle RX Distribution Center
101 Kappa Drive
Pittsburgh, PA 15238
License No. 01-2587000

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 Giant Eagle, Inc. d/b/a Giant Eagle Rx Distribution Center ("Distribution Center"), for the purpose of resolving all issues between the parties relating to the OSBP investigation of the sale of drugs to Giant Eagle pharmacies located in Ohio without an Ohio wholesale distributor of dangerous drugs license. Together, OSBP and Distribution Center are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.56 of the Ohio Revised Code and the rules adopted thereunder, the OSBP has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.56 of the Ohio Revised Code to practice pharmacy the state of Ohio.

FACTS

1. Distribution Center's facility in Washington, Pennsylvania was fully licensed by OSBP as a Wholesale Distributor of Dangerous Drugs ("WDDD"), license number 01-1702550.
2. On January 8, 2016, Distribution Center obtained a new DEA registration because it was moving its operation from Washington, Pennsylvania to a new warehouse facility located in Freedom, Pennsylvania.
3. On January 14, 2016, Distribution Center submitted a new WDDD application to OSBP for its new warehouse facility in Freedom, Pennsylvania and advised OSBP that the Distribution Center's proposed opening date was January 25, 2016.
4. On January 22, 2016, Distribution Center notified the OSBP that it would cease distributing drugs from its Washington, Pennsylvania facility.
5. On January 25, 2016, Distribution Center began shipping drugs from its Freedom Pennsylvania facility to Giant Eagle pharmacies located in Ohio.

6. On February 1, 2016, Distribution Center was informed by OSBP that one of the fingerprints from its CEO was smudged and would have to be retaken. Distribution Center was unaware that a smudged fingerprint resulted in the non-issuance of the WDDD license.

7. On February 8, 2016, the CEO's fingerprints were obtained and were sent overnight to OSBP. On that same day, Distribution Center realized that its WDDD license had not been issued for its Freedom, Pennsylvania facility and immediately ceased shipping product to Giant Eagle pharmacies located in Ohio.

8. On February 9, 2016, Distribution Center contacted OSBP to disclose that it had shipped drugs to Giant Eagle pharmacies in Ohio without a WDDD license from January 25, 2016 through February 8, 2016.

9. On February 12, 2016, Distribution Center received its WDDD, license number 01-2587000, from OSBP for the Freedom, Pennsylvania facility.

10. On or about February 23, 2016, the OSBP initiated an investigation of Distribution Center's Freedom, Pennsylvania facility related to Distribution Center's sale of drugs to Giant Eagle pharmacies located in Ohio without an Ohio WDDD license.

11. On or about March 14, 2017, the OSBP sent a Notice of Opportunity for Hearing to Distribution Center, which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

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

TERMS

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

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

2. Distribution Center neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 14, 2017; however, the OSBP has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Distribution Center agrees to pay to the OSBP the amount of \$32,500.00, 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 calendar days from the effective date of this Agreement.

4. Distribution Center agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority, as required by any such state or jurisdiction in which Distribution Center's Freedom Pennsylvania facility currently holds a wholesale or distributor

license, including the OSBP, or on any new or renewal application for a wholesale or distributor license involving the Distribution Center's Freedom, Pennsylvania facility.

5. Distribution Center agrees to comply with all federal and state requirements related to Wholesale Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Distribution Center 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 Distribution Center by the OSBP and will NOT discharge Distribution Center from any obligation under the terms of this Agreement.

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

7. Distribution Center understands that it has the right to be represented by counsel for review and execution of this agreement.

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

9. Distribution Center waives its right to a hearing under Chapter 119 of the Ohio Revised Code and any right to appeal in this matter.

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

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

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

R-2017-334

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

**IN THE MATTER OF:
CASE NO. 2016-1334**

Nan Hodgson, RPh
2700 Village Drive
Zanesville, Ohio 43701
License No. 03-2-12719

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 Nan Hodgson, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the error in dispensing of prescription #665705. Together, OSBP and Nan Hodgson 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. Nan Hodgson is a licensed pharmacist under license number 03-2-12719.

