



MINUTES OF THE JUNE 5-7, 2017
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday, June 5, 2017

10:00 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*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; Shawn C. Wilt, RPh. and Kilee S. Yarosh, RPh.

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*.

Mr. Schierholt recognized Mr. Moné as being the recipient of NABP's *Honorary President's Award*.

Mr. Schierholt introduced the following recipients of the Board's 2017 Staff Awards:

Michael Clark, *Database Administrator*, recipient of the President's Award:

President's Award

Recognizes exceptional performance, leadership, and service. The recipient of this award will have a record of exemplary performance and distinctive contributions to the operation of the Board. He or she will have clearly demonstrated initiative toward the improvement of the Board and will have shown commitment to the Board community as a whole.

Susan King, *Administrative Assistant*, recipient of the Excellence in Customer Service Award:

Excellence in Customer Service Award

An employee who consistently enhances the level of customer/caller/licensee/guest satisfaction, is respectful, and exceeds expectations.

Jason Doty, *Compliance Agent*, recipient of the Investigator of the Year Award:

Investigator of the Year

The coworker who goes above and beyond in inspections and investigations; whose reports are consistently well written well documented and mistake free.



- 10:04 a.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 **Lisette Schuette**, Swanton, Ohio.
- 10:58 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. Yarosh and a roll-call vote was conducted by President Moné as follows: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.
- 11:04 a.m.** The recess ended and the hearing was opened to the public.
- R-2017-359** After votes were taken in public session, the Board adopted the following order in the matter of **Lisette Schuette**, Swanton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-1553)

In The Matter Of:

Lisette Schuette, R.Ph.
3450 County Road EF
Swanton, Ohio 43558
License No. 03-2-21578

INTRODUCTION

The Matter of Lisette Schuette came for hearing on June 5, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; Shawn C. Wilt, R.Ph. and Kilee S. Yarosh, R.Ph.

Lisette Schuette was represented by William Meyer. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

None

Respondent's Witnesses:

1. Lisette Schuette—Petitioner
2. Lisa Ramirez—PRO Advocate
3. Jarrod Grossman—Executive Director of PRO, Inc.

State's Exhibits:

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| 1. | Request for Reinstatement | 03-28-2017 |
| 2. | Notice of Hearing | 04-05-2017 |
| 3. | Order of the State of Ohio Board of Pharmacy | 07-09-2015 |
| 4. | Credential View Screen | 05-03-2017 |

Respondent's Exhibits:

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|----|---|------------|
| A. | Order of the State of Ohio Board of Pharmacy | 07-09-2015 |
| B. | PRO Contract | 07-15-2015 |
| C. | PRO Contract | 01-26-2015 |
| D. | Quarterly PRO Advocate Reports | Various |
| E. | Meeting Attendance | Various |
| F. | Urine Screens | Various |
| G. | CPE Activity | Various |
| H. | Lucas Co. Court of Common Pleas, Completion of Intervention in Lieu | 10-31-2016 |
| I. | Verification of Completion of Outpatient Treatment | 09-12-2016 |
| J. | Letters of Recommendation | Various |
| K. | Chemical Dependency Counselor Assistant Training Verification | 08-29-2016 |

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the Board finds that Lisette Schuette has substantially complied with the terms set forth in the Board Order of the State of Ohio Board of Pharmacy, Case No. 2014-1553, dated July 9, 2015.

DECISION OF THE BOARD

On the basis of the Finding of Fact set forth above, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 03-2-21578, held by Lisette Schuette to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

1. Lisette Schuette 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 Lisette Schuette to potential sanctions up to and including revocation of license. The contract must provide that:

- a. Random, observed urine drug screens shall be conducted at least once each month.
 - b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Lisette Schuette in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
2. The intervener/sponsor shall submit reports to the Board, in a format acceptable to the Board, indicating drug screens and their results in a timely fashion. Actual copies of drug screens shall be made available to the Board upon request.
 - a. Attendance is required a minimum of three times per calendar week (Sunday through Saturday) on separate days, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting.
 - b. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
 3. Lisette Schuette 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 Lisette Schuette reappear before the Board for possible additional sanctions, including and up to revocation of license.
 4. Lisette Schuette shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Lisette Schuette reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Lisette Schuette must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Lisette Schuette's progress towards recovery and what she has been doing during the previous three months.

6. Other terms of probation are as follows:
 - a. Lisette Schuette must meet at least annually with the Board's Probation Committee, Board staff will send correspondence regarding the first meeting date.
 - b. The State of Ohio Board of Pharmacy hereby declares that Lisette Schuette pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - c. Lisette Schuette may not serve as a responsible pharmacist.
 - d. Lisette Schuette may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Lisette Schuette may not work in a pharmacy more than 40 hours per week or 80 hours over a two-week period.
 - f. Lisette Schuette must, during the first six months of practice, work only with a pharmacist whose license is in good standing.
 - g. Lisette Schuette must not violate the drug laws of Ohio, any other state, or the federal government.
 - h. Lisette Schuette must abide by the rules of the State of Ohio Board of Pharmacy.
 - i. Lisette Schuette must comply with the terms of this Order.
 - j. Lisette Schuette license is deemed not in good standing until successful completion of the probationary period.
7. Lisette Schuette must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Lisette Schuette to possible additional sanctions, including and up to revocation of license.
8. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Lisette Schuette license.

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

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

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

SO ORDERED.

11:08 a.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 **Katherine Schaefer**, Dayton, Ohio.

12:56 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: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.

1:04 p.m. The recess ended and the hearing was opened to the public.

R-2017-360 After votes were taken in public session, the Board adopted the following order in the matter of **Katherine Schaefer**, Dayton, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-2210)

In The Matter Of:

Katherine Schaefer, R.Ph.

4503 Penhurst Place

Dayton, Ohio 45424

License No. 03-3-34380

INTRODUCTION

The Matter of Katherine Schaefer came for hearing on June 5, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; Shawn C. Wilt, R.Ph. and Kilee S. Yarosh, R.Ph.

