



MINUTES OF THE SEPTEMBER 10-11, 2018
MEETING OF THE STATE OF OHIO BOARD OF PHARMACY

Monday September 10, 2018

10:03 a.m. The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:

Fred M. Weaver, RPh, Presiding; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh; absent due to attendance at the Physician Assistant Prescribing Committee.

Also present were Steven Schierholt, *Executive Director*; Eric Griffin, *Director of Compliance and Enforcement*; Nicole Dehner, *Chief Legal Counsel*; Sarah Ackman, *Senior Legal Counsel*; Joe Koltak, *Senior Legal Counsel*; Jenni Wai, *Chief Pharmacist*; Erin Reed, *Senior Legal Counsel*; Chad Garner, *Director of OARRS*; Karrie Southard, *Director of Licensing*; Yvonne Tertel, *Assistant Attorney General*; and Ali Simon, *Public and Policy Affairs Liaison*.

10:28 a.m. The Board was joined by Assistant Attorney General Yvonne Tertel to conduct an adjudication hearing in accordance with the Ohio Revised Code Chapters 119. and 4729. in the matter of **Chending Wu, Findlay, Ohio.**

10:54 a.m. The hearing ended and the record was closed.

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

11:06 a.m. The recess ended and the hearing was opened to the public.

R-2019-035 After votes were taken in public session, the Board adopted the following order in the matter of **Chending Wu, Findlay, Ohio.**



ORDER OF THE STATE BOARD OF PHARMACY

(Case Number 2016-2361)

In The Matter Of:

Chending Wu; R.Ph.

215 Pheasant Run Pl.

Findlay, Ohio 45840

(License No. 03-1-36007)

INTRODUCTION

The Matter of Chending Wu came for hearing on September 10, 2018, before the following members of the State of Ohio Board of Pharmacy (Board): Fred M. Weaver, RPh, Presiding; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Curtis L. Passafume, Jr., RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.

Joshua M. Cox, RPh was absent.

Chending Wu was represented by Todd W. Collis. The State of Ohio was represented by Yvonne Tertel, Assistant Attorney General.

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

1. David Gonzalez—State of Ohio Board of Pharmacy

Respondent's Witnesses:

1. Chending Wu—Respondent

State's Exhibits:

- | | | |
|-----|--|------------|
| 1. | Notice of Opportunity for Hearing | 04-16-2018 |
| 2. | Request for Hearing | 04-23-2018 |
| 3. | Scheduling Letters | 04-26-2018 |
| 4. | Credential View Screen | 08-21-2018 |
| 5. | Statement from Chending Wu | 04-07-2017 |
| 6. | Rite Aid Incident Report | 02-15-2017 |
| 7. | Clonazepam 1 mg (replenishment sheets/audit) | 11-22-2016 |
| 8. | Zolpidem Tartrate 10 mg (replenishment sheets/audit) | 11-22-2016 |
| 9. | DEA – 106 Form | 02-22-2016 |
| 10. | Hancock County Indictment | 11-08-2016 |
| 11. | Hancock County Prosecutor Diversion Letter | 07-17-2018 |

Respondent's Exhibits:

- | | | |
|----|--|------------|
| A. | Resume of Chending Wu, RPh | No Date |
| B. | BioScript Job Evaluation | 08-29-2018 |
| C. | Offer Letter from University of Findlay | 03-30-2017 |
| D. | Terms of Diversion Program | No Date |
| E. | Diagnostic Assessment by Jennifer A. Caraline, MA. LPCC, LCDCIII | 07-17-2018 |

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 November 8, 2016, Chening Wu did knowingly steal five (5) tablets of Clonazepam 1mg, a Schedule IV drug, from a stock bottle on the shelf of Rite Aid Pharmacy #2359, located at 1501 N. Main Street, Findlay, Ohio 45840, where Chending Wu was a part-time employee. Chending Wu admitted to the theft in an interview with an agent from the Board and a Loss Prevention Manager on April 7, 2017.
2. On or about December 12, 2017, Chending Wu was indicted under *State of Ohio v. Chending Wu*, case number 2017 CR 00392 in the Hancock County Court of Common Pleas on one count of Theft of Drugs, a felony of the fourth degree.