FACTS

1. On or about March 17, 2016, the OSBP initiated an investigation of Nan Hodgson, pharmacist license number 03-2-12719, related to Nan Hodgson's error in dispensing of prescription #665705.
2. On or about March 30, 2017, the OSBP sent a Notice of Opportunity for Hearing to Nan Hodgson, 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. Nan Hodgson neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 30, 2017; however, the OSBP has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Nan Hodgson 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. Nan Hodgson must obtain, within 90 days from the effective date of this Agreement, 6 hours of approved continuing pharmacy education (0.6 CEUs) in medication errors and/or patient

safety, which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov.

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

6. Nan Hodgson understands that she has the right to be represented by counsel for review and execution of this agreement.

7. Nan Hodgson 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. Nan Hodgson waives her right to request a hearing in this matter and an opportunity to be heard pursuant to Chapter 119 of the Ohio Revised Code, and specifically waives any right to an appeal.

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

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

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

R-2017-335

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

**IN THE MATTER OF:
CASE NO. 2011-1524**

Richard Brunst
5694 Bridgetown Road, Unit 14
Cincinnati, Ohio 45248
License No. 03-3-18429

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY
TOLLING PROBATION TERMS**

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (OSBP) and Richard Brunst, for the purpose of addressing the tolling of Richard Brunst's probationary period. Together, OSBP and Richard Brunst are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to a Reinstatement Order dated January 9, 2015, Richard Brunst is serving a five-year probationary period of his pharmacist license number 03-3-18429.

FACTS

1. On or about March 21, 2017, Richard Brunst notified Executive Director of PRO, Inc., Jarrod Grossman, of an urgent medical situation involving an accident, severe injury requiring surgery, and lengthy recovery period. Mr. Grossman notified the Board due to Richard Brunst's medical situation, he would not be able to comply with all terms of the Board's January 9, 2015 Reinstatement Order, including:

- a. Random, observed urine drug screens at least once each month for the first year and at least once every three months for the remaining four years;
- b. A minimum of three separate days per calendar week attendance at a support group meeting such as Alcoholics Anonymous or Narcotics Anonymous.

The parties desire to resolve the issues relating to the above-referenced medical situation and probationary non-compliance 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. Richard Brunst agrees and acknowledges that the five-year probationary term will be tolled for the duration of his noncompliance due to his medical situation. The tolling of the probationary condition will run from March 21, 2017 through the end of Richard Brunst's recovery period, at which time all terms of the Reinstatement Order shall be complied with, including but not limited to, random drug screens and attendance at support group meetings.
3. Richard Brunst agrees to keep the OSBP notified of his recovery progress by providing a status update no later than July 21, 2017 and September 21, 2017.
4. Richard Brunst agrees to notify the Board of any changes in address.
5. Upon resuming his probationary terms, the tolling period will cease and the Board will issue a letter of confirmation of the new end-date of Richard Brunst's probationary status.
6. Richard Brunst understands that he has the right to be represented by counsel for review and execution of this agreement.
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.

R-2017-336

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

**IN THE MATTER OF:
CASE NO. 2016-1037**

**Physicians Care Center, Inc.
c/o Dr. Richard Mason
872 Ohio Pike
Cincinnati, Ohio 45245
License No. 02-1665000**

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

*This Settlement Agreement (Agreement) amends and supersedes the Settlement Agreement dated August 9, 2017, and is entered into by the State of Ohio Board of Pharmacy (OSBP) and Physicians Care Center, Inc., for the purpose of resolving all issues between the parties relating to the OSBP investigation of Dr. Richard Mason abuse of alcohol and hydrocodone while practicing medicine. Together, OSBP and Physicians Care Center, Inc. are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the 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. Physicians Care Center, Inc. is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1665000.

FACTS

1. On or about January 20, 2016, the OSBP initiated an investigation of Physicians Care Center, Inc., Terminal Distributor of Dangerous Drugs license number 02-1665000, related to Physicians Care Center, Inc.'s Responsible Person, Dr. Richard Mason's abuse of alcohol and hydrocodone while practicing medicine.
2. On or about January 25, 2016, the OSBP sent a Summary Suspension/Notice of Opportunity for Hearing to Physicians Care Center, Inc., which outlined the allegations and provided notice of its right to a hearing, its rights in such hearing, and its right to submit contentions in writing.