Katherine Schaefer was represented by Daniel Zinsmaster. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCEState's Witnesses:

1. Katherine Schaefer—Respondent
2. Kelly Monce—State of Ohio Board of Pharmacy

Respondent's Witnesses:

1. Jarrod Grossman—Executive Director, PRO, Inc.
2. Katherine Schaefer—Respondent

State's Exhibits:

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| 1. | Summary Suspension/Notice of Opportunity for Hearing | 10-28-2016 |
| 2. | Request for Hearing | 11-18-2016 |
| 3. | Notice of Hearing | 11-18-2016 |
| 4. | Credential View Screen | 01-19-2017 |
| 5. | Notarized Statement of Katherine Schaefer | 10-26-2016 |
| 6. | Accountability Statement of Kroger #754 | 10-31-2016 |
| 7. | Perpetual Inventory Sheet of Kroger #754 | Various |
| 8. | Accountability State of Kroger #931 | 10-31-2016 |
| 9. | Indictment | 03-03-2017 |
| 10. | Request for Intervention In Lieu of Treatment | 03-21-2017 |
| 11. | Order granting Intervention In Lieu of Treatment | 04-28-2017 |

Respondent's Exhibits:

- | | | |
|----|--|------------|
| A. | Treatment Records | 12-21-2016 |
| B. | PRO Contract | 12-26-2016 |
| C. | Letters of Support | Various |
| D. | Notarized Statement of Katherine Schaefer | 10-26-2016 |
| E. | Letter of W. Andrew Highberger, MD, FASAM, DABAM | 02-01-2017 |
| F. | Treatment Plan | 03-03-2017 |
| G. | Continuing Care Participation Verification | 05-23-2017 |

FINDINGS OF FACT

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

1. Katherine Schaefer admitted to agents of the Board that during her employment as a pharmacist at Kroger Pharmacy in Dayton, Ohio she stole various amounts and strengths of controlled substances, to wit:
 - a. On or about October 21, 2016, Katherine Schaefer took, without consent, approximately 15 oxycodone 30mg tablets from Kroger Pharmacy #758, located at 7747 Old Troy Pike, Huber Heights, Ohio.
 - b. On or about October 24 through 25, 2016, Katherine Schaefer took, without consent, approximately 15 oxycodone 30mg tablets from Kroger Pharmacy #931, located at 2917 W. Alex-Bell Rd., Dayton, Ohio.

- c. On or about October 25 through 26, 2016, Katherine Schaefer took, without consent, and consumed while on duty approximately 5 oxycodone 20 mg tablets from Kroger Pharmacy #931, located at 2917 W. Alex-Bell Rd., Dayton, Ohio.
2. Katherine Schaefer indicated to agents of the Board that she has been using controlled substances such as oxycodone and hydrocodone illegally since she was a student in pharmacy school and that she began, without consent, taking varying strengths of hydrocodone/APAP and oxycodone/APAP from Kroger from approximately April of 2016 through October of 2016.
 - a. Katherine Schaefer admitted to having stolen approximately 100-150 tablets from Kroger Pharmacy #931 during her employment at that location.
 - b. Katherine Schaefer admitted to having stolen approximately 300 tablets from Kroger Pharmacy #754 during her employment at that location.
3. Katherine Schaefer also indicated to agents of the Board that she has been using controlled substances while on duty as a pharmacist for Kroger, in amounts of approximately three to ten pills at a time.

CONCLUSIONS OF LAW

1. Such conduct as set forth in paragraphs 1(a) through 1(c) and paragraphs 2(a) through 2(b) of the Findings of Fact each constitutes a violation of 2925.11(A).
2. Such conduct as set forth in paragraphs 1(a) through 1(c) and paragraphs 2(a) through 2(b) 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 or gross immorality, 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. 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 3, 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, 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 Katherine Schaefer on October 28, 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. 03-3-34380, held by Katherine Schaefer and such suspension is effective as of the date of the mailing of this Order.

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

Further, after 18 months from the effective date of this Order, the Board will consider any petition filed by Katherine Schaefer 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. Katherine Schaefer must maintain a current address with the Board throughout the duration of the suspension.
2. Katherine Schaefer must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Order, with an 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 Katherine Schaefer to potential sanctions up to and including revocation of license. The contract must provide that:
 - a. Random, observed urine drug screens shall be conducted at least once each month.

- b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
 - c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
 - d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
 - e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Katherine Schaefer in a timeframe consistent with the drug lab's recommended policy, but in any event no later than 12 days after the negative diluted screen.
 - 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.
3. Katherine Schaefer shall not refuse an employer provided drug or alcohol screen. If the Board becomes aware of any positive drug or alcohol screen results that were obtained in the course of employment or any mechanism other than via the signed contract with ODMHAS, the Board shall treat these results as a violation of the Board's Order and request Katherine Schaefer reappear before the Board for possible additional sanctions, including and up to revocation of license.
 4. Katherine Schaefer 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 Katherine Schaefer reappear before the Board for possible additional sanctions, including and up to revocation of license.
 5. Katherine Schaefer 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 Katherine Schaefer to possible additional sanctions, including and up to revocation of license.
 6. Katherine Schaefer must demonstrate satisfactory proof to the Board that she/he is no longer addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render her unfit to practice pharmacy.
 7. Katherine Schaefer must provide, in the reinstatement petition, documentation of the following:

- a. Compliance with the contract required above (e.g.-proof of giving the sample within twelve hours of notification and copies of all drug and alcohol screen reports, meeting attendance records, treatment program reports, etc.);
 - b. Compliance with the continuing pharmacy education requirements set forth in Chapter 4729-7 of the Ohio Administrative Code as applicable and in effect on the date of petitioning the Board for reinstatement;
 - c. Compliance with the terms of this Order.
8. If reinstatement is not accomplished within **three years** of the effective date of this Order, Katherine Schaefer 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 Katherine Schaefer's employment is related to the practice of pharmacy, Katherine Schaefer must notify employer of the terms of Katherine Schaefer's 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 Katherine Schaefer's license.

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

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

SO ORDERED.

1:10 p.m. The Board recessed for lunch.

2:15 p.m. The meeting reconvened in Room South B&C.

Ms. Reed presented the Medical Marijuana Control Program rules update for JCARR filing.

R-2017-361 Mr. Passafume moved that the Medical Marijuana Control Program rules be approved for filing with JCARR. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6.

2:51 p.m. Ms. Marchal provided the PAPC meeting update.

Ms. Southard presented the Licensing update.