CONCLUSIONS OF LAW

1. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2913.02(A)(2) of the ORC, Theft of Drugs, a Felony of the Fourth Degree.
2. Such conduct as set forth in the Findings of Fact, constitutes a violation of Section 2925.11(A) of the ORC, Possession of Drugs, a Misdemeanor of the First Degree.
3. Such conduct as set forth in the Findings of Fact, constitutes a violation of the following divisions of (A)(2) of section 4729.16 of the ORC, as effective July 16, 2015, each violation constituting a minor misdemeanor:
 - a. Guilty of a felony, ORC Section 4729.16(A)(1); and
 - b. Guilty of dishonesty or unprofessional conduct in the practice of pharmacy, ORC Section 4729.16(A)(2); and
 - c. Guilty of willfully violating...any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions, ORC Section 4729.16(A)(5).
4. Such conduct as set forth in the Findings of Fact, constitutes a violation of each of the following divisions of Rule 4729-5-04 of the OAC as effective April 28, 2016:
 - a. Violated any state or federal law or rule regardless of the jurisdiction in which the acts were committed, OAC Rule 4729-5-04(A); and
 - b. Violated...any of the provisions of Chapters 4729...of the Revised Code, or any rule adopted by the board under those provisions, OAC Rule 4729-5-04(B)

DECISION OF THE BOARD

After consideration of the record as a whole, the State of Ohio Board of Pharmacy hereby reprimands Chending Wu for her actions in this matter.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State of Ohio Board of Pharmacy imposes a monetary penalty in the amount of \$1000.00. This fine will be attached to your license record and must be paid no later than 30 days from the effective date of this Order. To pay this fine you must login to www.elicense.ohio.gov and process the items in your cart.

Chending Wu must obtain, within 12 months from the effective date of this Order, 6 hours of approved continuing pharmacy education (0.6 CEUs) in law, which may not also be used for license renewal and must attend a Board-sponsored "Responsible Person Roundtable. Copies of completed CEUs must be e-mailed to legal@pharmacy.ohio.gov

Chending Wu cannot dispense controlled substances for family or self for a period of 2 years.

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

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

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

SO ORDERED.

- 11:17 a.m.** Mr. Cox joined the meeting.
- Mr. Garner provided the OARRS/IT report.
- 11:45 a.m.** Mr. Griffin provided the Compliance and Enforcement report.
- 11:54 a.m.** Ms. Southard provided the Licensing report.
- 12:05 p.m.** Ms. Simon provided the Legislative report.
- 12:08 p.m.** Ms. Dehner provided the Legal report.
- 12:16 p.m.** Mr. Cox provided the PAPC report.
- 12:17 p.m.** Mr. Passafume provided the MMAC report.
- 12:22 p.m.** Break for lunch.

1:36 p.m. New Business/Continued board Reports

R-2019-036 Ms. Southard presented the Updated CE Requirements Communication. Ms. Yarosh moved to approve the Updated CE Requirements. The motion was seconded by Mr. Wilt: Aye—6.

R-2019-037 The Board received a Ratio Redemption Request from the University of Findlay. The University of Findlay requested an exemption to Ohio Administrative Code Rule 4729:2-1-01(B)(3) by seeking a pharmacist; intern ratio of 1:5 for the 2018-2019 influenza season. Ms. Marchal moved that the University of Findlay's request be approved indefinitely. The motion was seconded by Mr. Passafume and approved by the Board: Aye—6.

1:39 p.m. Ms. Southard led a discussion regarding Technician Registration Enforcement.

R-2019-038 Refund Policy provided by Ms. Southard. Mr. Passafume moves to approve the Refund Policy. The motion was seconded by Ms. Rudell and was approved by the board Aye—7.

REFUND POLICY

(As adopted 5/6/2014 [R-2014-213] and amended 10/3/2016 [R-2016-027])

All refunds must be requested by the applicant using the Refund Request Form within 30 days of the date payment was received by the Board. The Board may choose not to require a formal request to be submitted when known technical errors have occurred with licensing and/or payment systems.

This policy applies to the following license types:

- Pharmacist
- Pharmacy Intern
- Pharmacy Technician
- Terminal Distributor of Dangerous Drugs
- Drug Distributor (Manufacturer, Outsourcing Facility, Repackager, Third-Party Logistics Provider, Wholesaler)
- Home Medical Equipment Services Provider

Additionally, this policy applies to the following application types:

- Initial
- Renewal
- Reinstatement
- Change in Business Description* (change of address, ownership, name, and/or category)

Fees received by the Board for maintenance requests (e.g. license verifications, exam reapproval, and duplicate wall certificate, etc.) are non-refundable.

<i>Conditions</i>	<i>Refund Granted?</i>	<i>Refund Amount</i>
Duplicate application submitted.	Yes	Full
Applicant submitted application for incorrect license type.	Yes	Full
Application submitted and Board determines applicant fails to qualify.	No	-
Board determines a lesser category of license is required than requested by the applicant.*	No	-
Application has been processed and issued (Status = Active).	No	-

**Applies to Terminal Distributors and Drug Distributors only.*

1:55 p.m.