3. On or about February 19, 2016, Physicians Care Center, Inc. timely requested an administrative hearing, which was subsequently scheduled for August 10, 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. Physicians Care Center, Inc. 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. **Physicians Care Center, Inc.'s Terminal Distributor of Dangerous Drugs License No. 02-1665000 will remain under indefinite suspension.**
4. **Physicians Care Center, Inc. may not apply for reinstatement of its Terminal Distributor of Dangerous Drugs License until Dr. Richard Mason's Medical License is reinstated by the State Medical Board of Ohio.**
5. **Physicians Care Center, Inc. agrees to pay to the OSBP a total amount of \$10,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the OSBP, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126. The first installment of \$5,000 will be due to the OSBP no later than 14 days from the effective date of this Amended Agreement. The second installment of \$5,000 must be paid to the OSBP prior to submitting an application for reinstatement of Physicians Care Center, Inc.'s Terminal Distributor of Dangerous Drugs License.**
6. **The State of Ohio Board of Pharmacy imposes on Dr. Richard Mason the same terms and conditions of the Step 1 Consent Agreement required by the State Medical Board of Ohio dated February 10, 2016. Dr. Richard Mason agrees to notify the OSBP of any violations of his Step 1 Consent Agreement terms and conditions with the State Medical Board of Ohio, and by signing this settlement agreement provides authorization, consent, and release for the OSBP to receive any notice, report, and information required under the Step 1 Consent Agreement.**
7. **Dr. Richard Mason agrees never to apply for a position as a Responsible Person on any license with the OSBP.**
8. Physicians Care Center, Inc. and Dr. Richard Mason agree and acknowledge that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which they currently hold a professional license, including the OSBP on renewal applications or applications for a new license.

9. Physicians Care Center, Inc. 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 Physicians Care Center, Inc. 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 Physicians Care Center, Inc. by the OSBP and will NOT discharge Physicians Care Center, Inc. from any obligation under the terms of this Agreement.
 10. Physicians Care Center, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 11. Physicians Care Center, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.
 12. 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 Physicians Care Center, Inc. will operate.
 13. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 14. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 15. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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6:18 p.m. The Board recessed for the day.

Tuesday, May 2, 2017

9:03 a.m. The State of Ohio Board of Pharmacy convened in Room South B&C, 31st Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

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

Joshua M. Cox, RPh and Kilee S. Yarosh, RPh.; Absent.

Ms. Reed presented the Medical Marijuana Form and Method of Administration Rules update.

R-2017-337 Mr. Passafume moved that the Board approve the Medical Marijuana Form and Method Administration Rules for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5.

9:29 a.m. Mr. McNamee presented the Legislative update.

R-2017-338 Mr. Passafume moved that the Board adopt the following Resolution:

Resolution: Out-of-State MTM Services

The State of Ohio Board of Pharmacy hereby clarifies that facilities providing out-of-state medication therapy management (MTM) services are not required to obtain licensure as a terminal distributor of dangerous drugs. In addition, pharmacists providing MTM services out-of-state are not required to obtain Ohio licensure as a pharmacist.

The Board may require licensure at a future date when rules regarding telepharmacy are promulgated.

The motion was seconded by Ms. Marchal and approved by the Board: Aye-5.

R-2017-339 Mr. Wilt moved that the Board adopt the following Resolution:

Updated Resolution: Transfer of Naloxone by Law Enforcement

Pursuant to section 4729.25 of the Revised Code, the Board finds that it is in the public interest to permit the transfer or sale of naloxone (Narcan®) between law enforcement agencies.

In addition, the Board finds that it is in the public interest to permit the transfer or sale of naloxone from law enforcement agencies to local health departments and emergency medical service organizations licensed by the Board.

The motion was seconded by Mr. Passafume and approved by the Board: Aye-5.

9:52 a.m. Mr. McNamee presented a Rules packet for approval to file with CSI and JCARR.

R-2017-340 Mr. Passafume moved that the Board approve the Rules packet as amended for filing with CSI and JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5.

10:48 a.m. The Board recessed briefly.

11:00 a.m. Mr. McNamee presented a Rules packet for approval to file with JCARR.

R-2017-341 Mr. Passafume moved that the Board move Rule 4729-2-05 to 4729-6 and approve 4729-6 for filing with JCARR. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5.

R-2017-342 Mr. Passafume moved that the Board move Rule 4729:6 to 4729:1. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5.