Mr. Griffin provided the Compliance & Enforcement report.

Mr. Garner provided the OARRS/IT report.

R-2017-362 Ms. Marchal moved to approve the following Multiple RP Requests:

- **Kilee Yarosh, RPh**
 - Steward Northside Medical Center, Inc.— 02-2734350
 - Steward Trumbull Memorial Hospital— 02-2734400

The motion was seconded by Ms. Rudell and approved by the Board: Aye-5/Abstain-1.

R-2017-363 Mr. Passafume moved that the Board approve the PBM rotation request of CVS Pharmacy. The motion was seconded by Ms. Marchal and approved by the Board: Aye-5/Abstain-1.

3:18 p.m. Ms. Dehner led a discussion regarding a proposed change to the College Definitions previously adopted in May, Resolution No. R-2017-348.

R-2017-364 Mr. Passafume moved that the Board adopt the following Resolution:

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 immediately notify the Board. 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 Ms. Marchal and approved by the Board: Aye-6.

- R-2017-365** Mr. Weaver moved that the Board adopt the Probation Committee's Temporary Order in the Matter of Ann Nichols, RPh, permanently suspending terms (C)(2) and (C)(3) for the duration of her probation term. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6.
- 3:25 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: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; Wilt-yes and Yarosh-yes.
- 5:05 p.m.** The meeting reconvened in Room South B&C.
- R-2017-366** Ms. Marchal moved to approve a 2.5% increase in compensation to the Executive Director, to be effective in the pay period beginning June 25, 2017, subject to approval by the Governor's Office. The motion was seconded by Mr. Weaver and approved by the Board: Aye-7.
- R-2017-367** Mr. Weaver moved to nominate Megan E. Marchal for President of the Board for fiscal year 2018. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.
- R-2017-368** Ms. Yarosh moved to nominate Fred M. Weaver for Vice President of the Board for fiscal year 2018. The motion was seconded by Mr. Wilt and approved by the Board: Aye-7.
- 5:10 p.m.** The Board recessed for the day.

Tuesday, June 6, 2017

- 9:00 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*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Megan E. Marchal, RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Shawn C. Wilt, RPh.
- Kilee S. Yarosh, RPh; Absent.
- R-2017-369** Mr. Moné announced that the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. 2016-1493**

Anthony Dimattio
935 Bayberry Street, NW
Massillon, OH 44646
License No. 03-1-12327

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Anthony Dimattio, for the purpose of resolving all issues between the parties relating to the Board investigation of the error in dispensing of prescription number RX#645222. Together, the Board and Anthony Dimattio are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Anthony Dimattio is an Ohio-licensed pharmacist under license number 03-1-12327.

FACTS

1. On or about May 3, 2016, the Board initiated an investigation of Anthony Dimattio, pharmacist license number 03-1-12327, related to Anthony Dimattio’s error in dispensing of prescription number RX#645222.
2. On or about May 10, 2017, the Board sent a Notice of Opportunity for Hearing to Anthony Dimattio, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Anthony Dimattio neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 10, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio’s pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Anthony Dimattio agrees to pay to the Board a monetary penalty in 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 Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Anthony Dimattio must obtain, within 90 days from the effective date of this Agreement, six hours of approved continuing pharmacy education (0.6 CEUs) in medication errors 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. Anthony Dimattio agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

6. Anthony Dimattio understands that he has the right to be represented by counsel for review and execution of this agreement.

7. Anthony Dimattio agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.

8. Anthony Dimattio waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and 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-2017-370

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

**IN THE MATTER OF:
CASE NO. 2016-2254**

Joseph Merrill
32 Park Street
Canal Winchester, OH 43110
License No. 03-2-30581

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Joseph Merrill, for the purpose of resolving all issues between the parties relating to the Board investigation of Joseph Merrill's unprofessional conduct in the practice of pharmacy. Together, the Board and Joseph Merrill are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued

pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.

2. Joseph Merrill is an Ohio-licensed pharmacist under license number 03-2-30581.

FACTS

1. On or about November 2, 2016, the Board initiated an investigation of Joseph Merrill, pharmacist license number 03-2-30581, related to Joseph Merrill exposing his buttocks to a pharmacy employee while on duty.
2. On or about May 9, 2017, the Board sent a Notice of Opportunity for Hearing to Joseph Merrill, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Joseph Merrill neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 9, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Joseph Merrill agrees to pay to the Board a monetary penalty in the amount of \$1,000.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Joseph Merrill shall obtain a mental and physical health assessment that includes an evaluation of his fitness to practice pharmacy and he will immediately release the results of the assessment to the State of Ohio Board of Pharmacy. The assessment must be provided to the Board within 60 days after the effective date of this Settlement Agreement.
5. Joseph Merrill must enter into and adhere to the terms of a **new** contract, signed within thirty days after the effective date of this Settlement Agreement, 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 Settlement Agreement and subject Joseph Merrill to potential sanctions up to and including revocation of license. The contract must provide that:

- a. Random, observed urine drug screens shall be conducted at least once each month.
- b. The urine sample must be given within twelve hours of notification. The urine drug screen must include testing for creatinine or specific gravity of the sample as the dilutional standard.
- c. Alcohol and Ethyl Glucuronide (ETG) must be added to the standard urine drug screen.
- d. Results of all drug screens must be negative. Refusal of a drug screen or a diluted drug screen is equivalent to a positive result. Any positive results, including those which may have resulted from ingestion of food, but excluding false positives which resulted from medication legitimately prescribed, indicates a violation of the contract.
- e. In the event of a negative diluted screen, a hair sample test must be completed at the cost of the Joseph Merrill 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.
6. 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.
7. 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.
8. The program shall immediately report to the Board any violations of the contract and/or lack of cooperation.
9. Joseph Merrill 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 Settlement Agreement and request Joseph Merrill reappear before the Board for possible additional sanctions, including and up to revocation of license.
10. Joseph Merrill shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Settlement Agreement and request Joseph Merrill reappear before the Board for possible additional sanctions, including and up to revocation of license.
11. Joseph Merrill must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:

- a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Joseph Merrill's progress towards recovery and what Joseph Merrill has been doing during the previous three months.
12. Other terms of probation are as follows:
- a. Joseph Merrill must meet a minimum of biannually with the Board's Probation Committee, unless otherwise determined by the Probation Committee. The first meeting to be held Wednesday, August 9, 2017, the Board will provide a scheduling notice, confirming the date and time of appearance and will alert Joseph Merrill to any scheduling changes due to Board business.
 - b. The State of Ohio Board of Pharmacy hereby declares that Joseph Merrill's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
 - c. Joseph Merrill may not serve as a responsible pharmacist.
 - d. Joseph Merrill may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Joseph Merrill may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.
 - f. Joseph Merrill must not violate the drug laws of Ohio, any other state, or the federal government.
 - g. Joseph Merrill must abide by the rules of the State of Ohio Board of Pharmacy.
 - h. Joseph Merrill must comply with the terms of this Settlement Agreement.
 - i. Joseph Merrill's license is deemed not in good standing until successful completion of the probationary period.
13. Joseph Merrill must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Settlement Agreement and will subject Joseph Merrill to possible additional sanctions, including and up to revocation of license.
14. Any violation of probation or this Settlement Agreement may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Joseph Merrill's license.
15. Joseph Merrill agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

16. Joseph Merrill understands that he has the right to be represented by counsel for review and execution of this agreement.
 17. Joseph Merrill agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the Board on renewal applications or applications for a new license.
 18. Joseph Merrill waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
 19. 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.
 20. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 21. 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-2017-371

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

**IN THE MATTER OF:
CASE NO. 2016-1073**

Tim Miller
660 E. Russell Avenue
West Lafayette, OH 43845
License No. 03-3-11708

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Tim Miller, for the purpose of resolving all issues between the parties relating to the Board investigation of the theft of Levitra, Cialis, and Viagra while employed as a pharmacist at Rite Aid Pharmacy #4247. Together, the Board and Tim Miller are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
2. Tim Miller is an Ohio-licensed pharmacist under license number 03-3-11708.

FACTS

1. On or about January 26, 2016, the Board initiated an investigation of Tim Miller, pharmacist license number 03-3-11708, related to Tim Miller's theft of Levitra, Cialis, and Viagra while employed as a pharmacist at Rite Aid Pharmacy #4247. During the course of the investigation you admitted to stealing one tablet every two or three weeks of these drugs for approximately three to four months. You accessed pharmacy records to alter the on-hand count recorded within the computer system.
2. On or about April 26, 2017, the Board sent a Notice of Opportunity for Hearing to Tim Miller, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Tim Miller neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 26, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same. Further, the Board finds Violations of Law as set forth in one, three, four, and five of the Notice; the Board hereby dismisses Violations of Law two of the notice letter dated April 26, 2017.
3. **TIM MILLER PERMANENTLY AND VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, LICENSE NO. 03-3-11708, WITH DISCIPLINE PENDING.**
4. **Tim Miller agrees to immediately return his license and wall certificate to the Board, if the Board is not already in possession of both.**
5. **Tim Miller may never reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., or 4729. of the Revised Code.**
6. Tim Miller agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
7. Tim Miller understands that he has the right to be represented by counsel for review and execution of this agreement.

8. Tim Miller agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license.
 9. Tim Miller waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.
 10. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 11. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 12. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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R-2017-372

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

**IN THE MATTER OF:
CASE NO. 2016-1436**

Michael C. Loar, M.D.
5110 Blazer Parkway
Dublin, Ohio 43017

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Michael C. Loar, M.D., for the purpose of resolving all issues between the parties relating to the Board investigation of unlawful access of the OARRS database. Together, the Board and Michael C. Loar, M.D. are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.86 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to restrict a person from obtaining further information from the drug database known as the Ohio Automated Rx Reporting System (OARRS).
2. Michael C. Loar, M.D. signed the OARRS user agreement on April 25, 2014 and is an authorized user of the OARRS database.

FACTS

1. On or about April 13, 2016, the Board initiated an investigation of Michael C. Loar, M.D.’s unlawful access of the OARRS database.

2. On or about December 1, 2016, the Board sent a Notice of Opportunity for Hearing to Michael C. Loar, M.D., which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

3. On or about December 7, 2016, Michael C. Loar, M.D. timely requested an administrative hearing, which was subsequently scheduled for February 6, 2017, and continued to 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. Michael C. Loar, M.D. neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated December 1, 2016; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Michael C. Loar, M.D. shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics and/or proper use of OARRS, for a total of six (6) hours. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed. Copies of completed continuing education courses must be e-mailed to legal@pharmacy.ohio.gov within 90 days of completion.

4. The Board continues to authorize Michael C. Loar, M.D.'s access to OARRS to prescribe medication for his approximately 2,500 pediatric patients currently under treatment.

5. Michael C. Loar, M.D. agrees to refrain from the unlawful use of the OARRS database.

6. Michael C. Loar, M.D. agrees to submit monthly compliance reports for a minimum of twelve months regarding his proper use of the OARRS database for the Board's review. Reports must be e-mailed to legal@pharmacy.ohio.gov.

7. Michael C. Loar, M.D. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.

8. Michael C. Loar, M.D. understands that he has the right to be represented by counsel for review and execution of this agreement.

9. Michael C. Loar, M.D. waives an opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to an appeal.

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

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

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

R-2017-373

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

**IN THE MATTER OF:
CASE No. 2017-1058**

Huber Heights Fire Department
c/o Christopher McIntosh, D.O.
7008 Brandt Pike
Huber Heights, Ohio 45424
License No. 02-0322553

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Huber Heights Fire Department, for the purpose of resolving all issues between the parties relating to the Board investigation of Huber Heights Fire Department operating without a terminal distributor of dangerous drugs license for approximately 59 days. Together, the Board and Huber Heights Fire Department are referred to hereinafter as “the parties.”

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Huber Heights Fire Department is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0322553.