Pharmacy Intern License Extension Requests:

R-2019-039

The Board received a request for approval under Ohio Administrative Code Rule 4729:2-2-04(C) for **Shaimaa Ibrahim** (06-015651) to receive permission to renew the intern license. Mr. Passafume moved that the Board approve the request for an additional renewal in application year 2018. The motion was seconded by Mr. Cox and approved by the Board: Aye-7.

R-2019-040

The Board received a request for approval under Ohio Administrative Code Rule 4729:2-2-04(C) for **Sujitha Katragadda** (06-015866) to receive permission to renew the intern license. Ms. Marchal moved that the Board approve the request for an additional renewal in application year 2018. The motion was seconded by Ms. Rudell and approved by the Board: Aye-7.

R-2019-041

The Board received a request for approval under Ohio Administrative Code Rule 4729:2-2-04(C) for **Sandra Kouefati** (06-015812) to receive permission to renew the intern license. Mr. Passafume moved that the Board approve the request for an additional renewal in application year 2018. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7.

R-2019-042

The Board received a request for approval to Ohio Administrative Code Rule 4729-3-04(B) requesting that **Kacey Adams** (06-011859) to receive permission to renew the intern license. Mr. Passafume moved that the Board approve the request for an additional renewal in application year 2018. The motion was seconded by Ms. Marchal and approved by the Board: Aye-7.

2:08 p.m.

Ms. Reed provided a report on Medical Marijuana Continuing Education/Advertising.

2:34 p.m.

Mr. Wilt moved that the Board go into Executive Session to consider the investigation of charges or complaints against a licensee, confer with Board counsel regarding a pending or imminent court

action and to discuss matters required to be confidential by law pursuant to Section 121.22(G)(1), (3) & (5) of the Ohio Revised Code. The motion was seconded by Mr. Passafume and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.

4:25 p.m. Executive Session concluded, and the Board recessed for the day.

Tuesday, September 11, 2018

- 9:02 a.m.** The State of Ohio Board of Pharmacy convened in the Hearing Room, 17th Floor, of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio, with the following members present:
- Fred M. Weaver, RPh, Presiding; Joshua M. Cox, RPh; Richard J. Newlon, *Public Member*; Megan E. Marchal, RPh; D. Rich Miller III, RPh; Jennifer M. Rudell, RPh; Shawn C. Wilt, RPh; and Kilee S. Yarosh, RPh.
- Curtis L. Passafume, Jr., RPh; absent.
- R-2019-043** The Board received a request for approval under Ohio Administrative Code Rule 4729:2-2-04(C) for Sujitha Blaiyah. Ms. Marchal moved that the Board approve the request for an additional renewal in application year 2018. The motion was seconded by Ms. Rudell and approved by the Board: Aye—7.
- 9:05 a.m.** Curtis L. Passafume, Jr., RPh joined the meeting.
- R-2019-044** Ms. Wai and Ms. Simon proposed changes to the Drug Distributor Rules. Mr. Passafume moved to approve these changes. The motion was seconded by Mr. Wilt and approved by the Board: Aye—8.
- 9:09 a.m.** Ms. Wai and Ms. Simon discussed the Boards role in relation to Prescriber Compounding. The discussion was tabled until the October Board Meeting.
- R-2019-045** Ms. Simon proposed changes to the Board's Home Medical Equipment rules. Mr. Passafume moved to approve the changes. The motion was seconded by Ms. Marchal and approved by the Board: Aye—8.
- R-2019-046** Ms. Wai presented revisions to the Boards rules regarding the Duty to Report. Mr. Wilt moved to approve the revisions. The motion was seconded by Mr. Passafume and approved by the Board: Aye—8.
- R-2019-047** Mr. Wilt moved to approve the Meeting Minutes of August 6-8, 2018. The motion was seconded by Mr. Passafume and approved by the Board: Aye—8.
- R-2019-048** Mr. Wilt moved to approve the September 5, 2018 Conference Call Minutes. The motion was seconded by Mr. Passafume and approved by the Board: Aye—8.
- R-2019-049** Mr. Wilt moved to approve the August 29, 2018 Conference Call Minutes. The motion was seconded by Mr. Passafume and approved by the Board: Aye—8.
- R-2019-050** Mr. Wilt moved to approve the August 22, 2018 Conference Call Minutes. The motion was seconded by Mr. Passafume and approved by the Board: Aye—8.

R-2019-051

Mr. Wilt 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. Marchal and a roll-call vote was conducted by President Weaver as follows: Cox-yes; Miller-yes; Newlon-yes; Passafiume-yes; Rudell-yes; Wilt-yes and Yarosh-yes.

12:18 p.m.

Executive session concluded and the Board Meeting adjourned.



Fred M. Weaver, RPh, President

10-2-18

Date



Steven W. Schierholt, Esq., Executive Director

10/22/18

Date