- R-2017-343** Mr. Weaver moved that the Board approve Rule reorganization (4729:2 and 4729:1). The motion was seconded by Ms. Rudell and approved by the Board: Aye-5.
- R-2017-344** Ms. Marchal moved that the Board approve Rule 4729:2-2-06 for filing with JCARR. The motion was seconded by Mr. Passafume and approved by the Board: Aye-5.
- R-2017-345** Ms. Marchal moved that the Board approve Rule 4729:1-2-04 for filing with JCARR. The motion was seconded by Mr. Passafume and approved by the Board Aye-5.
- R-2017-346** Mr. Passafume moved that the Board move Rule 4729-29-01 to 4729:1-6 for filing with JCARR. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5.
- R-2017-347** Mr. Passafume moved that the Board approve the special event dates presented by Premier Health Miami Valley Hospital in order to store limited dangerous drugs at the Eldora Speedway. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5.
- 11:37 a.m.** Ms. Dehner and Ms. Galante led a discussion regarding college definitions.
- R-2017-348** Mr. Passafume moved to adopt the college definitions policy as presented.

School of Pharmacy Definitions

Enrolled

A student who is currently enrolled in an ACPE accredited school of pharmacy (school) and is actively working toward the Doctor of Pharmacy (Pharm.D.) degree completion. Enrolled students may be away from school for periods of time based on the academic model (such as summers), but in general, are progressing toward degree completion. An official transcript may be required to verify active enrollment in the school.

Withdrawal

A withdrawal may be requested by a student in good standing for an indefinite period and/or when a student has no intention of returning to the Pharm.D. program.

Discontinuation

A student who has an intern license may leave the school without notice, discontinuing progress toward the Pharm.D. degree.

Dismissal

A student who is dismissed for academic, ethical, professional disqualification, or any other reason that makes the student not eligible to apply for readmission.

Good Standing

Any student who, at the time of withdrawal or discontinuation request, is not subject to probation, dismissal, or discipline for academic, professional, or other disqualification.

Leave of Absence

A student may take a leave of absence (LOA) from the pharmacy degree program for any number of reasons, including financial, health, family, academic, and others. A LOA student is still

considered enrolled for purposes of an internship license. A student in LOA status may be allowed to maintain his/her internship license and may practice pharmacy as an intern during the planned LOA, so long as the extended leave is not greater than one year. In the event the LOA extends beyond one year, the school shall immediately notify the Board at which time the intern license will be subject to revocation unless, in exceptional circumstance, otherwise approved by the Board to be renewed.

In the event a school grants a LOA to a student who is unable to practice with reasonable skill, care, or competence, and/or may pose a threat of harm to him/herself or others, the school shall notify the Board within 10 business days. Students granted LOA under these circumstances will not be eligible to maintain an intern license and shall face appropriate Board action.

Notification of Dismissal, Withdrawal, Discontinuation, or Leave of Absence

Any student of the school who has withdrawn, discontinued, been dismissed, or is on a leave of absence shall be reported to the Board by the school of pharmacy within 10 business days of the event.

If an intern license is pending (has been applied for) or has been issued, the affected student shall notify the Board within 10 business days. Any student who has been granted an intern license must return the license to the Board.

Readmission

If the student withdraws, discontinues, or takes a leave of absence and is in good standing at the time of his/her departure and subsequently returns to enrollment status at a school of pharmacy within one year, a new application and fee will be required to obtain an intern license issued by the Board.

If the student withdraws, discontinues, or takes a leave of absence and is in good standing at the time of his/her departure and subsequently returns to enrollment status at a school of pharmacy beyond one year, a new application, fee, and background check will be required to obtain an intern license issued by the Board.

Once the requested documents are received, and all requirements of the revised code and administrative code are confirmed to have been met, the intern license will be reactivated upon approval of the Board's designee(s).

The motion was seconded by Mr. Wilt and approved by the Board: Aye-5.

R-2017-349

The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A)(1) requesting that **Dwight Mosley, MD** (35.092811) New Albany, Ohio, be the Responsible Person for the following pain management clinics:

Comprehensive Pain Specialists: Cincinnati, Ohio (02-2450750)
Comprehensive Pain Specialists: Columbus, Ohio (02-2450800)

After discussion, Mr. Passafume moved that the Board approve the request until July 30, 2017. The motion was seconded by Mr. Wilt and approved by the Board: Aye-5.