FACTS

1. On or about January 17, 2017, the Board initiated an investigation of Huber Heights Fire Department, Terminal Distributor of Dangerous Drugs license number 02-0322553, related to Huber Heights Fire Department operating without a terminal distributor of dangerous drugs license for approximately 59 days.
2. On or about April 24, 2017, the Board sent a Notice of Opportunity for Hearing to Huber Heights Fire Department, 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. Huber Heights Fire Department neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated April 24, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. The Board hereby issues a public reprimand to Huber Heights Fire Department.
4. Huber Heights Fire Department agrees to pay to the Board a monetary penalty 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 Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126. **The Board suspends indefinitely payment of the monetary penalty, conditioned up timely and accurate renewal applications being submitted by Huber Heights Fire Department.**
5. Huber Heights Fire Department agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.
6. Huber Heights Fire Department 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 Huber Heights Fire Department 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 Huber Heights Fire Department by the Board and will NOT discharge Huber Heights Fire Department from any obligation under the terms of this Agreement.
7. Huber Heights Fire Department agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
8. Huber Heights Fire Department 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 Huber Heights Fire Department will operate.
10. Huber Heights Fire Department waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and waives any right to appeal.
11. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
13. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement. _____

R-2017-374

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

**IN THE MATTER OF:
CASE NO. 2016-1575**

Jay Culler, RPh
1291 Crestview Avenue SW
New Philadelphia, OH 44663
License No. 03-3-20329

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 Jay Culler, for the purpose of resolving all issues between the parties relating to the OSBP investigation of the falsification of prescription number 6460551. Together, OSBP and Jay Culler 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. Jay Culler is a licensed pharmacist under license number 03-3-20329.

FACTS

1. On or about May 29, 2016, the OSBP initiated an investigation of Jay Culler, pharmacist license number 03-3-20329, related to Jay Culler’s falsification of prescription number 6460551.

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

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Jay Culler 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. Jay Culler agrees to pay to the OSBP the amount of \$1,000.00, 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. Jay Culler may not fill prescriptions for self or family members for a period of two years from the effective date of this agreement.
5. Jay Culler agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Jay Culler understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Jay Culler agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
8. Jay Culler waives his 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-2017-375

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

**IN THE MATTER OF:
CASE NO. 2016-2076**

Kirk Betteridge, RPh
5726 Rosecliff Drive
Hilliard, Ohio 43026
License No. 03-1-19028

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 Kirk Betteridge, for the purpose of resolving all issues between the parties relating to the OSBP investigation of Kirk Betteridge's failure to provide compliance with all state and federal laws, regulations, and rules as the Responsible Person in the matter of Crosby's Drug. Together, OSBP and Kirk Betteridge 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. Kirk Betteridge is a licensed pharmacist under license number 03-1-19028.

FACTS

1. On or about September 14, 2016, the OSBP initiated an investigation of Kirk Betteridge, pharmacist license number 03-1-19028, related to Kirk Betteridge's failure to provide compliance with all state and federal laws, regulations, and rules as the Responsible Person in the matter of Crosby's Drug.
2. On or about March 31, 2017, the OSBP sent a Notice of Opportunity for Hearing to Kirk Betteridge, which outlined the allegations and provided notice of his right to a hearing, his rights in such hearing, and his right to submit contentions in writing.

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

TERMS

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

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Kirk Betteridge neither admits nor denies the allegations stated in the Notice of Opportunity for hearing letter dated March 31, 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. Kirk Betteridge agrees to pay to the OSBP the amount of \$1,000.00, 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. Kirk Betteridge must complete a 6 hour law program on Responsible Person responsibilities within 90 days of the effective date of this agreement. Evidence of completion must be submitted to legal@pharmacy.gov no later than the 91st day.
5. Kirk Betteridge agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
6. Kirk Betteridge understands that he has the right to be represented by counsel for review and execution of this agreement.
7. Kirk Betteridge agrees and acknowledges that this OSBP disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which he currently holds a professional license, including to the OSBP on renewal applications or applications for a new license.
8. Kirk Betteridge waives his 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. _____

9:03 a.m.

Mr. Moné administered the Oath of Office to the President-elect, Megan E. Marchal.

Oath of President

I, Megan Marchal, as President of the state of Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

Mr. Moné administered the Oath of Office to the Vice President-elect, Fred M. Weaver.

Oath of Vice President

I, Fred Weaver, as Vice President of the state of Ohio Board of Pharmacy do solemnly swear to uphold the Constitution of the United States and the state of Ohio; to impartially enforce the laws governing the profession of pharmacy and the legal distribution of drugs in the state of Ohio; and carry out the responsibilities of the Board as mandated by the laws of the state of Ohio without bias or prejudice, so help me God.

- R-2017-376** Ms. Marchal moved that the Probation Committee Meeting Minutes of May 3, 2017, be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6.
- R-2017-377** Ms. Marchal moved that the Conference Call Minutes of May 24, 2017, be approved as written. The motion was seconded by Ms. Rudell and approved by the Board: Aye-6.
- R-2017-378** Ms. Marchal moved that the May 1-2, 2017 Meeting Minutes be approved as amended. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6.
- 9:06 a.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 **Jordan Breitigam**, Wayne, Ohio.
- 10:05 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: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; and Wilt-yes.
- 10:27 a.m.** The recess ended and the hearing was opened to the public.
- R-2017-379** After votes were taken in public session, the Board adopted the following order in the matter of **Jordan Breitigam**, Wayne, Ohio.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-1368)

In The Matter Of:

Jordan Breitigam, R.Ph.

6175 Greensburg Pike

Wayne, Ohio 43466

Intern No. 06-011130**INTRODUCTION**

The Matter of Jordan Breitigam came for hearing on June 6, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph.; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; and Shawn C. Wilt, R.Ph.

Kilee S. Yarosh, R.Ph.; Absent.

Jordan Breitigam was not represented by Counsel. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCE**State's Witnesses:**

None

Respondent's Witnesses:

1. Jordan Breitigam—Petitioner
2. Jarrod Grossman—Executive Director, PRO, Inc.

State's Exhibits:

- | | | |
|----|--|------------|
| 1. | Notice of Hearing | 01-20-2017 |
| 2. | Request for Hearing | 01-06-2017 |
| 3. | Order of the State of Ohio Board of Pharmacy | 10-06-2016 |
| 4. | Summary Suspension/Notice of Opportunity for Hearing | 03-24-2016 |
| 5. | Credential View Screen | No Date |

Respondent's Exhibits:

- | | | |
|----|--|------------|
| A. | Court Documents | 05-22-2017 |
| B. | Treatment Completion | 12-17-2015 |
| C. | Dean's Letter | 05-18-2017 |
| D. | Letter of Jarrod Grossman | 05-15-2017 |
| E. | Psych Evaluation and Zepf Counselor's Letter | 04-04-2017 |
| F. | Previous Character References | Various |
| G. | New Character References | Various |
| H. | PRO Contract | 10-28-2016 |
| I. | Urine Screens | Various |
| J. | Meeting Attendance | Various |

DECISION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State of Ohio Board of Pharmacy hereby removes the Summary Suspension Order issued to Jordan Breitigam on March 24, 2016.

After consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card, No. 06-011130, held by Jordan Breitigam to practice pharmacy in Ohio subject to a period of probation for five years beginning on the effective date of this Order, with the following conditions:

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

3. Jordan Breitigam 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 Jordan Breitigam reappear before the Board for possible additional sanctions, including and up to revocation of license.
4. Jordan Breitigam shall not refuse a breathalyzer or other drug testing requested by law enforcement during the duration of probation. The Board shall treat any such refusal as a violation of the Board's Order and request Jordan Breitigam reappear before the Board for possible additional sanctions, including and up to revocation of license.
5. Jordan Breitigam must submit quarterly progress reports to the Board (due January 10, April 10, July 10, and October 10 of each year of probation) that include:
 - a. The written report and documentation provided by the treatment program pursuant to the contract, and
 - b. A written description of Jordan Breitigam's progress towards recovery and what Jordan Breitigam has been doing during the previous three months.
6. Jordan Breitigam must obtain an additional local AA or NA sponsor within 30 days of the date of this Order.
7. Other terms of probation are as follows:
 - a. Jordan Breitigam must meet biannually with the Board's Probation Committee, notice of appearance dates will be sent by Board staff.
 - b. Jordan Breitigam must biannually obtain a mental health assessment, to be completed within 30 days of each appearance before the probation committee. The mental health assessment must include an evaluation of Jordan Breitigam's fitness to practice pharmacy and he must immediately release the results of the assessment to the State of Ohio Board of Pharmacy.
 - c. The State of Ohio Board of Pharmacy hereby declares that Jordan Breitigam's intern identification card is not in good standing.
 - d. Jordan Breitigam may not destroy, assist in, or witness the destruction of controlled substances.
 - e. Jordan Breitigam may not work in a pharmacy more than 40 hours per week or 80 hours over a two week period.
 - f. Jordan Breitigam must not violate the drug laws of Ohio, any other state, or the federal government.
 - g. Jordan Breitigam must abide by the rules of the State of Ohio Board of Pharmacy.

- h. Jordan Breitigam must comply with the terms of this Order.
- i. Jordan Breitigam's license is deemed not in good standing until successful completion of the probationary period.
8. Jordan Breitigam must immediately report any violation of the terms of this probation to the Board by contacting legal@pharmacy.ohio.gov. Failure to self-report any violation shall be treated as a violation of this Board's Order and will subject Jordan Breitigam to possible additional sanctions, including and up to revocation of license.
9. Any violation of probation or this Board's Order may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code, including and up to revocation of Jordan Breitigam's license.
- 10. Upon successful completion of the NAPLEX and MPJE, Jordan Breitigam must appear before the full Board prior to issuance of his pharmacist license.**

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

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

SO ORDERED.

- 10:32 a.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 **A to Z Pharmacy**, New Port Richey, Florida.
- 10:40 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. Cox and a roll-call vote was conducted by President Moné as follows: Cox-yes; Marchal-yes; Passafume-yes; Rudell-yes; Weaver-yes; and Wilt-yes.
- 10:46 a.m.** The recess ended and the hearing was opened to the public.
- R-2017-380** After votes were taken in public session, the Board adopted the following order in the matter of **A to Z Pharmacy**, New Port Richey, Florida.

ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2014-1323)

In The Matter Of:

A to Z Pharmacy
9039 Little Road
New Port Richey, Florida 34564
License No. 02-2356300

INTRODUCTION

The Matter of A to Z Pharmacy came for consideration on June 6, 2017, before the following members of the State of Ohio Board of Pharmacy (Board): Michael A. Moné, R.Ph., *Presiding*; Joshua M. Cox, R.Ph.; Megan E. Marchal, R.Ph.; Curtis L. Passafume, Jr., R.Ph.; Jennifer M. Rudell, R.Ph.; Fred M. Weaver, R.Ph.; and Shawn C. Wilt, R.Ph.

Kilee S. Yarosh, R.Ph.; Absent.

A to Z Pharmacy was not present nor represented by Counsel. The State of Ohio was represented by Steven Kochheiser, Assistant Attorney General.

SUMMARY OF EVIDENCE**State's Witness:**

1. Thomas Pyles—State of Ohio Board of Pharmacy

Respondent's Witnesses:

None

State's Exhibits:

- | | | |
|----|---|------------|
| 1. | Notice of Opportunity for Hearing | 12-08-2016 |
| 2. | Credential View Screen | 04-11-2017 |
| 3. | Notice Attachment A-Record of Dangerous Drugs Shipped to Ohio | 05-09-2014 |
| 4. | Complaint | 03-10-2014 |

Respondent's Exhibits:

None

FINDINGS OF FACT

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

1. On or about March 10, 2014, the Board received a complaint that A to Z Pharmacy sold compounded medications to Ohio residents without a Terminal Distributor of Dangerous Drugs License.

2. During the investigation, a Compliance Specialist obtained records that revealed A to Z Pharmacy filled prescriptions and shipped dangerous drugs to approximately 495 patients located in Ohio from January 1, 2013 through May 31, 2014, as set forth in the December 8, 2016, Notice of Opportunity for Hearing Attachment A.

CONCLUSIONS OF LAW

1. Such conduct constitutes a violation of Section 4729.51(C)(1) of the ORC, selling, distributing, or delivering dangerous drugs.
2. Such conduct constitutes a violation of Section 4729.551 of the ORC.
3. Such conduct constitutes a violation of each of the following divisions of Sections 4729.57 of the ORC:
 - a. Violating any rule of the board, ORC 4729.57(A)(2); and
 - b. Violating any provision of this chapter, ORC 4729.57(A)(3).
4. Such conduct constitutes a violation of Rule 4729-10-02 of the Ohio Administrative Code (OAC), each nonresident terminal distributor of dangerous drugs that sells dangerous drugs at retail in the state of Ohio shall obtain a terminal distributor of dangerous drugs license pursuant to sections 4729.54 and 4729.55 of the Revised Code.
5. Such conduct constitutes a violation of the following Sections of Rule 4729-9-19 of the OAC:
 - a. Commission of an act that constitutes a felony, regardless of the jurisdiction in which the act was committed, OAC Rule 4729-9-19(A)(2); and
 - b. Not of good moral character and habits, OAC Rule 4729-9-19(A)(4).

DECISION OF THE BOARD

1. Pursuant to Section 4729.57 of the Ohio Revised Code, Rule 4729-9-19 of the Ohio Administrative Code, and after consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby denies the Application for Registration as a Terminal Distributor of Dangerous Drugs submitted by A to Z Pharmacy on or about September 3, 2013.

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

2. Pursuant to Section 4729.57 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$49,500.00, 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 Order.

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

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

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

SO ORDERED.

10:49 a.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:

SHAWN EVAN ANDRUS	OKLAHOMA
LINDSAY ALBEA BANNISTER	NORTH CAROLINA
ELIZABETH ANN CAFALONE	MARYLAND
MARK RICHARD CHRISTENSEN	MICHIGAN
ANN DAO	PENNSYLVANIA
SARAH A. DAYKIN	MICHIGAN
ISLAM ELKENANI	KENTUCKY
KATELYN GAIL GAINES	KENTUCKY
MATTHEW JOHN GNACINSKI	PENNSYLVANIA
MELISSA GULLICKSON-KROCHESKI	NEVADA
IVAN JIAYONG HUANG	WASHINGTON
JUSTIN ROBERT JONES	MINNESOTA
DAVID C. KELSEY	COLORADO
TIMOTHY ANDREW KLECK	PENNSYLVANIA
CASSIE LIN	MASSACHUSETTS
JEREMIAH ONG LU	MARYLAND
MARIANA LUCENA	NORTH CAROLINA
CHRISTY LYNN MARCOTTE	INDIANA
MICHELLE MARIE SCHMIDT	ILLINOIS
KENNETH COREY SIMMONS	NORTH CAROLINA
CHARLES G. SNYDER	MARYLAND
JENNIFER NICOLE SNYDER	MARYLAND
CHRISTOPHER WILLIAM SPITZER	MASSACHUSETTS
KYLE G. STRNAD	PENNSYLVANIA
STACEY MICHELLE THACKER	MISSOURI
DIANNA MICHELE TORRES	PENNSYLVANIA
SCOTT HENRY VAN KOOTEN	ARIZONA
ERIN N. WAEHNER	TEXAS

OLYA THEODORA WITKOWSKY

ILLINOIS

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

Mr. McNamee presented the Legislative update.

R-2017-381 Mr. Passafume moved that the Board adopt the following Resolution:

Extension of Office-Based Opioid Treatment Facility License

The Board hereby extends the effective date for licensure, as required in section 4729.553 of the Revised Code, to October 31, 2017. The extension of the licensure deadline will allow the Board additional time to review and process license applications.

The Board recognizes that those providing office-based opioid treatment (including prescribers, nurses and counselors) may have a history of substance-use disorder. Such a history does not automatically preclude a provider from practicing/working at a facility or serving as the responsible person for the facility (i.e. physician) if that provider complies with the terms of the provider's applicable probation or consent agreement and can demonstrate a pattern of sustained recovery.

Information documenting a provider's recovery should be submitted along with all copies of relevant documents (such as court pleadings or orders, or other agency orders/dispositions) with the facility application.

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

R-2017-382 Mr. Passafume moved that the Board adopt the following Resolution:

Dental Anesthesiologists—Rule 4729-9-05

Pursuant to proposed paragraph (F)(1) of rule 4729-9-05 of the Administrative Code, the Board hereby permits the following upon the final adoption of the rule:

All dangerous drugs temporarily removed from a licensed terminal distributor of dangerous drugs by a dental anesthesiologist to treat current or prospective patients shall be returned to the licensed terminal distributor of dangerous drugs no later than seventy-two hours.

The motion was seconded by Mr. Cox and approved by the Board: Aye-6.

R-2017-383 Mr. Passafume moved that the Board approve the rules packet presented for filing with JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6.

R-2017-384 Mr. Weaver moved that the Board approve rules 4729-17-06 and 4729-17-01 for filing with CSI & JCARR. The motion was seconded by Mr. Wilt and approved by the Board: Aye-6.

- R-2017-385** Mr. Passafume moved that the Board approve the prescriber compounding rules packet presented for filing with CSI & JCARR. The motion was seconded by and approved by the Board: Aye-6.
- R-2017-386** Mr. Passafume moved that the Board approve rule 4729-17-11 for filing with CSI & JCARR. On the effective date of the rule adoption, permission that has been previously granted to self-service employee prescription kiosks will now fall under rule 4729-17-11 as adopted. The motion was seconded by Mr. Cox and approved by the Board: Aye-6.
- R-2017-387** Mr. Weaver moved that the Board approve rule 4729-5-30 as amended for filing with JCARR. The motion was seconded by Mr. Cox and approved by the Board: Aye-6.
- R-2017-388** Mr. Passafume moved that the Board approve rules 4729-37-05, 4729-37-04 and 4729-5-40 as amended. The motion was seconded by Ms. Marchal and approved by the Board: Aye-6.
- 3:49 p.m.** The Board recessed for the day.

Wednesday, June 7, 2017

- 9:19 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:
- Megan E. Marchal, RPh, *Vice President*; Joshua M. Cox, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Fred M. Weaver, RPh; and Shawn C. Wilt, RPh.
- Michael A. Moné; Absent.
- Kilee S. Yarosh, RPh; Absent.
- 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 **Toxicology Associates**, Columbus, Ohio.
- 10:38 a.m.** The Board recessed briefly.
- 10:44 a.m.** The meeting reconvened in Room South B&C.
- 11:22 a.m.** The Board recessed for lunch.
- 1:09 p.m.** The meeting reconvened in Room South B&C.
- R-2017-389** Ms. Marchal announced that the following Settlement Agreement has been signed by all parties and is now effective:

**IN THE MATTER OF:
CASE NO. 2016-1519**

Toxicology Associates, Inc.
999 Bethel Road
Columbus, Ohio 43214
License No. 02-0076050

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Toxicology Associates, Inc., for the purpose of resolving all issues between the parties relating to the Board investigation of improper recording keeping and storage and handling of dangerous drugs and controlled substances. Together, the Board and Toxicology Associates, 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 Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code to practice pharmacy the state of Ohio.
2. Toxicology Associates, Inc. is a licensed Terminal Distributor of Dangerous Drugs under license number 02-0076050.