R-2017-350 The Board received a request for an approval to Ohio Administrative Code Rule 4729-5-11 (A)(1) requesting that **Jimmy Henry, MD** (35.096049) New Albany, Ohio, be the Responsible Person for the following pain management clinics:

Midwest Spine & Pain Consultants: Westerville, Ohio (02-2632950)

Midwest Spine & Pain Consultants: Gahanna, Ohio (02-2633000)

After discussion, Ms. Marchal moved that the Board deny the request. The motion was seconded by Mr. Weaver and approved by the Board: Aye-5.

11:48 a.m. **Paul Schad**, *State of Ohio Board of Pharmacy* and **Vince DiMaggio**, *Humana*, led a discussion regarding the Humana Linear Dispensing Unit.

R-2017-351 Mr. Passafume moved that the Board approve the request of Humana under the conditions of a 3% q/a sustainability, to include the innerpack labeling exemption as proposed by Humana, or until such time as the rule changes. The motion was seconded by Ms. Marchal and denied by the Board: Aye-2/Nay-3.

R-2017-352 Mr. Wilt moved that the Board approve the request of Humana under the conditions of a 3% q/a sustainability without innerpack labeling exemption as proposed by Humana. The motion was seconded by Mr. Passafume and approved by the Board: Aye-5.

12:06 p.m. Ms. Dehner and Mr. Griffin presented the Board's proposed EID Warning Letter Process.

12:14 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 Ghittman, *OARRS Pharmacist*, in Room South A, 31st Floor of the Vern Riffe Center for the Government and the Arts:

NICHOLAS PAUL BETTINGER	WISCONSIN
BARTON SCOTT BRETTNACHER	INDIANA
JOHNNY GARRETT BUTTS	MINNESOTA
HASAN ABBAS DOUEIK	MICHIGAN
HANNAH ELISE DUTTENHOEFFER	PENNSYLVANIA
ZHUANG SONG GU	CALIFORNIA
CHRISTOPHER L. HAMILTON	INDIANA
SAMANTHA MARIE HERT	FLORIDA
MELISSA MARIE HOOD	WEST VIRGINIA
DANIEL CHARLES KENDZIERSKI	INDIANA
TARA M. LIETTE	TENNESSEE
ASHLEY A. LOETHEN	ILLINOIS
DANIEL EVERETT LYNCH	INDIANA
CARL LOUKA MAKAR	PENNSYLVANIA
GREGORY S. MICOLI	NORTH CAROLINA
EMMA O'LEARY	PENNSYLVANIA
RUPA BHARAT PATEL	MINNESOTA

RUPA BHARAT PATEL	MINNESOTA
LAURA ELIZABETH RAMSDELL	KENTUCKY
JUSTIN PAUL REINERT	TENNESSEE
TAMAR MAURIA RICE STALVEY	TENNESSEE
MATTHEW ST. ONGE	MASSACHUSETTS
ANDREA MICHELLE STOLARSKI	CALIFORNIA
MICHAEL TOROSIAN	PENNSYLVANIA
MICHAEL LEROY WEST	INDIANA
BRYAN H. WILLIAMS	NEW YORK

1:48 p.m. The meeting reconvened in Room South B&C.

R-2017-353 Mr. Moné announced that the citation issued to **Alliance Allergy Solutions, LLC**, is hereby dismissed.

R-2017-354 Mr. Moné announced that the citation issued to **Julia Leszko, RPh** is hereby dismissed.

R-2017-355 Ms. Marchal moved that the meeting minutes of April 3-4, 2017, be approved as amended. The motion was seconded by Mr. Passafume and approved by the Board: Aye-5.

R-2017-356 Ms. Marchal moved that the conference call minutes of April 27, 2017, be approved as written. The motion was seconded by Mr. Wilt and approved by the Board: Aye-5.

1:55 p.m. Mr. Griffin presented a request for summary suspension. Due to lack of a motion by the Board, the license of the individual was not summarily suspended.

2:06 p.m. Ms. Marchal moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Ms. Rudell and a roll-call vote was conducted by President Moné as follows: Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; and Wilt-yes.

2:50 p.m. The meeting reconvened in Room South B&C.

R-2017-357 Mr. Passafume moved that the meeting be adjourned. The motion was seconded by Ms. Rudell and approved by the Board: Aye-5.

2:52 p.m. The meeting was adjourned.


Michael A. Moné, RPh, President

6/6/2017
Date


Steven W. Schierholt, Esq., Executive Director

6/12/17
Date