FACTS

1. On or about May 16, 2016, the Board initiated an investigation of Toxicology Associates, Inc., Terminal Distributor of Dangerous Drugs license number 02-0076050, related to the Board investigation of Toxicology Associates, Inc.’s improper recording keeping and storage and handling of dangerous drugs and controlled substances.
2. On or about November 29, 2016, the Board sent a Notice of Opportunity for Hearing to Toxicology Associates, 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 27, 2016, Toxicology Associates, Inc. timely requested an administrative hearing, which was subsequently scheduled for April 4, 2017 and resumed on June 7, 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. Toxicology Associates, Inc. neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated November 29, 2016; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. **TOXICOLOGY ASSOCIATES, INC. VOLUNTARILY SURRENDERS TO THE STATE OF OHIO BOARD OF PHARMACY LICENSE NO. 02-0076050 INCLUDING REGISTRATION TO SELL, DELIVER, OR DISTRIBUTE DANGEROUS DRUGS, WITH DISCIPLINE PENDING.**
4. Toxicology Associates, Inc. immediately surrenders to the Board all dangerous drugs and controlled substances currently in its possession that are not DEA-exempted standards. Benjamin Corpus and Toxicology Associates, Inc. agree that all drugs seized by the Board shall be destroyed by the Board; Toxicology Associates Inc. and Benjamin Corpus waive any and all rights and claims to the dangerous drugs seized and destroyed.
5. Toxicology Associates, Inc. agrees and acknowledges that no substance seized by the Board is required to be maintained by Toxicology Associates, Inc. as part of a pending court case or pursuant to a Court Order.
6. Toxicology Associates, Inc. may not reapply for any license issued by the State of Ohio Board of Pharmacy pursuant to Chapters 3719., 3796., or 4729. of the Revised Code for a minimum of 24 months from the date of this Agreement.
7. Should Toxicology Associates, Inc. reapply for a license after 24 months from the date of this Agreement, it must meet the following requirements as a minimum for application submission:
 - a. Benjamin Corpus is prohibited from ever being the Responsible Person for Toxicology Associates, Inc.
 - b. In order to apply for licensure, Toxicology Associates, Inc. must hire a Board-approved forensic lab expert as either its Responsible Person or in addition to its Responsible Person in order to be eligible for future licensure.
8. Toxicology Associates, Inc. agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction in which it currently holds a professional license.
9. Toxicology Associates, Inc. agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. Toxicology Associates, Inc. understands that it has the right to be represented by counsel for review and execution of this agreement.
11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Toxicology Associates, Inc. will operate.

12. Toxicology Associates, Inc. waives 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 and waives any right to an appeal.

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.

R-2017-390

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

**IN THE MATTER OF:
CASE No. 2017-1354**

Mercy Health-Primary Care Swanton
c/o Dr. Mark Cockley
1 Turtle Creek Circle, Suite F
Swanton, OH 43558
License No. 02-2406400

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Mercy Health-Primary Care Swanton, for the purpose of resolving all issues between the parties relating to the Board investigation of the negative answer to the legal question on their change of name application. Together, the Board and Mercy Health-Primary Care Swanton are referred to hereinafter as "the parties."

JURISDICTION

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Mercy Health-Primary Care Swanton is a licensed Terminal Distributor of Dangerous Drugs under license number 02-2406400.

FACTS

1. On or about March 6, 2017, the Board initiated an investigation of Mercy Health-Primary Care Swanton, Terminal Distributor of Dangerous Drugs license number 02-2406400, related to Mercy Health-Primary Care Swanton's negative answer to the legal question on their change of name application.

2. On or about May 23, 2017, the Board sent a Notice of Opportunity for Hearing to Mercy Health-Primary Care Swanton, 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. Mercy Health-Primary Care Swanton neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated May 23, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.

3. Mercy Health-Primary Care Swanton agrees to pay to the Board a monetary penalty in 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 Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.

4. Mercy Health-Primary Care Swanton's Terminal Distributor of Dangerous Drugs license has been activated, effective May 3, 2017.

5. Mercy Health-Primary Care Swanton must submit a corrected change of name application to the Board office no later than five business days of the effective date of this agreement. No additional application fee will be required.

6. Mercy Health-Primary Care Swanton agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which it currently holds a professional license, including the Board on renewal applications or applications for a new license.

7. Mercy Health-Primary Care Swanton 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 Mercy Health-Primary Care Swanton 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 Mercy Health-Primary Care Swanton by the Board and will NOT discharge Mercy Health-Primary Care Swanton from any obligation under the terms of this Agreement.

8. Mercy Health-Primary Care Swanton agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
 9. Mercy Health-Primary Care Swanton understands that it has the right to be represented by counsel for review and execution of this agreement.
 10. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Mercy Health-Primary Care Swanton will operate.
 11. Mercy Health-Primary Care Swanton waives its opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code and specifically withdraws its request for a hearing in this matter and waives any right to appeal.
 12. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
 13. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
 14. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
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R-2017-391

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

A Resolution for Kevin "Joe" Kinner

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

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

BE IT RESOLVED, that the State of Ohio Board of Pharmacy hereby commends Joe Kinner for more than 22 years of exemplary service and performance to the Board and to the people of Ohio in carrying out the responsibilities of his position, and

BE IT ALSO RESOLVED, that we, the members of the State of Ohio Board of Pharmacy, in its one hundred thirty-third year, so express our profound appreciation to Joe Kinner for his dedication and service to the Board and the citizens of Ohio, and

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

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

R-2017-392

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

1:13 p.m.

The meeting was adjourned.



Fred M. Weaver, RPh, President

7-12-17
Date



Steven W. Schierholt, Esq., Executive Director

7/18/17
Date